



An
Bord
Pleanála

Inspector's Report

ABP-317215-23

Development	Construction of a single storey "granny flat", including provision for parking, upgrade to the wastewater treatment system and all other ancillary site works
Location	Robinhill, Mullacash, Naas, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	22951
Applicant(s)	Charlie Donnelly
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Siobhan Conneely
Observer(s)	None
Date of Site Inspection	19 th December 2023

Inspector

Emma Nevin

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.57 ha, is located within the rural townland of Mullacash, approximately 2km to the east of Two Mile House.
- 1.2. The appeal site comprises an existing single storey dwelling. The site is bound by a low wall, gate and hedge to the front, roadside boundary with mature trees and hedge to the site and rear site boundaries. There is a front and rear amenity space associated with the existing dwelling.
- 1.3. The site addresses the main rural road with an existing vehicular access to the front of the site. The road serves several dwellings on both sides of the road.
- 1.4. Development in the vicinity consists of similar style dwellings on large sites to the north and south. There is a dwelling and associated agricultural development to the west of the site with agricultural land to the rear.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a single storey 'granny flat' extension to the side of the existing detached dwelling. The proposed 'granny flat' has a stated floor area of 53.9 sq. m. and comprises one bedroom, bathroom, and open plan living/dining room. The extension will have a pitched roof to a height of 5 metres.
- 2.2. A new entrance door is proposed to the front elevation, with associated hallway, which will connect the proposed 'granny flat' extension to the main dwelling.
- 2.3. As part of the ancillary works the existing wastewater treatment system will be upgraded and parking is proposed to the front of the extension to serve the 'granny flat'.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority granted permission, following further significant information request, and clarification of further information request, on 4th May 2023, subject to 9 conditions, which included the following:

- Condition 2 pertains to the terms and conditions of the previous permission namely PL 14/742, and any agreement entered into thereunder.
- Condition 3 relates to the use of the family flat and the requirement for it to be used as an incidental part of the main dwelling house, when no longer required.
- Condition 5 relates to specific requirements for P8 Waste Water Treatment System.
- Condition 8 relates to specifics pertaining to surface water drainage.

3.2. Planning Authority Reports

3.2.1. Four planning reports have been provided. It is noted that the planning application was assessed under both the Kildare County Development Plan, 2017 – 2023 and the Kildare County Development Plan, 2023 – 2029.

3.2.2. The original planning report considered it necessary to seek further information on the following items:

- To submit revised proposal for the development of a family flat which takes account of the provisions of Section 17.4.9 of the Development Plan and relocate the proposed structure and to submit supporting documentation for the requirement of a family flat.
- To submit details in relation to the site suitability of the wastewater treatment system for the overall development, and to submit a site characterisation for the on site wastewater treatment system.
- The further information was also deemed to be significant and revised public notices were submitted.

3.2.3. The second planning report considered it necessary to seek clarification of further information as follows:

- To submit details in relation to the site suitability of the wastewater treatment system for the overall development, and to submit a site characterisation for the on site wastewater treatment system.
- The further information was also deemed to be significant and revised public notices were submitted.

3.2.4. The third planning report considered it necessary to seek clarification of further information as follows:

- To submit details in relation to the site suitability of the wastewater treatment system for the overall development, and to submit a site characterisation for the on site wastewater treatment system.
- The further information was also deemed to be significant and revised public notices were submitted.

3.2.5. The fourth planning report assessed the clarification of further information concluded that the further information was acceptable, and the development is in accordance with the Kildare County Development Plan 2023 – 2029, subject to 9 no. conditions.

3.2.6. Other Technical Reports

Area Engineer: No objection subject to conditions.

Water Services: No objection subject to conditions.

Roads: No objection subject to conditions.

Environment: Initial report requested further information, and subsequent clarification of further information in respect of the proposed wastewater treatment system. Final report received stating no objection, subject to conditions.

3.3. **Prescribed Bodies**

3.3.1. The Planning Authority indicated that the following prescribed bodies were consulted.

- Uisce Eireann: No report received by the local authority.

3.4. Third Party Observations

3.4.1. One third party submission was received, the issues raised can be summarised as follows:

- Impact on residential amenity of adjacent dwelling and impact on existing views.
- Excessive development on site.
- Inappropriate location – dwelling should be located where a garage is permitted.

3.4.2. Following the submission of further information revised public notices and following a period of further consultation, one additional observation was received. New issues raised can be summarised as follows:

- The revised location will have an impact on views.
- The occupant of the unit does not live alone.
- Inappropriate location – dwelling should be located to the other side of the existing dwelling.

3.4.3. Following the submission of clarification of further information revised public notices and following a period of further consultation, one additional observation was received. New issues raised can be summarised as follows:

- Concerns raised in relation to potential commercial activity.
- Previous concerns reiterated.

4.0 Planning History

14/742: Permission granted by Kildare County Council on 7th January 2015 for new house type and alteration to boundaries to already granted planning permission Ref. No. 05/1356 and extended by planning permission Ref. No. 10/1038 along with new entrance gates, sewage treatment plant and all associated site works.

14/104: Permission refused by Kildare County Council on 10th April 2014 for new house type and alterations to boundaries to already granted planning permission ref.

no. 05/1356 and extended by planning permission ref. no. 10/1038 along with new entrance gates, sewage treatment plant and all associated site works.

The reason refusal stated:

“The proposed development, by reason of the inappropriate design, height and proposed finished floor level of the dwelling on an elevated and visually exposed site materially contravenes Policy RH 5 of the County Development Plan 2011 – 2017 wherein it is a policy to ensure that the location and design of a new shall take account of an integrate appropriately with its physical surroundings. The proposed house due to its design, height and proposed finished floor level on an elevated and visually exposed site does not confirm to the rural design and development guidelines as outlined under Chapter 16 of the County Development Plan 2011 – 2017. Accordingly, the proposed dwelling hose would contravene these guidelines, would be out of character with the existing pattern of development in the area, would be seriously injurious to the amenities and depreciate the value of property in the vicinity, set an undesirable precedent for other similar developments, and would therefore be contrary to the proper planning and sustainable development of the area”.

10/1038: Extension of duration of permission granted by Kildare County Council on the 2nd December 2010 for development permitted under 05/1356.

05/1356: Permission granted by Kildare County Council on 15th September 2005 for the construction of two storey dwelling and septic tank.

5.0 Policy Context

5.1. Kildare County Development Plan 2023 – 2029

5.1.1. The Kildare County Development Plan 2023 – 2029, came into effect on 28th January 2023.

5.1.2. The following sections from Chapter 15 Development Management Standards are of relevance:

- Section 15.1.6 Appropriate Assessment.

- Section 15.4.14 Family Flat *“Family flats (often known as granny flats) refer to a temporary subdivision or extension of an existing dwelling unit. They are a way of providing additional accommodation with a level of semi-independence for an immediate family member (dependent on the main occupants of the dwelling). Applications for a family flat shall have regard to the following requirements:*
 - *The applicant shall be required to demonstrate that there is a genuine need for the family flat.*
 - *An occupancy condition may be applied.*
 - *The proposed unit should be linked directly to the main dwelling by a connecting door.*
 - *Accommodation must be subsidiary to the main dwelling in scale and only in exceptional cases will more than one bedroom be permitted where a need has been demonstrated.*
 - *The design standards for house extensions shall be applied to the family flat.*
 - *Any external doors permitted (to provide access to private / shared open space or for escape from fire) shall be limited to the side or rear of the house.*
 - *Where required, it will be necessary to demonstrate that the existing on-site wastewater treatment system serving the main dwelling can facilitate the additional loading from the family flat. Where this cannot be demonstrated, it will be necessary for the on-site wastewater treatment system to be upgraded as part of the development proposal. It is normal procedure to include conditions in any grant of permission that the family flat cannot be sold, conveyed or leased separately from the main residence, and that when the need for the family flat no longer exists the dwelling must be returned to a single dwelling unit”.*

Section 15.17.4 Natural Heritage, Green Infrastructure and Biodiversity.

5.2. Natural Heritage Designations

- 5.2.1. The subject site is not located within a designated European Site. The closest such site is the Poulaphouca Reservoir SPA (Site Code 004063), which is approx. 8.5km to the east of the site.

5.3. EIA Screening

- 5.3.1. I refer the Board to the completed Form 1 in Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third party appeal has been received from Siobhan Conneely. The grounds of appeal are summarised below:
- The granny flat is suited on the side of the existing house and is directly in front of the appellants house and will block the view of the Wicklow mountains and will impact on the amenity of the existing amenity.
 - There is adequate space on the opposite side of the existing house for the granny flat to be relocated (on the right hand side as viewed from the appellants house) and this would respect the amenity of the adjoining dwelling.
 - There is no other house siting in Mullacash where a house is sited directly opposite an existing home and the proposal should maintain the character of the neighbourhood.

6.2. Applicant Response

- 6.2.1. A first party response to the appeal dated 21st June 2023, was submitted on behalf of the applicant. The submission responds to the issues raised within the third party appeal as follows: -

- The proposed granny flat is located to the left hand side of the existing house where it coincides with the end of a corridor hence providing an independent access to the flat and connectivity to the existing house.
- The suggestion the granny flat to be located on the opposite side of the hose ignores the layout of the existing house and would impact on the amenity of the existing house.
- The statement that there are no houses in Mullacash sited opposite is irrelevant. Both houses exist.
- The appellant's house is located across the road and is set back 22 metres from the road. The proposed extension is set back a further 30.5 metres from the road creating a separation distance of 61 metres, resulting in minimal impact on the view enjoyed by the appellant.

6.3. **Planning Authority Response**

None received.

6.4. **Observations**

None received.

6.5. **Further Responses**

None received.

7.0 **Assessment**

7.1. Having inspected the site and considered the contents of the appeal, I consider the main issues which arise in relation to this appeal are as follows:

- I. Location of the proposed development
- II. Impact on adjoining visual amenity
- III. Appropriate Assessment, and
- IV. Other Matters.

7.2. Location of the proposed extension

- 7.2.1. Following the further information request, as noted above, the proposed 'granny flat' extension was relocated to the north side elevation of the main dwelling. Concerns have been raised regarding the position of the extension to the right hand side of the main dwelling, which is considered to be out of character with the neighbourhood.
- 7.2.2. Following site visit, I noted that there is a mix of house types in the immediate vicinity, with no distinctive design or character, that would warrant the proposed extension to be considered out of keeping with the character of the area.
- 7.2.3. As per the proposed site layout plans, and the proposed floor plan, I note that the position of the 'granny flat' extension to the north side elevation of the main dwelling allows the extension to be linked to the main dwelling, with associated access and parking to the front, as per the requirements of the County Development Plan.
- 7.2.4. As such, I consider that the location of the proposed extension to be acceptable and the design of same is in keeping with the existing dwelling.

7.3. Impact on adjoining visual amenities

- 7.3.1. The grounds of appeal express concerns regarding the impact of the proposed extension on the existing views, in particular the view of the Wicklow mountains, as viewed from the front of the appellant's site, thus impacting on their amenity.
- 7.3.2. This is not a protected view as listed in the Kildare County Development Plan, and I note that the proposed extension will be positioned at a separation distance of some 66 metres from the front building line of the appellants dwelling. The proposed extension is also single storey in design and is positioned below the eaves level of the main dwelling.
- 7.3.3. While I acknowledge that the extension will be visible to the front of the appellants site, I do not consider that the proposed extension due to its scale, height and position would impact negatively on the visual amenity or outlook from the appellants' site and would be acceptable at this location.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment and the distance to the nearest European site, no

Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.5. **Other Matters**

7.5.1. **'Family Flat' Policy**

7.5.1.1. Section 15.4.14 of the County Development Plan details the requirements in relation to family flats, which allows for temporary subdivision or extension of an existing dwelling unit to provide additional accommodation for an independent family member.

7.5.1.2. To this end, the applicant submitted a justification for the proposed development and the proposal is linked to the main dwelling, and therefore is in compliance with the requirements of the County Development Plan in this regard.

7.5.1.3. In the event that the Board considers that the proposed development should be granted, a condition regarding the occupancy should be included.

7.5.2. **Wastewater**

7.5.2.1. The applicant is proposing to connect to the public main and the existing wastewater treatment system onsite. Following clarification of further information, the applicant submitted a revised site characterisation report to upgrade the existing wastewater treatment system to provide an increased capacity for 7 people. As such, I consider that the upgrade to the existing wastewater treatment system to be acceptable.

7.5.2.2. In the event that the Board considers that the proposed development should be granted, a condition regarding the requirements of the wastewater treatment system should be included.

8.0 Recommendation

8.1. I recommend that planning permission should be granted, subject to conditions, as set out below, for the following reasons and considerations.

9.0 Reasons and Considerations

9.1. Having regard to the policies, objectives and zoning which applies to the site under the Kildare County Development Plan, 2023 – 2029, subject to the conditions set out below the proposed development would be an appropriate form of development, would not seriously injure the character or the visual amenities of the area, would not seriously injure the amenities of residential property in the vicinity and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application [as amended by the further plans and particulars submitted on the 03rd day of August 2022, on the 21st day of November 2022, on the 10th day of January 2023 and on the 16th day of March 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
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2.	<p>The proposed “granny flat” extension shall be used solely for that purpose and shall revert to use as part of the main dwelling on the cessation of such use.</p> <p>Reason: To protect the amenities of property in the vicinity and in order to comply with the objectives of the current Development Plan for the area.</p>
3.	<p>The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture and shall be in accordance with the drawings received on 21/11/2022.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0700 and 1800 Mondays to Fridays inclusive, between 0800 to 1300 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the amenities of properties in the vicinity.</p>
5.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area.</p>
6.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and surface water management.</p>
7.	<p>(a) Within one month of the grant of planning permission and for written agreement of the planning authority, the applicant is requested to submit the new Site Suitability Report for P8 is wastewater treatment system.</p>

	<p>(b) The existing Biogreen PE6 wastewater treatment system shall be decommissioned, removed, and disposed of in accordance with the Waste Management Acts 1996 – 2016, and the regulations made thereunder.</p> <p>(c) All foul waste and soiled water shall discharge to the onsite P8 wastewater treatment system as part of the submitted and approved operational and layout plans.</p> <p>(d) The P8 wastewater treatment system shall be designed and installed strictly in accordance with the approved layout plans by suitably trained and competent persons as per the 2021 EPA “Code of Practice for Domestic Wastewater Treatment Systems”.</p> <p>(e) Staged photographs of the installation and commissioning stages of the wastewater treatment system shall be supplied to Kildare County Council together with a commissioning certificate by a suitably competent professional for approval prior to occupation of the property.</p> <p>(f) A maintenance agreement shall be entered into and maintained between the property owner and the suitably competent contractor for the annual maintenance of the wastewater treatment system in accordance with the manufacturer's guidelines. A copy of the initial maintenance agreement shall be supplied to Kildare County Council prior to occupation.</p> <p>Reason: In the interest of public health and the use of best practice guidelines in order to avoid pollution.</p>
8.	<p>The developer shall pay to the planning authority a financial contribution of in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the</p>

<p>planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission</p>

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.



Emma Nevin
Planning Inspector

17th January 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	317215-23		
Proposed Development Summary	Construction of a single storey "granny flat", including provision for parking, upgrade to the wastewater treatment system and all other ancillary site works		
Development Address	Robinhill, Mullacash, Naas, Co. Kildare		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			
No	X	Extension to existing dwelling - not a class	
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]?			
		Threshold	Comment (if relevant)
			Conclusion
No	X	Extension to existing dwelling - not a class	No EIAR or Preliminary Examination Required
Yes			

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required