



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314063-22

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<b>Development</b>	Convert and extend garage into a self-contained residential unit for use by family member (Ancillary to the existing serviced dwelling house), upgrading of existing on site waste water treatment facilities and all associated site works
<b>Location</b>	Kiltown, ED Kilbora, Co. Wexford.
<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20220566
<b>Applicant(s)</b>	Geraldine Borthistle
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Geraldine Borthistle
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	20 <sup>th</sup> of December 2022
<b>Inspector</b>	Angela Brereton

## 1.0 Site Location and Description

The application site is located in the Townland of Kiltown, Kilbora c.2kms to the north of Ferns. The site is in the rural area and is one of a line of one-off houses that form ribbon development along the western side of the local road. The local road network is narrow and there is an existing gated entrance to the site from the public road.

There is a two-storey detached dwelling and a separate detached garage on the site. There is a hedge along the roadside boundary. There is currently a gap between the site and the dense leylandii hedge along the northern boundary. The existing septic tank is located at the side of the front garden area. This area is at a higher level than the entrance drive.

It is noted that a 'For Sale' sign was seen near the entrance gate on site – Sherry Fitzgerald on the day of the site visit.

## 2.0 Proposed Development

Permission is sought for the following:

- To convert and extend the existing garage into a self-contained residential unit for use by a family member (ancillary to the existing serviced dwelling house);
- For the upgrade of existing on-site waste-water treatment facilities and all associated site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

On the 17<sup>th</sup> of June 2022, Wexford County Council refused permission for the proposed development for the following reasons:

1. The proposed development would result in an additional self-contained living unit and an intensification of the use of the site that would result in a public health risk. The proposed development would be prejudicial to public health and the proper planning and sustainable development of the area.

2. The proposed development, by virtue of the disconnection from the main dwelling, would be contrary to Policy 18.13.3 of the Wexford County Development Plan 2013-2019 (extended) and contrary to the proper planning and development of the area.

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

#### Planning Reports

The Planner had regard to the contextual location of the site, planning history and policy and to the inter-departmental reports. They noted that no Submissions were made. Their Assessment concluded initially that the proposed conversion and extension of the garage to a granny flat would be acceptable in principle and is consistent with Section 18.13.3 of the Wexford County Development Plan 2013-2019. However, that based on the recommendation by the Environment Section they recommended that permission be refused given that the proposal may give rise to a public health hazard/environment pollution.

It is noted that the Senior Planner, noted this interpretation as incorrect, and subsequently concluded that this proposal by virtue of the disconnection from the main dwelling would be contrary to Policy 18.13.3 of the Wexford County Development Plan 2013-2019 (as extended) and contrary to the proper planning and development of the area.

As noted above, 2no. reasons for refusal were given.

### **3.3. Other Technical Reports**

#### Environment Section

They recommend refusal as it is their opinion that the proposed development for a self-contained living unit is an unacceptable intensification of the site, which may give rise to a public health hazard/environmental pollution.

#### Enniscorthy Municipal District

Their Road Report notes the use of the existing access, that sightlines are adequate and provides that they have no technical objection.

### 3.4. Prescribed Bodies

No consultations are referred to.

### 3.5. Third Party Observations

The Planner's Report notes that none were recorded.

## 4.0 Planning History

The Planner's Report notes the following planning history relevant to the subject site:

- Reg.Ref. 20010473 - Retention permission granted subject to conditions to Robert Levingstone for domestic storage areas to existing dwelling house previously granted under Reg.Ref. 951446.
- Reg.Ref. 20003570 – Permission granted subject to conditions to Robert and Nina Levingstone for the erection of sunroom to existing dwelling house.
- Reg.Ref.951340 – Permission granted subject to conditions to Brett Vickers for the erection of a conservatory to the side of the dwelling house.

## 5.0 Policy Context

### 5.1. Wexford County Development Plan 2022-2028

Volume 1 provides the Written Statement, Core Strategy and Objectives of the Plan.

The Core Strategy includes an objective for Compact growth and liveable sustainable settlements. Table 3-2 provides the 'County Wexford Settlement Hierarchy' and includes Ferns as Level 3a Service Settlement.

Section 4.9 refers to the criteria for Housing in the Open Countryside. Figure 3-1 Core Strategy Map includes the site within a rural area of Strong Urban Influence. However, it is noted that the current proposal is for extensions and alterations to an existing garage ancillary to the dwellinghouse, rather than a new build.

Section 4.9.5 refers to semi-independent accommodation for an immediate family member. This includes: *These units, which must be attached to the main dwelling*

*house with provision made for an internal link, are not considered to be an independent dwelling unit and as such private open space and car parking standards are not independently assessed. The unit must be integrated back into the main dwelling when use by the immediate family member is no longer required.*

Objective SH50 seeks: *To consider the development of a self-contained residential unit attached to the main dwelling house only where it is satisfactorily demonstrated that the proposed occupant is an immediate family member who is dependent on the existing occupant(s) of the main dwelling house or needs to live in close proximity to the existing occupant(s) of the main dwelling for health or support reasons. The development must comply with the relevant development management standards set out in Volume 2 and comply with normal planning and environmental criteria.*

Volume 2 provides the Development Management Manual which sets out the standards for different types of development and land uses that will be applied in the assessment of planning applications. Sections of note include:

### Section 3 – Residential Developments

Section 3.2 refers to Domestic Garages/Stores. This includes that they should not exceed a maximum floor area of 80sq.m and ridge height of 5m and be in keeping with and only used for purposes ancillary to the enjoyment of the main dwellinghouse.

Section 3.3 – Self-contained Residential Unit for a Family member. The criteria include that it should be ancillary and attached to the main dwelling and are as follows:

- The applicant must demonstrate that there is a need for the unit in accordance with Section 4.9.5 in Volume 1 Chapter 4 Sustainable Housing.
- The unit must be attached to the main dwelling house and must be accessible from the main dwelling house via an internal access door.
- The unit should consist of no more than a combined kitchen/dining/living room, a WC bathroom which must be fully accessible and contain no more than two bedrooms.
- Where required, it will be necessary to demonstrate that the existing on-site wastewater treatment facilities serving the main dwelling house are adequate

and can facilitate the additional loading from the family unit. Where this cannot be demonstrated, it will be necessary for the on-site wastewater facilities to be upgraded as part of the development proposal.

- The design criteria for extensions to dwelling houses will be applied to these units.
- A condition will be applied restricting the sale or letting of the unit separate to the main dwelling house, and when use of the unit is no longer required it must be integrated into the main dwelling house.

Also of note:

Section 3.4 refers to Extensions to Dwelling Houses. This provides the criteria for extensions considered appropriate having regard to scale and design and to impact on residential amenity and the character of the area.

Section 3.5 – Sub-Division of a Dwelling.

Table 3-4 provides the Minimum Floor Area and Private Open Space for Dwellings.

## 5.2. **Wexford County Development Plan 2013-2019 (as extended)**

It is noted that this Plan has now been superseded. However, as Section 18.13.3 ‘Self-contained Residential unit for a Family Member’, is referred to in the Council’s reason for refusal and in the First Party Grounds of Appeal it is quoted below:

*The Council will consider the provision of a self-contained residential unit for occupation by a family member. The self-contained unit should be connected to the main dwelling house and be designed so that it can be incorporated into the main dwelling house when its use as a self-contained unit is no longer required. The Council may consider the provision of a self-contained unit where the need for such a unit is demonstrated. The Council will require the following:*

- *Details of the need/occupant of the unit*
- *Need for a detached unit, where applicable*
- *The unit should not consist of more than a combined kitchen/dining/living area, a WC bathroom and no more than two bedrooms*
- *Vehicular access to the unit shall be shared with the main dwelling house*

- *Private open space shall be shared with the main dwelling house*
- *Required separation distances from wastewater treatment systems shall be achieved.*

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

The site is within 2.4kms of the Slaney River Valley SAC (Site Code: 000781).

### **5.4. EIA Screening**

The proposed development for extensions and modifications to convert a garage to provide a self-contained unit for a family member, ancillary to the existing dwelling house does not fall within the scope of any of the Classes of development for the purposes of EIA.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

A First Party Appeal has been submitted by Tommy Borthistle MRIAI, on behalf of the applicant Geraldine Borthistle. This is against the Council's reasons for refusal and in summary includes the following:

#### Reason no.1

- The proposed replacement and upgrade of the old septic tank as granted in 1995 will result in a net environmental gain in terms of the treated effluent quality being discharged to the ground water beneath the site with the installation of a Tricel Novo P10 pumped wastewater treatment system with pumped discharge to a subsurface. This will reduce the existing risk of giving rise to a public health hazard/environmental pollution. They refer to the recommendations of the Site Suitability Report prepared by MK Environmental.
- They refer to and provide details of precedent cases granted by the Council and the Board for a single storey self-contained residential unit for use by a

family member. They consider there is a strong precedent for this type of development.

#### Reason no.2

- The proposed development is fully consistent with Policy 18.13.3 of the Wexford CDP 2013-2019 (as extended). It will provide a self-contained residential unit for use by a family member on site i.e. a 'granny flat'. They quote the policy from this plan. They consider that the Senior Planner has incorrectly overruled in writing '*Not correct*' the Conclusion of the Planner's Report.
- They consider the proposed design and layout of this low-profile extension to the existing garage building to be acceptable. They include photos to show that it is well screened by existing trees and hedgerows from the road.

### **6.2. Planning Authority Response**

There is no response to the Grounds of Appeal from the Planning Authority noted on file.

### **6.3. Observations**

Note noted on file.

## **7.0 Assessment**

This is a first-party appeal against a refusal of permission for detached living accommodation within the curtilage of an existing dwelling. The issues primarily centre on:

- Principle and Policy Considerations
- Effluent Treatment

### **7.1. Principle and Policy Considerations**

- 7.1.1. This application proposes conversion and extension to an existing garage into a self-contained residential unit for use by a family member (ancillary to the existing



serviced dwelling house). The site which contains an existing two storey house, has been extended is located in an area of ribbon development on un-zoned land in the rural area located c.2kms to the north of the town of Ferns. It is noted that this proposal was considered by the Council, under the Wexford County Development Plan 2013-2019 (as extended) and that their reasons for refusal include reference to policies and objectives under this plan. This has now been superseded by the policies and objectives of the current Wexford County Development Plan 2022-2028, and those of relevance have been noted in the Policy Section above and in the Assessment below.

- 7.1.2. Regard is had to the documentation submitted, the issues raised in the Council's reasons for refusal and to the First Party grounds of appeal. It needs to be ascertained as to whether the Council's reasons for refusal can be overcome. To ascertain whether the concept of the proposed development as a self-contained residential unit for a family member could be considered appropriate to the site, in accordance with current planning policy and objectives. Note is also had to services including the proposed upgrading of the on-site wastewater treatment system and to facilitate the additional loading from the self-contained unit.
- 7.1.3. Regard is had to Section 3 'Residential Developments' of Volume 2 of the current County Development Plan. Section 3.3 is of note as it refers specifically to 'Self-contained Residential Unit for a Family Member'. The criteria are specific (as noted in the Policy Section above) and include that the applicant must demonstrate that there is a need for the unit in accordance with Section 4.9.5 in Volume 1 Chapter 4 Sustainable Housing. Details submitted with the application note that the applicant falls into the category of an 'immediate family member' who wishes to live in close proximity to her son and his wife and suffers from a number of medical conditions outlined in accompanying medical letter. That she would greatly benefit from living in close proximity to her immediate relatives for the assistance she will need going forward. Therefore, I would consider that a need to reside has been established.
- 7.1.4. The First Party provides that the proposal is entirely consistent with Section 18.13.3 of CDP 2013-2019 (as extended). Having, regard to this issue (as noted in the Policy Section above) this refers to a self-contained unit to be designed so that it is connected to and can be incorporated into the main dwelling house. However, there is some dichotomy in that it also mentions: *Need for a detached unit, where*

*applicable*. The applicant also refers to precedent cases previously granted by the Council and the Board (including ABP Ref: 310123-21) where permission was granted to allow for the erection of a self-contained detached annex for separate living accommodation within the curtilage of a dwellinghouse. Having regard to precedent issues, each case is considered on its merits and having regard to the policies and objectives in the relevant current Wexford CDP 2022-2028.

- 7.1.5. As has been noted Section 18.13.3 of the former plan has now been superseded by the current Wexford CDP where the criteria and policies relative to this issue are now more defined and do not refer to the 'need for a detached unit, where applicable' i.e for a family member within the curtilage of the site. Section 3.3 provides that the unit must be attached to the main dwelling house via an internal access door, details are given as to the limited scale accommodation which should not exceed two bedrooms. It refers to the unit being integrated into the main dwelling house. As noted in the Policy Section above, this is reiterated in Section 4.9.5 and Objective SH50 of Volume 1 of the current Wexford CDP.
- 7.1.6. Reference is also had to Section 3.4 of Volume 2 which refers to Extensions to Dwelling Houses. This has regard to design and layout and provides that it should not have an adverse effect on the amenities of or impinge on neighbouring properties and/or an over dominant visual impact. It is of note that if this proposal were to be in accordance with the current criteria for a self-contained residential unit for a family member that was seen as an extension attached to and integrated with the main dwellinghouse, it would be acceptable in principle subject to design and layout criteria. However, such is not the subject of the current application, which would comprise a separate living unit.
- 7.1.7. Therefore, I would consider that this proposal as it concerns the conversion and extension of a detached unit (currently used as a garage/stores) separate and not attached to or integrated with the main dwellinghouse to be contrary to Section 4.9.5 and Objective SH50 in Volume 1 Chapter 4 Sustainable Housing and to not comply with this criteria as per Section 3.3 of Volume 2 'Self-contained Residential Unit for a Family Member. Therefore, the principle of the development as proposed would not be acceptable as it is considered not to be in accordance with current relevant planning policy and objectives of the Wexford CDP 2022-2028.

## **7.2. Design and Layout and Impact on the Character and Amenities of the Area**

- 7.2.1. The Site Layout Plan submitted shows that the existing detached garage is located c.10m to the north-east of the main dwelling house. As noted on the application form it is c.35.3sq.m in floor area and is to provide for the kitchen/dining area. The proposed extension to the existing garage is to provide for 2no. bedrooms and a bathroom area in an additional floor area of c. 38.7sq.m. i.e. a total floor area of c.74sq.m. in this separate self-contained unit of accommodation. The floor plans show that there is to be an internal connecting door between the converted garage and the proposed extension. The elevations show that the existing garage structure is c.5.36m in height and the proposed extension is to be flat roofed and c.3.2m in height. It will be seen as ancillary to the garage structure and is to be located between the garage and the north eastern boundary. Construction will necessitate the removal of some of the leylandii hedge along this part of the boundary. There are no windows proposed in the north-eastern elevation.
- 7.2.2. It is proposed to use the existing gated access to the public road and it is noted that the Council's Roads Section does not object to this. In view of the set back and distance from the existing house and the property to the northeast, I would have no objections to the proposed design and layout of the extension to the existing garage, other than the issue concerning the concept of the creation of a separate self-contained detached residential unit not being in compliance with planning policy as has been outlined above.

## **7.3. Effluent Treatment**

- 7.3.1. Permission is also sought for the upgrade of the existing onsite wastewater treatment facilities and associated site works. The Site Layout Plan notes the location of the existing septic tank and percolation area shown in the front garden area, to the southeast of the existing house. It also shows the location of the existing bored well to the northwest of the site. The legend notes that it is proposed to upgrade the existing septic tank treatment system to pump effluent to the percolation area as per the Site Suitability Report and Manufacturers Recommendation in the location of the existing septic tank. In addition, it is proposed to upgrade the

percolation area as per the Site Suitability Report and Manufacturers Recommendation.

- 7.3.2. The 2009 Code of Practice document has now been replaced by the EPA Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Dwellings (2021). This includes that the 2009 CoP may continue to be used for site assessments and subsequent installations commenced before 7th June 2021 or where planning permission has been applied for before that date. It is noted that this application was made to the Council on the 29th of April 2022. A Site Suitability Assessment of Wastewater Treatment by MK Environmental Solutions Ltd dated 27<sup>th</sup> of April 2022 has been submitted with the application. It appears from the details therein, that this may have been carried out under the EPA CoP 2009, rather than the current EPA Cop 2021 and while there are similarities it thus requires to be updated in accordance with current standards.
- 7.3.3. It is of note that Table 6.4 of the 2021 EPA CoP provides the percolation values relative to the type of treatment system and while more detailed the similarities to Table 6.3 of 2009 EPA CoP are noted. Percolation values of 3-50 are provided as being acceptable for the installation of a septic tank and percolation area.
- 7.3.4. As per the Site Characterisation Form the Aquifer Category is given as 'Locally Important gravel aquifer, where the vulnerability is described as 'extreme'. The ground water response is given as 'R2<sub>1</sub>', where the installation of a wastewater treatment system is acceptable subject to normal good practice. This includes (EPA CoP 2021): *Where domestic water supplies are located nearby, particular attention should be given to the depth of subsoil over bedrock such that the minimum depths required in Chapter 6 are met and the likelihood of microbial pollution is minimised.*
- 7.3.5. The Site Assessment provides that the minimum separation distances are achieved and that the main target is the LI aquifer and that the replacement of the old septic tank as granted in 1995 will result in a net environmental gain in terms of the treated effluent quality being discharged to the ground water aquifer beneath the site.
- 7.3.6. The Depth of the trail hole is 2.1m. A number of 'T' tests were carried out and it was noted that the results varied. A subsurface percolation value of 16 was obtained and this is in itself an acceptable result for concluding that the subsoil is suitable media for treated waste disposal to groundwater. The Assessment Report provides that it is

proposed to install a Tertiary Treatment System and Infiltration/treatment area. This is described as a Tricel Novo P10 pumped wastewater treatment system with pumped discharge into a subsurface in-situ packaged tertiary filtration system Sandcel 25m from Tricel. They provide that the tank will be installed within the recommendations made by Tricel and MK Environmental Solutions Limited and have regard to the provision of a maintenance contract. In addition, the existing septic tank will be emptied and filled with clean inert material.

- 7.3.7. It is noted that it is the opinion of the Council's Environment Section that the proposed development for a self-contained living unit is an unacceptable intensification of the site, which may give rise to a public health hazard/environmental pollution. The Council's Reason no.1 for refusal is on this basis.
- 7.3.8. The First Party Grounds of Appeal considers that the proposed replacement and upgrade of the old septic tank as granted in 1995 will result in a net environmental gain in terms of treated effluent quality being discharged to the groundwater aquifer beneath the site with the installation of a Tricel Novo P10 pumped wastewater treatment system. They submit that the site suitability report prepared by MK Environmental and as submitted with the application clearly outlines the suitability of this system and includes a Tricel Site Recommendation Report outlining its suitability for 9PE complaint to SR66 and the EPA Code of Practice. They provide that the proposed treatment system upgrade dealing with the effluent on site will undoubtedly result in a net environmental gain and will reduce the existing risk of giving rise to a public health hazard/environmental problem.
- 7.3.9. While, I would support the decommissioning of the existing long standing septic tank, and replacement with an upgraded wastewater treatment system, the need to update the Site Assessment in accordance with the EPA CoP 2021, has been noted above. If the Board decides to permit, I would recommend that this should be conditioned. However, I note the Environmental Section concerns about intensification of the site, which is brought more to the fore relative to the issue of the provision of a separate self-contained unit rather than an extension that is seen to be integrated with the main dwelling house.

## **7.4. Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the proposed development within the curtilage of an existing dwelling house and including the provision of an upgraded waste water treatment system and the nature of the receiving environment and distance to the nearest European site, it is concluded that no Appropriate Assessment issues arise and the proposed development would not 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 proposed development be refused in accordance with the reasons and considerations below.

## **9.0 Reasons and Considerations**

1. This proposal as it concerns the conversion and extension of a detached building currently used as a garage to a self-contained residential unit, that would not be attached to or integrated with the main dwellinghouse would be contrary to Section 4.9.5 and Objective SH50 of Volume 1 Chapter 4 relevant to 'Sustainable Housing' and being a non-integrated unit, would not comply with the criteria as per Section 3.3 of Volume 2 'Self-contained Residential Unit for a Family Member'. Therefore, the principle of the development as proposed, albeit for use by a family member would not be acceptable as it would not be in accordance with such planning policy and objectives in the current Wexford County Development Plan 2022-2028. The proposed development would set an undesirable precedent for similar type separate, non-integrated residential developments and would, therefore, be contrary to the proper planning and sustainable development of the area.

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Angela Brereton  
Planning Inspector

23rd of February 2023

