



An  
Bord  
Pleanála

## Inspector's Report ABP-313454-22.

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<b>Development</b>	Retention permission to retain existing ancillary accommodation, and planning permission to extend and renovate the existing dwelling.
<b>Location</b>	2 Pinewood Drive, Blennerville, Tralee, Co. Kerry.
<b>Planning Authority</b>	Kerry County Council.
<b>Planning Authority Reg. Ref.</b>	22/144.
<b>Applicant(s)</b>	Ann & John Walsh.
<b>Type of Application</b>	Retention and permission.
<b>Planning Authority Decision</b>	Split Decision.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Ann & John Walsh.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	24 <sup>th</sup> June 2022.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The subject site is located within the settlement of Blennerville, which is located approximately 3km to the south-west of the town of Tralee. Access to the site is off a local road which connects to the N86 to the west. The site is located to the north of this local road and to the north of the Blennerville GAA Club and associated facilities.
- 1.2. Pinewood Drive is a small residential development comprising four large detached, single storey houses on generous sites, all of which are accessed off a short cul-de-sac road which runs north, perpendicular to the local road. No. 2 is located in the north-eastern corner of Pinewood Drive and comprises a large, detached house with detached garage building to the north-eastern corner of the site.

## 2.0 Proposed Development

- 2.1. Permission is sought for the retention of the existing ancillary accommodation, and permission is sought for the extension and renovation of the existing dwelling, all at 2 Pinewood Drive, Blennerville, Tralee, Co. Kerry.
- 2.2. The application is accompanied by a number of documents, including the relevant plans and particulars.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning Authority decided to issue a split decision as follows:
  1. Grant permission to extend and renovate the existing dwelling, and
  2. Refuse permission for the retention of the existing ancillary accommodation.
- 3.1.2. The refusal for the retention element of the overall development was for the following stated reason:

The ancillary accommodation comprises a detached dwelling unit located within the curtilage of the dwelling house. The proposed development would be contrary to the provisions of Section 12.19 of the Tralee Town Development Plan 2009-2021 in relation to Granny Flat Extensions and would

constitute disorderly and haphazard residential development which would be injurious to the residential amenity of the area and to the amenities of the occupants of the ancillary accommodation. The proposed development would set an undesirable precedent for similar developments and would be contrary to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The planning Report considered the proposed development in terms of the information submitted, prescribed body submissions and development plan provisions. The report also included sections on AA and EIA. The report considers the two elements of the proposed development and concludes that the proposed extension and renovations to the existing house are acceptable and would not have an impact in terms of visual impact, road safety / traffic, water services or residential amenity. There is no objection to this element of the proposed development.

With regard to the application to retain the existing ancillary accommodation, the PA report considered that as the floor plan of the 'ancillary accommodation' shows an existing sitting room / kitchen, bedroom and bathroom, the development comprises a detached residential unit within the curtilage of the dwelling house. The report concludes that the development is not acceptable as per Section 12.19 of the Tralee Town Plan which requires that any proposed granny flat be a 'physical extension of the main house with full integration proposed between the existing house and the proposed extension' and that 'it should be capable of reintegration for use as part of the main house following cessation of its use as a granny flat'.

The report therefore concludes that this element of the proposed development would represent disorderly, sub-standard and haphazard residential development which would be injurious to the residential amenity of the area and occupants of the ancillary development. The report further concludes that the development would set an undesirable precedent for similar such developments and recommends refusal of permission.

The Planning Officers report recommends that a split decision issue as per the above, and this recommendation formed the basis for the Planning Authority's decision to issue a split decision for the overall proposed development at this site.

### 3.2.2. **Other Technical Reports**

None

### 3.2.3. **Prescribed Bodies**

**Irish Water:** No objection.

### 3.2.4. **Third Party Observations**

None.

## 4.0 **Planning History**

There is no relevant planning history pertaining to this site or adjacent properties.

## 5.0 **Policy and Context**

### 5.1. **Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, (DoHPLG, 2020):**

- 5.1.1. These statutory guidelines update and revise the 2015 Sustainable Urban Housing: Design Standards for New Apartments Guidelines, and the 2018 Guidelines in relation to Shared Accommodation schemes. The objective is to build on the content of the 2015 apartment guidance and to update previous guidance in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply, the Government's action programme on housing and homelessness Rebuilding Ireland and Project Ireland 2040 and the National Planning Framework, published since the 2015 guidelines. Aspects of previous apartment guidance have been amended and new areas addressed in order to:
- Enable a mix of apartment types that better reflects contemporary household formation and housing demand patterns and trends, particularly in urban areas;

- Make better provision for building refurbishment and small-scale urban infill schemes;
- Address the emerging ‘build to rent’ and ‘shared accommodation’ sectors; and
- Remove requirements for car-parking in certain circumstances where there are better mobility solutions and to reduce costs.

5.1.2. The guidelines identify specific planning policy requirements in terms of apartments and Development Plans dealing with the mix of unit sizes, while Chapter 3 deals with Apartment Design Standards, including one-bedroom apartments, orientation of buildings and dual aspect ratios, storage provision, private amenity spaces and security considerations.

5.1.3. The primary aim of these guidelines is to promote sustainable urban housing, by ensuring that the design and layout of new apartments will provide satisfactory accommodation for a variety of household types and sizes – including families with children - over the medium to long term. These guidelines provide recommended minimum standards for:

- floor areas for different types of apartments,
- storage spaces,
- sizes for apartment balconies / patios, and
- room dimensions for certain rooms.

5.1.4. The appendix of the guidelines provides guidance in terms of recommended minimum floor areas and standards.

## 5.2. **Development Plan**

### 5.2.1. **The Tralee Town Plan 2009-2015 (as extended & varied)**

The Tralee Town Plan 2009-2015 (as extended & varied) remains the relevant plan relating to the subject site. Blennerville village is included within the boundaries of the Tralee Town Plan and the site is zoned R2 – Existing Residential, where it is the objective to protect and improve residential areas and to provide for facilities and amenities incidental to those residential areas.

Section 12.18 of the Plan deals with extensions to dwellings while Section 12.19 deals with granny flat extensions. In this regard, the Plan states as follows:

When considering proposals for granny flat extensions, the Planning Authority will assess the proposal in terms of design, density, and whether the garden is of adequate size to accommodate the proposed development. The granny flat shall be designed as follows:

- The unit shall act as a physical extension of the main house with full integration proposed between the existing house and the proposed extension
- The unit should be fully accessible
- The granny flat should be capable of reintegration for use as part of the main house following cessation of its use as a granny flat

Planning applications for granny flat extensions shall be accompanied by a covering letter outlining the need for the proposed structure and detailing the relationship between the existing and proposed occupier. It should be noted that use of granny flats will be conditioned restricting the use/sale or letting of these units and will require the reintegration of the unit as part of the main dwelling house following cessation of the granny flat use.

In addition to the above, Section 12.21 deals with Backlands Development, and the Plan states as follows:

Backlands development or development of additional dwelling units in the rear garden of an existing dwelling will not normally be permitted. Such development may be considered where the proposal would not give rise to a traffic hazard, adversely affect visual or residential amenity or result in substandard quantity or quality of private open space.

### **5.3. Natural Heritage Designations**

The subject site is not located within any designated site. The closest Natura 2000 sites lies approximately 200m to the north being the Tralee Bay and Magharees Peninsula, West to Cloghane SAC Site Code: 002070 and the Tralee Bay Complex SPA Site Code: 004188.

## 5.4. EIA Screening

- 5.4.1. Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) sets out the class of developments which provide that mandatory EIA is required. The subject appeal does not relate to a class of development which requires mandatory EIA. The proposed development is not of a scale or nature which would trigger the need for a statutory EIAR, being an application for the retention of the existing ancillary accommodation, and permission is sought for the extension and renovation of the existing dwelling, all at 2 Pinewood Drive, Blennerville, Tralee, Co. Kerry. The proposed development does not propose any new or independent connections to public water services. It is therefore considered that the development does not fall within any cited class of development in the P&D Regulations and does not require mandatory EIA.
- 5.4.2. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.2. This is a First-Party appeal against the decision of the PA to refuse planning permission for the retention of the existing ancillary accommodation only. There is no appeal against any conditions associated with the grant of permission for the extension and renovation of the existing dwelling on the site. The grounds of appeal are summarised as follows:

- The garage was converted to a one-bedroomed apartment for the applicants' son.

- As the applicants are to retire, they have redesigned the main home to accommodate their needs as a two-bedroomed house.
- The applicants have only one son and wish to provide for his requirements and they are aware that the property is ancillary to the main dwelling. It will remain under the sole ownership with the main dwelling.
- As the structure is not in close proximity to the house, the possibility of connection is neither feasible nor possible.
- The cost of accommodation is currently exorbitant, and the applicants only wish to provide affordable accommodation for their son.
- It is submitted that the design and location will not negatively impact on the adjacent third-party properties.

### 6.3. **Planning Authority Response**

None.

### 6.4. **Observations**

None.

## 7.0 **Assessment**

7.1. The Board will note that the subject appeal relates solely to the refusal of planning permission for the retention of the ancillary accommodation on the site. There is no appeal brought in terms of the conditions attached to Kerry County Councils notification of intention to grant planning permission to extend and renovate the existing dwelling on the site. As such, I proposed to focus my assessment on the matters raised in the appeal.

7.2. Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main



issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development & Compliance with Policy
2. Residential Amenity
3. Other Issues
4. Appropriate Assessment

### **7.3. Principle of the development & Compliance with Policy**

- 7.3.1. The Board will note that the subject appeal relates solely to the refusal of Kerry County Council to grant permission for the retention of the ancillary accommodation associated with the primary residence at No. 2 Pinewood Drive, Blennerville, Tralee, Co. Kerry. The reason for refusal of the retention is detailed above in Section 3.1.2 of this report and relates to the lack of compliance with the provisions of Section 12.19 of the Tralee Town Development Plan 2009-2015 (as extended & varied), as it relates to granny flat extensions. The site is zoned R2 – Existing residential where it is the stated objective to protect and improve residential areas and to provide for facilities and amenities incidental to those residential areas. As such, it might reasonably be considered that the principle of the proposed development, which seeks to retain ancillary residential accommodation, is acceptable.
- 7.3.2. The building the subject of this appeal is located within the curtilage of a large single storey detached house, within a small residential development comprising 4 houses. The building comprises a former detached garage associated with the main house and this building was converted at some point to provide for a one-bedroomed apartment for use by the applicants' son.
- 7.3.3. Section 12.18 of the Plan deals with extensions to dwellings while Section 12.19 deals with granny flat extensions. The Plan states as follows:

When considering proposals for granny flat extensions, the Planning Authority will assess the proposal in terms of design, density, and whether the garden is of adequate size to accommodate the proposed development. The granny flat shall be designed as follows:

- The unit shall act as a physical extension of the main house with full integration proposed between the existing house and the proposed extension
- The unit should be fully accessible
- The granny flat should be capable of reintegration for use as part of the main house following cessation of its use as a granny flat

Planning applications for granny flat extensions shall be accompanied by a covering letter outlining the need for the proposed structure and detailing the relationship between the existing and proposed occupier. It should be noted that use of granny flats will be conditioned restricting the use/sale or letting of these units and will require the reintegration of the unit as part of the main dwelling house following cessation of the granny flat use.

7.3.4. At the outset, I note that no new structure was erected to provide for the ancillary accommodation and that the subject appeal relates essentially to the change of use of an existing garage building associated with the residential use of the wider site. In terms of the above, and while I accept the submission of the appellants in their efforts to provide for their sons' accommodation requirements, I am satisfied that the converted garage cannot comply with the above provisions in terms of a granny flat, as there is no physical attachment to the main house such that full reintegration could occur. The proposed development, therefore, does not comply with the provisions of the Tralee Town Development Plan 2009-2015 as extended & varied.

7.3.5. In addition to the above, Section 12.21 of the Plan deals with Backlands Development, and the Plan states as follows:

Backlands development or development of additional dwelling units in the rear garden of an existing dwelling will not normally be permitted. Such development may be considered where the proposal would not give rise to a traffic hazard, adversely affect visual or residential amenity or result in substandard quantity or quality of private open space.

7.3.6. In terms of the above, I would accept that the development is unlikely to give rise to traffic hazard, nor will any adverse visual impacts arise. The board will note that the plans for the converted garage do not provide for any private open space and as such, the development might be considered as providing substandard residential

amenity for the occupant of the property. I do not consider, therefore, that the principle of the proposed development complies with the provisions of the Tralee Town Development Plan 2009-2015 as extended & varied.

#### 7.4. Residential Amenity

7.4.1. In terms of residential amenity, I consider it reasonable to consider the converted garage in terms of The Sustainable Urban Housing: Design Standards for New Apartments, DoHPLG December 2020. The proposed development essentially comprises a small one-bedroomed apartment and Chapter 3 of the Guidelines provide for Apartment Design Standards as follows:

- Apartment Floor Area: The Guidelines, Specific Planning Policy Requirement 3 refers, require that the minimum floor areas be applied to apartment developments. The minimum floor area for a one-bedroomed apartment is indicated at 45m<sup>2</sup>. The subject building has a total floor area of 42.4m<sup>2</sup>. As such, the proposed development does not comply with this requirement.
- Aggregate Floor Area of Living / Dining / Kitchen: The Guidelines require that a minimum of 23m<sup>2</sup> is provided for a combined Living / Dining / Kitchen area in a one-bedroomed apartment. The subject building provides for 19.4m<sup>2</sup>. Even with considering the 'up to 5% variation' which the guidelines provide for, the residential unit falls well below the minimum requirements.
- Dual Aspect: The living space has windows on two elevations, south and west. As such, the development complies with this aspect.
- Floor to Ceiling Height: The Guidelines require that ground level apartments shall have floor to ceiling heights of a minimum of 2.7m. The floor to ceiling height of the subject building is indicated at 2.33m. While I accept that the provisions of the Guidelines in this regard relate to multiple floor apartment developments, the Board will note that the subject building floor to ceiling height also falls short of the recommended 2.4m for houses. As such, the development does not comply.

- **Internal storage:** The Guidelines require that storage is provided within all apartments. The minimum storage provisions for a one-bedroomed apartment is indicated at 3m<sup>2</sup>. Said storage 'should be additional to kitchen presses and bedroom furniture but may be provided in these rooms. A hot press or boiler space will not count as general storage and no individual storage room within an apartment shall exceed 3.5m<sup>2</sup>.' The Board will note that no storage is identified on the submitted plans.
- **Private Amenity Space:** The Guidelines require a minimum of 5m<sup>2</sup> which should have a functional relationship with the main living area. The submitted plans do not indicate any provision for private amenity space to serve the residential unit.

7.4.2. Overall, I would question the quality of the residential amenity of the unit the subject of this appeal. I consider that the retention of the ancillary accommodation for use as a permanent residence is unacceptable, would result in a substandard form of residential development and would be contrary to the proper planning and sustainable development of the area.

## 7.5. **Other Issues**

### 7.5.1. **Servicing**

The information submitted with the application indicates that the building is served by an existing connection to the public water services. It is not clear if the connection has been made independently of the main house on the site, or if the connection is via the existing house.

The Board should also note that the existing house on the site has a separate Eircode to the converted garage building. The issue of the independence of the services should therefore be addressed by way of further information in the event of a grant of permission. I do acknowledge that Irish Water raises no objection to the proposed development.

### 7.5.2. **Visual Impacts**

I am satisfied that no visual impacts arise.

### 7.5.3. **Development Contribution**

The development, if permitted will be subject to a development contribution condition. Such a condition should be included in any grant of planning permission for the retention of the ancillary accommodation.

### 7.5.4. **Other Issues**

Should the Board be minded to grant permission for the retention of the ancillary accommodation, a condition should be included to restrict the use of the accommodation to the applicants son only. The unit should not be sold, let or otherwise transferred to any third-party, save as part of the overall residential site. On the vacating of the unit by the applicants' son, the building shall revert to a garage / storage use, ancillary to the main house.

This is recommended on the basis that the unit does not comply with minimum residential amenity requirements in terms of overall floor area, aggregate floor area for Living / Dining / Kitchen rooms, storage provision, private amenity space or floor to ceiling heights. The quality of the residential amenity therefore afforded to residents of the unit is significantly substandard.

## 7.6. **Appropriate Assessment**

7.6.1. The subject site is not located within any designated site. The closest Natura 2000 sites lies approximately 200m to the north being the Tralee Bay and Magharees Peninsula, West to Cloghane SAC Site Code: 002070 and the Tralee Bay Complex SPA Site Code: 004188.

7.6.2. Having regard to the nature and scale of the proposed development, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

## 8.0 Recommendation

- 8.1. I recommend that permission for the retention of the ancillary accommodation be refused for the following stated reason.

## 9.0 Reasons and Considerations

The proposed retention of the ancillary accommodation would be contrary to the provisions of the Tralee Town Development Plan 2009-2015, as extended & varied, in terms of Section 12.19 – Granny Flat Extensions, as there is no physical attachment to the main house such that full reintegration could occur, as well as the provisions of Section 12.21 – Backlands Development, whereby backlands development or development of additional dwelling units in the rear garden of an existing dwelling will not normally be permitted.

The development, if permitted would result in a substandard form of residential development, on the basis that the unit does not comply with minimum residential amenity requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments, DoHPLG December 2020 in terms of overall floor area, aggregate floor area for Living / Dining / Kitchen rooms, storage provision, private amenity space or floor to ceiling heights. The quality of the residential amenity afforded to future residents of the unit is significantly substandard, and the development would, therefore, be contrary to the proper planning and sustainable development of the area.

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A. Considine

Planning Inspector

7<sup>th</sup> July, 2022