



An  
Bord  
Pleanála

## Inspector's Report ABP-316088-23

<b>Development</b>	Retention of modular dwelling
<b>Location</b>	Ballincolloo, Bulgaden, Kilmallock, Co. Limerick, V35 YP08
<b>Planning Authority</b>	Limerick City and County Council
<b>Planning Authority Reg. Ref.</b>	2360001
<b>Applicant(s)</b>	Monica and Gary Kelly
<b>Type of Application</b>	Retention
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Monica and Gary Kelly
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	10 <sup>th</sup> May 2024
<b>Inspector</b>	Ciara McGuinness

## 1.0 Site Location and Description

- 1.1. The appeal site is located in a rural area of east County Limerick approximately 3km southeast of Bruff and 6km to the northwest of Kilmallock. The site is accessed from a local road. The primary dwelling on the site is a two-storey detached dwelling occupied by the applicants. The modular unit the subject of this retention application is located to the rear of the main house in the southeastern corner of the site.
- 1.2. The site is roughly rectangular in shape and extends over an area of 0.23 hectares. The area is rural in nature and is characterised by farmland with sporadic housing. The site adjoins agricultural land to the west, south and east. The lands to the north contain an existing residential dwelling. The site is delineated by timber fencing, hedges and mature trees.

## 2.0 Proposed Development

- 2.1. The proposed development is for the retention of single storey modular dwelling to the rear of the primary dwelling on site. The modular dwelling has a stated floor area of 69sqm and includes two-bedrooms, two bathrooms, a kitchen and a living room. The structure is 6.2m in width, 12.49m in depth and has a ridge height of 3.83m. The modular dwelling is based on a simple rectangular plan with a gable roof detail, and is finished in a PVC coated cladding, with a plaster plinth and tile effect finish to the roof. The stated purpose of the modular dwelling is to provide independent shelter for the applicant's mother/mother-in-law in close proximity to the family home.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning Authority issued notification of a decision to refuse permission on the 24<sup>th</sup> February 2023 for the following reason;

*"The development is contrary to Objective HO O11 – Subdivision of Dwelling to Accommodate Dependent Relative of the Limerick Development Plan 2022-2028 which requires additional accommodation for older people by way of an extension attached to the main dwellings and outlines there will be a presumption against*

*detached residential structures in all settings. Therefore, this proposal is considered contrary to the proper planning and sustainable development of the area.”*

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

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

The Planner's Report (22/02/2023) considered the proposed development in the context of the details submitted with the application, the planning history and the relevant Development Plan policies and objectives. The report also includes a paragraph on Environmental Impact Assessment and Appropriate Assessment. It is noted that the structure seeking retention can be referred to as a 'granny flat'. The Development Plan contains several design requirements for developments of this nature, none of which are satisfied by the current proposal. There is a presumption against detached residential structures of this nature. The proposal is contrary Objective HO O11 in this regard. Refusal is recommended.

#### **3.2.2. Other Technical Reports – None.**

### **3.3. Prescribed Bodies**

Irish Water – No objection to proposal.

### **3.4. Third Party Observations**

None.

## **4.0 Planning History**

PA Reg Ref 00/2832 - Permission granted in March 2021 for a change of house type from that previously granted 99/466.

RA Reg Ref 99/466 - Permission granted in June 1999 for the construction of two storey dwelling, entrance, well, pumphouse and septic tank.

The Planner's Report notes a current enforcement file for (DC-445-22) for the subject development.

## 5.0 Policy Context

### 5.1. Limerick Development Plan 2022-2028

#### *Objective HO O11 – Subdivision of Dwelling to Accommodate Dependent Relative*

It is an objective of the Council to facilitate the provision of accommodation for older people and dependant relatives within the existing family home, subject to compliance with the following criteria:

- Accommodation by way of extension shall be attached to the main dwelling;
- There shall be an internal connecting door with the main residence;
- The extension shall be subservient to the main dwelling;
- In a rural location any external door shall not be located on the front elevation;
- On vacancy of the unit, the accommodation shall be integrated with the main dwelling. No such unit shall be used as rental accommodation. There will be a presumption against proposals for detached independent units within the curtilage of a dwelling, regardless of urban or rural location. Proposals must accord with planning considerations such as residential amenity, environmental and public health standards and traffic safety.

### 5.2. Limerick County Council Rural Design Advice for Individual Houses in the Countryside (July 2012)

- 5.2.1. Section 5 of the rural housing guidelines deals with additions of conservatories, garages and other extension. It is stated that over-scaled or contrasting additions (garages, conservatories, sun rooms) should be avoided. The key objective is ensuring that the main house is clearly seen as the dominant element. The scale and detail of additions should match the balance of the house and be subservient to it. Extensions should generally be built with similar materials to the existing house and located discreetly to the side or rear.

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

- 5.3.1. There are no European Sites in the vicinity of the site. The closest site is the Glen Bog SAC (Site code: 001430) located approximately 4km to the north of the site.

### **5.4. EIA Screening**

See completed Form 2 on file. Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, or EIA determination, therefore, is not required.

## **6.0 The Appeal**

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

The grounds of appeal can be summarised as follows;

- The unit is not physically connected to the primary dwelling, however it is modest in size and its modular form will allow it to be moved at the end of the 5 year temporary period if the board are minded to grant a temporary permission.
- The development was necessitated during the pandemic as an urgent response to a family crisis. The unit provides independent shelter for the applicant's mother/mother-in-law in close proximity to the family. A GP's letter is enclosed with the appeal and provides an overview of the occupant's health issues.

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

None.

### **6.3. Observations**

None.

## **7.0 Assessment**

From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issue arising in this appeal relates to the principle of development.

### **7.1. Principle of Development**

- 7.1.1. Objective HO O11 of the Limerick Development Plan relates to the provision of accommodation for older people and dependant relatives within the existing family home, subject to compliance with criteria. The objective is outlined above in full in Section 5 of this report and specifically notes that the accommodation should be by way of extension attached to the main dwelling and that there will be a presumption against proposals for detached independent units within the curtilage of a dwelling. The Planning Authority refused permission for the modular dwelling because it is detached from the existing house and, therefore considered contrary to the requirements of Objective HO O11.
- 7.1.2. I note the purpose of the modular dwelling as outlined by the applicant and the GPs letter included which provides an overview of the occupant's health issues. I have no objection in principle to the proposed provision of an extension to the existing house on the site, or indeed, the provision of ancillary family accommodation in the form of a connected flat to accommodate dependents relatives. However, the detached nature of the unit is clearly contrary to the provisions of Objective HO O11 and I consider the development merits refusal on these grounds.
- 7.1.3. Other criteria of Objective HO O11 include that there should be an internal connecting door with the main residence and that the extension shall be subservient to the main dwelling. Having regard to the information on file, together with my site inspection, I note that the property is relatively large and has a stated site area of approximately 0.23ha. It accommodates a detached dwelling and has spacious front and rear gardens. The dwelling is offset from both of its side boundaries and there are no apparent physical restrictions on the site that would prevent a family flat from being linked directly to the main dwelling via an internal connecting door.

- 7.1.4. The applicant notes that the impact of the development is mitigated by its modest size. I note that the structure has a stated floor area of 69sqm and includes two-bedrooms, two bathrooms, a kitchen and a living room. In this regard, I do not consider the development to be small in scale and subservient to the primary house on site.
- 7.1.5. In conclusion and having regard to the requirements of Objective HO O11 of the Plan, I am not satisfied that the proposed extension accords with the stated requirements by reason of its detached nature and excessive scale, which would not be subordinate to the primary house on the site. It is recommended that permission be refused.

## **8.0 AA Screening**

- 8.1.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.1.2. There are no European Sites in the vicinity of the site. The closest site is the Glen Bog SAC (Site code: 001430) located approximately 4km to the north of the site.
- 8.1.3. The proposed development relates to the retention of a modular dwelling. A detailed description of the proposal is outlined in Section 2 of this report.
- 8.1.4. No nature conservation concerns were raised in the planning appeal.
- 8.1.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- Nature of works e.g. the retention of a modular dwelling within the curtilage of an existing dwelling.
  - Lack of connections to the nearest European site
  - Taking into account screening report/determination by the Planning Authority
- 8.1.6. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

- 8.2. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required

## **9.0 Recommendation**

- 9.1. I recommend that the proposed retention of the shed be refused for the following stated reason.

## **10.0 Reasons and Considerations**

It is considered that the development, by reason of its detached nature, and its scale, which would not be subservient to the existing dwelling and would be in direct conflict with Objective HO O11 of the Limerick Development Plan 2022-2028. It would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Ciara McGuinness  
Planning Inspector

20<sup>th</sup> May 2024



## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>			
<b>Proposed Development Summary</b>	Retention of modular dwelling		
<b>Development Address</b>	Ballincolloo, Bulgaden, Kilmallock, Co. Limerick, V35 YP08		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	
		<b>No</b>	No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>	✓		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		N/A	
<b>Yes</b>	✓	Class 10(b)(i) Construction of more than 500 dwelling units - Sub Threshold	
			<b>Conclusion</b>
			No EIAR or Preliminary Examination required
			Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>	✓	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## Appendix 2 - Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	316088-23	
<b>Proposed Development Summary</b>	Retention of modular dwelling	
<b>Development Address</b>	Ballincolloo, Bulgaden, Kilmallock, Co. Limerick, V35 YP08	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The nature of the development is not exceptional in the context of the existing rural environment.</p> <p>The proposed development will not result in the productions of any significant waste, emissions or pollutants. Localised constructions impacts will be temporary.</p>	No
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative</p>	<p>The size of the development is not exceptional in the context of the existing rural environment.</p>	No

considerations having regard to other existing and/or permitted projects?	There is no real likelihood of significant cumulative effects having regard to existing or permitted projects.	
<b>Location of the Development</b> Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?  Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?	The nearest European site is 4km to the north of the site. Having regard to the nature and scale of the proposed development, and the separation distance to any European site, and in the absence of any hydrological or other connections to European Sites, and it is not considered that the proposed development would be likely to have a significant effect a European site.  The proposed development does not have the potential to significantly affect other significant environmental sensitivities in the area.	No
<b>Conclusion</b>		
<b>There is no real likelihood of significant effects on the environment.</b>  EIA not required.  ✓	<b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b>  Schedule 7A Information required to enable a Screening Determination to be carried out.	<b>There is a real likelihood of significant effects on the environment.</b>  EIAR required.

**Inspector:**

**Date:**

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)