



An  
Bord  
Pleanála

## Inspector's Report ABP-316989-23

---

|                                     |   |
|-------------------------------------|---|
| <b>Development</b>                  | Retention of granny flat with associated works and services connections |
| <b>Location</b>                     | Tomnamuck, Ballygarrett, Co. Wexford                                    |
| <b>Planning Authority</b>           | Wexford County Council  |
| <b>Planning Authority Reg. Ref.</b> | 20230139  |
| <b>Applicant(s)</b>                 | Danu Duffy.   |
| <b>Type of Application</b>          | Retention Permission  |
| <b>Planning Authority Decision</b>  | Refuse  |
| <b>Type of Appeal</b>               | First Party   |
| <b>Appellant(s)</b>                 | Danu Duffy  |
| <b>Observer(s)</b>                  | None  |
| <b>Date of Site Inspection</b>      | 7 <sup>th</sup> July 2023.  |
| <b>Inspector</b>                    | Catherine Dillon  |

## 1.0 Site Location and Description

- 1.1. The appeal site is located on the north western side of a local road (L-5117-1) in the townland of Tomnamuck, to the north of Ballygarrett and north west of Donaghmore. The appeal site is accessed off this road via an existing driveway leading to a rectangular area of land with a bungalow and several outbuildings on it including a stable building and two polytunnels. The overall site is stated as being 1.79 hectares.
- 1.2. The development the subject of this appeal is a detached building with a mezzanine floor currently occupied as a granny flat along the south western boundary of the site. Abutting the southern boundary of the appeal structure are a number of detached dwellings which are accessed off the main road and served by a shared cul de sac road known as Skuna Hill.

## 2.0 Proposed Development

- 2.1. The proposed development is for the retention of a single storey detached structure stated as having a gross floor area of 25.26m<sup>2</sup>. Access to the structure is shared with the main entrance to the bungalow on site. The structure is set back 150m from the main road and positioned between 1-4m from the south western boundary of the site.
- 2.2. The structure has a depth of 6.4m and width of 4.610m with a height of 4.19m to the ridge. It is clad in dark green timber with a dark brown felt roof finish. The internal layout indicates a kitchen, dining/living room, bathroom and a bedroom at mezzanine level. The front (north eastern) elevation has glazing along this elevation, with two large windows on the north western and south eastern elevation and a high level circular window in the latter elevation. There are no windows along the south western elevation, with the exception of a rooflight in the roof. The internal layout is not as indicated on the submitted drawings as the bedroom is on a mezzanine level accessed via an internal staircase.
- 2.3. It is stated on the drawings the structure is a dwelling unit for retention. A proposed BRE soakpit is indicated on the drawings next to the structure. The structure is located 93m to the south east of the existing bungalow on the site. It is stated the

existing structure would be connected to the existing waste water treatment system on site.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority refused planning permission, on the following grounds:

1. The detached single storey granny flat development seeking retention is not in accordance with the policy set out in Section 3.3 'Self-contained Residential Unit for a Family Member' contained in Volume 2 of the County Development Plan 2022-2028. This policy requires that 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 development is therefore contrary to this policy and contrary to the proper planning and development of the area.
2. The development seeking to have both a dwelling and a detached granny flat/annexe sharing one wastewater treatment system within the curtilage of the site is unacceptable and maybe prejudicial to public health and contrary to the proper planning and sustainable development of the area.

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

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

3.2.2. The planner's report indicates that the proposal would not accord with Section 3.3 of the Development Plan in relation to granny flats, and given the extensive plot size, the site is capable of being subdivided and the unit occupied by a third party. The report notes the medical information submitted with the planning application and that the applicant has not fully demonstrated the existing main dwelling is unable to accommodate a family member.

##### **3.2.3. Other Technical Reports**

3.2.4. Senior Executive Scientist (Environment) recommended refusal on the grounds the proposed development for a self-contained living unit seeking retention is an

unacceptable intensification of the site, which may give rise to a public health hazard/environmental pollution.

Roads Inspection Report: No objections. Sightlines are achievable in both directions. Recommends grant with conditions.

### 3.3. **Prescribed Bodies**

None

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

None

## 4.0 **Planning History**

4.1. P.A Ref:20150413: Planning permission was granted on 20<sup>th</sup> July 2015 to Danu Gilna Duffy to erect a bungalow with services, subject to 7 conditions. This is the applicant's current house on the subject site.

4.2. Also of relevance:

P.A Ref:981322: Planning permission granted to Alex Duffy & Valerie Gilna to erect a dormer bungalow with installation of sewerage treatment system and connection to existing public water mains. (Parents to applicant in P.A. Ref: 20150413, it is stated the applicant's parents live 500m to east of 20150413)

4.3. Enforcement:

P.A Refs: 0138/2013 and 0109/2018: Notice served regarding possible unauthorised development, dwelling house.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

5.1.1. Wexford County Development Plan 2022-2028

5.1.2. The current Development Plan came into effect on 25<sup>th</sup> July 2022. The current appeal, was submitted under the provisions of this Plan. The site is located in an area designated as a coastal landscape area, and within an area experiencing strong urban influence.

5.1.3. Section 4.9.5 of the Development Plan sets out the purpose and criteria for self-contained residential units for a family member, and the following criteria applies:

- The purpose of the units is to provide semi -independent accommodation for an immediate family member who is dependent on the occupant(s) of the main dwelling or needs to live in close proximity for care or security reasons.
- The units 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 dwellinghouse when the use by immediate family member is no longer required.

5.1.4. **Objective SH50** of the Development Plan states:

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 (refer to 5.1.6 below).

5.1.5. Objective WW11 of Chapter 9, Section 9.6.4 of the Development Plan regarding the Infrastructure Strategy for the County states:

**Objective WW11:** To consider the development of single dwelling houses only where it is demonstrated to the satisfaction of the Planning Authority that the proposed wastewater treatment system is in accordance with the 'Code of Practice Wastewater Treatment and Disposal System Serving Single Houses, EPA 2021' and

any updated version of this document during the lifetime of the Plan, and maintained in accordance with approved manufacturer's specifications and subject to compliance with the Water Framework Directive, the National River Basin Management Plan 2018-2021, the Habitats and Shellfish Waters Directives and relevant Pollution Reduction Programmes.

**5.1.6. Volume 2- Development Management Standards**

5.1.7. In Volume 2, Section 3 Residential Developments, includes development management criteria for self-contained residential units in Section 3.3, and the criteria for wastewater treatment systems in Section 8.3.1 of the Plan.

5.1.8. Section 3.3 Self-contained residential unit for a family member.

- Applicant must demonstrate a need for the unit in accordance with Section 4.9.5 in volume 1 outlined above.
- The unit must be attached to the main dwellinghouse 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 2 bedrooms.
- Where required it will be necessary to demonstrate the existing on-site wastewater treatment facilities serving the main dwelling house are adequate to facilitate the additional loading.
- 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 dwellinghouse, when the use of the unit is no longer required it must be integrated into the main dwellinghouse.

5.1.9. Section 8.3.1 Private Waste Water Treatment Systems

Private On-site Wastewater Treatment Systems includes for the siting, design and installation of the wastewater treatment system shall be in accordance with the requirements of the Code of Practice: Wastewater Treatment and Disposal Systems serving Single Houses ( $PE \leq 10$ ), published by the EPA in 2021 or future updates. It

must comply with minimum separation distances to various receptors specified in the Code of Practice.

## 5.2. **Natural Heritage Designations**

5.3. Cahore Polders & Dunes SAC (site code 000700) is 3.79km to the south east of the site. Cohore Marshes SPA (site code 004143) is 3.64km to the south east of the site. Kilmuckridge -Tinnaberna Sandhills SAC (site code 001741) is 9.7kilometres to the south of the site. Slaney River Valley SAC (site code 000781) is 24km to the west of the site.

## 6.0 **The Appeal**

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

The grounds of appeal refer to the two reasons for refusal and are as follows:

#### 6.1.1. Reason 1: Principle of the unit

- The structure was constructed prior to the current County Development Plan which permitted granny flats in certain circumstances and the design and siting was compliant with the relevant policy at the time.
- Acknowledge it was constructed without planning permission due to personal circumstances and the only way the applicant could afford suitable living accommodation for her mother was to construct a modular prefabricated structure detached from the main house.
- The cost of extending the applicant's house to provide a granny flat was 165% more expensive than the current proposal.
- Applicant's home is too small to accommodate another adult.
- Proposal would not set a precedent as the siting is unique, and the CDP policy is simply guidelines as the policies cannot cover every eventuality.
- This is not speculative development.

- A Medical Assessment form relating to injuries sustained by Ms.Valerie Gilna (Applicant’s mother) in 2017 and 2014, signed by a medical doctor and solicitor dated 2023.

#### 6.1.2. Reason 2: Waste Water treatment system

- The proposal is not for 2 separate units or to subdivide the site. The existing and permitted waste water treatment unit has a capacity for a P.E of six residents (refer to the EPA report and WWTS specification granted under pl.reg.No, 20150413). The existing dwelling has a PE of 3 residents and therefore the capacity is available for the additional bedroom proposed within the granny flat.

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

None

#### 6.3. **Observations**

None

#### 7.0 **Assessment**

7.1. Having undertaken a site visit and having regard to the relevant planning policy provisions relating to the development, I consider the key issues pertaining to the appeal can be assessed under the following headings:

- Development Plan policy context and
- Adequacy of the wastewater treatment system (WWTS).

#### 7.2. **Development Plan policy context**

7.2.1. The applicant states the structure was erected prior to the current Development Plan. However, the planning application was submitted after the adoption of the current Plan and will therefore be assessed in accordance with the current Development Plan policies. The applicant contends that the proposed development should not be considered as setting a precedent and that the Development Plan policy is a guideline only. It is acknowledged each application is considered on its



own merits. Nevertheless, in making planning decisions on planning applications, the provisions of the Development Plan and its objectives must be considered.

7.2.2. Objective SH50 of the Development Plan permits self-contained units attached to the main dwelling only where it has been satisfactorily demonstrated the proposed occupant is an immediate family member who is dependent on the existing occupant of the main dwelling house for health or support reasons. A medical report submitted with the planning application is a copy of a physiotherapist's report dated 24<sup>th</sup> October 2017 authenticated by a solicitor dated January 2023. The medical report outlines the applicant's mother's medical history regarding two incidents, one in 2014 and another in 2017, where she suffered a fracture to her left arm. A section of the form requires the Practitioner to indicate the degree, if any, to which the Claimants condition is affecting their ability in a number of areas, including manual dexterity, bending, lifting, carrying etc.. The applicant's mother was identified as having mild effects from her incident regarding lifting/carrying, everything else was considered normal. The expected time recovery was 3 months. This period of recuperation has expired and, therefore, it not considered the applicant has satisfactorily demonstrated there is a requirement for the family member to be still dependent on the occupants of the main dwelling on health or support grounds.

7.2.3. The applicant makes the case that her mother does not own her own home and the granny flat on her land is her only option to secure a place to live. In the applicant's grounds of appeal they cite cost as being an issue and that there is no room in the existing dwelling to accommodate the applicant's mother and that it was not financially viable to construct an extension. The issue of cost is not a material planning consideration and the grounds of appeal make no reference to the applicant's mother's previous residence (cited as being 500m east of the applicant's current residence in P.A Ref: 20150413 in Donaghmore). If the applicant is seeking a new dwelling for her mother, the rural housing policy would be applicable.

7.2.4. The granny flat the subject of this appeal is 63m to the south east of the applicant's bungalow on the site, and has a fenced garden and separate gated entrance to the main dwelling. Although the occupier of the granny flat accommodation shares the same vehicular access to the main dwelling, it is clearly detached from the applicant's house and is a separate planning unit. From a site inspection there is

adequate room to accommodate a small extension to the main dwelling house without impacting on the amenity of the occupiers of the adjoining properties.

- 7.2.5. Based on the above, I do not consider the structure for which the applicant is seeking retention permission as a granny flat, meets the criteria within the County Development Plan for a self-contained residential unit for a family member as it is not attached to the main dwelling, cannot be reintegrated to the main dwelling when its use ceases, and the applicant has not satisfactorily demonstrated that the occupier is dependent on the unit for health or support grounds.

### 7.3. **Adequacy of the Waste Water Treatment System (WWTS)**

- 7.3.1. The main dwelling on the site was granted planning permission in 2015 (P.A. Ref: No.20150413) and had its own wastewater treatment system. Its water source from a bored well was indicated as being at the north western corner of the site. The applicants state the site suitability assessment and WWTS design was for  $\leq 10$ p.e and enclose relevant details. This assessment was carried out in 2015 and does not relate to the current development under consideration. In accordance with the EPA: Code of Practice: Domestic Wastewater Treatments Systems 2021, all site characterisation forms submitted with planning applications must be completed in accordance with the up-to-date guidance.
- 7.3.2. The granny flat is located 63m from the existing septic tank and 94m from the polishing filter/percolation area serving the main dwellinghouse. The applicants have not provided any details as to whether the existing WWTS is appropriate and whether it has been regularly maintained since its installation. There are no details provided in the current proposal indicating the waste lines from the granny flat to the existing septic tank or how the effluent from the granny flat would discharge into the septic tank. On the day of the site inspection, I noted the land falls away from the granny flat to the septic tank and percolation area, and could possibly rely on gravity, although details have not been provided in this regard.
- 7.3.3. It is noted the Planning Authority's Senior Executive Scientist (Environment) did not support the proposal on intensification grounds and that it may give rise to a public health hazard/environmental pollution. The EPA: Code of Practice: Domestic Waste Water Treatments Systems (PE  $\leq 10$ ) 2021 requires where it is proposed to dispose of waste water from a proposed development other than to a public sewer,

information on the on-site treatment system and evidence as to the suitability of the site for the system proposed must accompany the planning application. 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 extension. Where this cannot be demonstrated, it will be necessary for the on-site wastewater facilities to be upgraded as part of the development proposal. Based on the evidence submitted I cannot be satisfied that the current system can accommodate the additional unit.

- 7.3.4. Having regard to these matters I conclude that the application has not demonstrated that effluent arising from the proposed development can be disposed of safely within the application site and the proposed development would, therefore, be prejudicial to public health.

#### **7.4. Appropriate Assessment**

- 7.4.1. An Appropriate Assessment Screening Report was not submitted with the application. Cohore Marshes SPA (site code 004143) is 3.64km to the south east of the site, and Kilmuckridge - Tinnaberna Sandhills SAC (site code 001741) is 9.7kilometres to the south of the site. In the 2015 permission for the dwelling on the site the proposed WWTS was to be located a minimum distance of 10m from the existing ditch. The Ordnance survey does not indicate the ditch and it is not clear where the ditch drains into. There is a watercourse to the north east of the site (Mangan Lower) which flows into the Irish Sea, but there is no hydrological link between this water source and the appeal site. Having regard to the Source-Pathway-Receptor model there would be no hydrological link between the proposed development and the Natura 2000 sites.
- 7.4.2. It is reasonable to conclude that on the basis of the information available on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Cohore Marshes SPA and Kilmuckridge - Tinnaberna Sandhills SAC or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment and submission of a Natura Impact Statement is not therefore required.

## 8.0 Recommendation

- 8.1. I recommend that planning permission be refused for the following reasons and considerations set out below.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Wexford County Development Plan 2022-2028, I conclude the development contravenes the objectives set out in the current Wexford County Development Plan in relation to self-contained residential units for a family member/granny flat, and in relation to the suitability of the existing domestic wastewater treatment facilities and recommend refusal for the following reasons:

1. Based on the information submitted with the planning application and appeal, it is considered that the proposed development would not meet the criteria specified in Sections 3.3, 4.9.5 and Objective SH50 of the Wexford County Development Plan 2022-2028 for self-contained family residential units. The proposed development would result in a sub-standard development, would set an undesirable precedent for similar developments in the area, and would be contrary to the proper planning and sustainable development of the area.

2. It is the policy of the planning authority, as expressed in the Wexford County Development Plan 2022-2028, that the treatment and disposal of domestic effluent comply with the standards set out in the Code of Practice for Wastewater Treatment and Disposal Systems for Single Houses ( $PE \leq 10$ ) (EPA 2021). This policy is considered reasonable. The application has not demonstrated that the existing on-site wastewater treatment facility serving the main dwelling house is adequate to facilitate the additional loading from the proposed development, and the proposed development would therefore, be prejudicial to public health and give rise to a risk of groundwater pollution.

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.

---

Catherine Dillon  
Planning Inspector

10<sup>th</sup> August 2023