



An
Bord
Pleanála

Inspector's Report ABP-320004-24

Development	Retention of alterations to previously permitted development (20053114). The alterations consist of alterations to the garage elevational fenestration and materials, alterations to the garage roof and amending the previously approved garage to a home office with gym and utility kitchen and storage for use incidental to the main house, together with all associated site works.		
Location	Killowen, Gorey, Co. Wexford, Y25 D9X7		
Planning Authority Ref.	20240377.		
Applicant(s)	Mark White.		
Type of Application	Retention Permission.	PA Decision	To Refuse Retention Permission.
Type of Appeal	First Party.	Appellant	Mark White.
Observer(s)	None.		
Date of Site Inspection	15 th November, 2024.	Inspector	Aiden O'Neill.

Context

1. Site Location/ and Description.

The proposed development site is c. 0.251ha in area located in the townland of Killowen, over 3km west of Gorey. The site consists of 2no. detached buildings, a

two-storey dwelling (231.3m²), and an adjacent one-and-a-half storey former garage that has been converted to a home office with gym, kitchen and storage area (80.7m²) that is the subject of this appeal. This building to be retained is located c. 6.736m to the north-west of the dwelling. The site is the last of a ribbon development of 5no. dwellings on large plots on either side of a private cul-de-sac road known as 'Somers Lane', that connects to the L5077 which then joins the R725 Gorey to Carlow Road. The entrance to Beech Drive Equestrian Centre is located on the opposite side of the site.

The ground floor of the building to be retained comprises a kitchen and sitting room (with stove), both of which are used for homeworking purposes, a bathroom with shower, and separately accessed storage area. On the part first floor, there are 2no. rooms, one used for storage, the other for a home gym.

The dwelling on site is served by a private well and a septic tank treatment system. Surface water is disposed via a soakpit.

2. Description of development.

Permission is sought for the retention of alterations to a former garage, to include:

- retention of a change of use from garage to a home office/gym (22.7m²), utility kitchen (16m²), WC, and storage area on the ground floor, and additional part first floor with 2no. rooms (11.4m² and 7.8m²) identified for storage use, accessed via stairs.
- additional window at part first-floor level on the rear elevation
- additional skylight on the side (south-eastern) elevation
- alterations to the permitted fenestration to provide French windows
- changes to the materials of the front elevation of the permitted garage from hallmark stone to brick and render with a lower section of hallmark stone, with the lower section of hallmark stone also extended to all other elevations
- replacement of the garage double doors with a new window
- alterations to roof hips

The footprint, height and FFL of the building to be retained is not changed from that permitted. The entrance from the private road has also not changed.

A masonry chimney has also been erected on the building. It is shown on the side (south-east) elevation on drawing no. 24014-PL-3.02. Retention permission is not specifically sought for this.

The application was lodged on 9th April, 2024. The applicant is stated to be the owner of the proposed development site.

3. Planning History.

20053114 Permission was granted on 2nd December, 2005 to erect a dormer bungalow with services and domestic garage.

Condition no. 21 states that the proposed garage shall not be used for human habitation or for the keeping of pigs, poultry or pigeons, ponies or horses or for any other purpose other than a purpose incidental to the enjoyment of the house.

The garage was stated to be 58.2m² in the application form and the plans/section/elevation drawing.

20000790 Permission was refused on 20th April, 2000 to erect a dormer bungalow with services for 4no. reasons, as follows:

1. The proposed development would contravene the policy of the Planning Authority, as expressed in Sections 4.2.4(c), 5.5.1(a) and 5.17.2 of the County Wexford Development Plan 1993, to control ribbon development in rural areas in the interests of traffic safety and the maintenance of the capacity of the roads in the County. The proposed development would therefore be contrary to the proper planning and development of the area and would endanger public safety by reason of a traffic hazard.
2. The proposed development, when taken in conjunction with existing and permitted development in the area would consolidate a pattern of and set a precedent for further ribbon type suburban development in an unserviced rural area. The proposed development would thereby conflict with Section 4.2.4(c) of the County Wexford Development Plan 1993 and would therefore be contrary to the proper planning and development of the area.
3. Taken in conjunction with existing and permitted development in the area, the proposed development would give rise to an excessive density of

suburban type development in a rural area which is under increasing pressure from such development. It is the policy of the Planning Authority in the County Wexford Development Plan 1993 to channel such development into serviced centres which can cater for the needs of such development. The proposed development would contravene this policy and would lead to demands for the provision of uneconomic public services and facilities and would lead to excessive demands on the rural road network, and would therefore, endanger public safety by reason of a traffic hazard and would be contrary to the proper planning and development of the area.

4. The proposed development is located on an unsurfaced minor laneway which is inadequate in width, alignment and structural condition and would therefore endanger public safety by reason of a traffic hazard and would tend to create serious traffic congestion.

4. National/Regional/Local Planning Policy (see attached)

- Section 4.6 of Volume 1 of the Wexford County Development Plan 2022 states single housing in the open countryside will be considered where it is for those with a demonstrable economic or social functional need to live there as set out in Section 4.9 Housing in the Open Countryside and Table 4-6.
- The site is located in a Stronger Rural Area.
- Section 4.9.1 further states that in order to be considered for a single dwelling in the open countryside, an applicant must meet one of the following categories:
 - A. A person who has a demonstrable social functional need to reside in a particular rural area (except for Structurally Weak Rural Areas) Or
 - B. A person who has a demonstrable economic functional need to reside in a particular rural area (except for Structurally Weak Rural Areas).
- In Landscape Character terms, the site is located in the Lowlands Landscape Character Unit (LCU).
- Objective ED54 of Volume 1 of the Plan seeks to facilitate remote working.
- Objective ED127 of Volume 1 seeks to facilitate new development and/or the conversion of part of a dwelling to an appropriate home-based economic activity in rural areas, where the dwelling remains as the main residence of the

practitioner, and the economic use is clearly ancillary to the residential use and subject to compliance with normal planning and environmental criteria and the development management standards contained in Volume 2

- Section 3.2 of Volume 2 of the Plan sets out guidance for self-contained residential units for a family member.

5. Natural Heritage Designations

- The Slaney River SAC (000781) is located c. 439m to the north-west of the proposed development site.

Development, Decision and Grounds of Appeal

6. PA Decision.

The Planning Authority decided to refuse permission by Order dated 31st May, 2024 for 1no. reason as follows:

1. The external and internal alterations sought to be retained to the permitted garage under 20053114, along with the proposed retention of a home office/gym, kitchen/utility and bathroom resemble a self contained residential unit, rather than a structure to be used ancillary to the main dwelling.

Having regard to the above, the detached one and a half storey development seeking retention for change of use, external and internal alterations was assessed under the policy as 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. Furthermore, insufficient information has been submitted to demonstrate a need for such a unit in accordance with the requirement as set out in Section 4.9.5, Volume One of the Wexford County Development Plan 2022-2028. The development is therefore contrary to this policy and contrary to the proper planning and sustainable development of the area.

The planner's report is the basis for the Planning Authority's decision to refuse planning permission.

7. First Party Appeal.

The First Party Appeal sets out the following grounds:

- The applicant uses the structure as a home office/gym and utility, incidental to the enjoyment of the main house.
- It has been used in this capacity for c. 10 years. It is not being used as a residential unit.
- It is reasonable to use the structure as a home office/gym and utility and that it is reasonable to require a bathroom for the use of the gym.
- The drawings of the permitted garage indicate rooflights, first floor in the section and first floor window. The subsequent alterations have been minor.
- A number of modifications, including the submission of revised drawings, are proposed to bring the structure back closer to the originally permitted garage, including:
 - Remove the hob from the utility
 - Remove the chimney
 - Remove the additional first floor window
- The homeowner and his wife work in Dublin and require the home office to avail of the 'right to work remotely' legislation and to reduce their carbon footprint.
- The appeal requests that the Board grants permission.

8. PA Response

- None on file.

Environmental Screening

9. EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

10. AA Screening

I have considered the Retention of alterations to previously permitted development (20053114) in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located c. 439m to the north-west of the Slaney River SAC (000781).

The proposed development comprises the retention of alterations to previously permitted development (20053114). The alterations consist of alterations to the garage elevational fenestration and materials, alterations to the garage roof and amending the previously approved garage to a home office with gym and utility kitchen and storage for use incidental to the main house, together with all associated site works.

No nature conservation concerns were raised in the planning appeal.

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. small scale and nature of the development
- Location and distance from nearest European site and lack of connections
- Taking into account the Screening Report and Determination by Wexford County Council.

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.

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

2.0 Assessment

2.1. Having examined all the application and appeal documentation on file, and having regard to relevant policy, I consider that the main issues which require consideration in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise.

2.2. The main issues are as follows:

- Compliance with the Development Plan

2.3 Compliance with the Development Plan

2.3.1 The Planning Authority refused planning permission on the basis that the alterations to the previously permitted garage resemble a detached family flat with kitchen/utility space and upstairs space, that is no longer ancillary to the dwelling. As such the structure to be retained is to be assessed as a self-contained residential unit for a family member under section 3.3 of the Wexford County Development Plan 2022-2028. As the structure to be retained is not connected to the main dwelling and no evidence of need has been demonstrated, the proposed development to be retained does not comply with section 3.3 of the Plan, and is therefore contrary to the Plan.

2.3.2 The applicant has made the case that the structure is not used as a residential unit, but is used as a home office/gym and utility, incidental to the enjoyment of the house, and has been used as such for approximately 10 years. The applicant has also made the case that it is reasonable to use the structure as a home office/gym and utility and that it is reasonable to require a bathroom for the use of the gym.

2.3.3 The applicant also states that the permitted garage had rooflights, a first floor section and a first floor window, therefore the alterations are minor in this context.

2.3.4 Notwithstanding this, the applicant has offered to modify the structure further by removing the hob, the chimney and the additional window.

- 2.3.5 I acknowledge that the structure to be retained does resemble a dwelling in its external feature and internal configuration, with downstairs shower facility in the bathroom, kitchen and utility space, and external chimney.
- 2.3.6 I also note that the previously permitted garage included attic storage, as opposed to as-constructed part first floor accessed by stairs.
- 2.3.7 However, it was clear on the day of the site visit that the structure is not in use as a residential unit. It was clear on the day of the site visit that the structure is in use as a home office, with the applicant, who works in the Faculty of Nursing & Midwifery in the Royal College of Surgeons of Ireland (RCSI) University of Medicine & Health Sciences, taking online classes. It is reasonable to want to take such classes in a quiet environment away from the family home. If the Board is minded to grant planning permission, I would recommend the attachment of a condition that restricts the use of the structure to those specified in the application materials.
- 2.3.8 I would be inclined to accept the applicant's case that it is not unreasonable to have kitchen and bathroom facilities, as well as heating, to support a home office use.
- 2.3.9 Noting that the applicant has stated that the use to be retained facilitates home working, I consider that the development is supported by Objective ED54 of the Plan which seeks to facilitate remote working.
- 2.3.10 I also consider that the use to be retained is generally supported by Objective ED127 of the Plan facilitates an appropriate home-based economic activity in rural areas. The dwelling remains as the main residence of the practitioner, and the economic use is clearly ancillary to the residential use. There is nothing in the development management standards contained in Volume 2 of Plan that would not support the use to be retained.
- 2.3.11 The structure to be retained is the same height and footprint as the previously permitted garage. As noted above, the previously permitted garage included an attic area for storage. The external and internal modifications to the previously permitted garage are not significant in nature and extent.
- 2.3.12 I note the applicant's proposals in the appeal to remove the hob, chimney and first floor window, however, I do not consider these to be necessary, on the basis that it is reasonable to have such facilities to support the home office use, and it will be

necessary to retain the chimney to support the stove. The first floor window will aid ventilation of the structure.

3.0 Recommendation

- 3.1. I recommend that permission for the development be granted for the following reasons and considerations.

4.0 Reasons & Considerations

Having regard to the provisions of the Wexford County Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out before, the proposed development will not be seriously injurious to existing residential amenities, and will not have an adverse impact upon the character of the area. It is considered that the proposed development is in the interests of the proper planning and sustainable development of the area.

5.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 9 th day of April 2024, 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. Reason: In the interest of clarity.
2.	Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to home office with gym and utility kitchen and storage for use incidental to the main house, as specified in the lodged documentation, unless otherwise authorised by a prior grant of planning permission.

	Reason: To protect the amenities of property in the vicinity.
3.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>

Relevant Policies

Wexford County Development Plan 2022-2028

Section 4.6 of the Wexford County Development Plan 2022 states that In line with the NPF the Planning Authority will direct new residential development to the county's towns, villages and rural settlements in accordance with the Core Strategy and the Settlement Strategy in Chapter 3 Core Strategy.

Section 4.6 also states that Single housing in the open countryside will be considered where it is for those with a demonstrable economic or social functional need to live there as set out in Section 4.9 Housing in the Open Countryside and Table 4-6.

Section 4.9.1 states that The Council will continue to support sustainable rural settlement in accordance with the National Planning Framework, the RSES and the Sustainable Rural Housing Guidelines for Planning Authorities (DEHLG, 2005) and any future updates of those guidelines.

The site is located in a Stronger Rural Area. Section 4.9.1 of the Plan states that according to the Guidelines in these areas population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong agricultural economic base and the level of individual housing development activity in these areas tends to be relatively low and confined to certain areas.

Section 4.9.1 further states that in order to be considered for a single dwelling in the open countryside, an applicant must meet one of the following categories:

- A. A person who has a demonstrable social functional need to reside in a particular rural area (except for Structurally Weak Rural Areas) Or
- B. A person who has a demonstrable economic functional need to reside in a particular rural area (except for Structurally Weak Rural Areas).

In a Stronger Rural Area, the criteria for category A would be a person who has lived full time in a principal residence for a minimum period of 7 years (not necessarily concurrently and at any time in their life) in that local rural area and the site is within 15km radius of where the applicant has lived or is living and who has never owned a rural house. The dwelling must be the person's permanent place of residence. The person can work from home or commute to work daily.

In a Stronger Rural Area, the criteria for category B would be persons who by the nature of their work have a functional need to reside permanently in the rural area close to their place of work. Functional economic need must be related to a rural resource based activity such as fulltime agriculture or horticulture and the nature of the activity or business must require the person to live at on or in close proximity to the business. Similar part-time occupations can also be considered where it can be demonstrated that it is the predominant occupation. The applicant must be able to provide documentary evidence that the employment is full-time or predominant employment when part-time. The applicant must be able to demonstrate that the landholding is such to support a viable enterprise.

In Landscape Character terms, the site is located in the Lowlands Landscape Character Unit LCU generally has characteristics which have a higher capacity to absorb development without it causing significant visual intrusion although, care still needs to be taken on a site-by-site basis, particularly to minimise the risks of developments being visually intrusive.

Objective SH39 seeks to consider individual rural housing in the open countryside in accordance with the categories and associated criteria set out in Table 4-6 and subject to compliance with normal planning and environmental criteria and the relevant development management standards.

Objective SH40 seeks to strictly control individual rural housing in the open countryside in areas that are reaching their carrying capacity in terms of effluent treatment capacity, visual amenity and/or roads carrying capacity in accordance with the requirements set out in Table 4.6 and the associated definitions and notes and

subject to compliance with normal planning and environmental criteria and the relevant development management standards.

Objective SH46 seeks to review the rural housing policy contained in the County Development Plan following the publication of the new Section 28 Guidelines for Planning Authorities on Sustainable Rural Housing, and to vary the Plan if necessary.

Section 4.9.5 of the Plan relates to self-contained residential units for a family member.

The purpose of this unit 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 to the occupant(s) of the main dwelling for care and/or security reasons. An immediate family member is defined as a mother, father, son, daughter, brother, sister or guardian. In the case of an older person who has no children, an immediate family member is defined as a sister, brother, niece or nephew. 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. The Planning Authority will consider applications on a case-by-case basis and subject to compliance with the development management standards set out in Volume 2 and normal planning and environmental criteria.

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.

Section 3.1 of the Plan sets out the design guidance for Single Dwellings in Rural Areas.

Section 3.2 sets out guidance for Domestic Garages/Stores

The development of a domestic garage/store for use ancillary to the enjoyment of a dwelling house will be considered subject to compliance with the following standards:

- The domestic garage/store shall be single storey only, shall have a maximum floor area of 80m² and a maximum ridge height of 5m. In urban areas, domestic garages and stores will be assessed on the scale of the space around the dwelling and any impact on neighbouring properties.
- The design and external finishes of the domestic garage/store shall be in keeping with that of the dwelling house.
- The domestic garage/store shall only be used for purposes ancillary to the enjoyment of the dwelling house.
- The Planning Authority may consider exceptions to these criteria having regard to the need for the development and the location and characteristics of the subject site.

Section 3.3 sets out guidance for a Self-contained Residential Unit for a Family Member

The provision of a self-contained residential unit for a family member will be considered subject to compliance with the following standards:

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 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.

Section 5.4.1 Remote Working

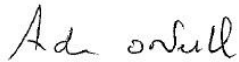
As a result of the move towards remote working the development of a home office for use by the occupiers of the dwelling will be considered in addition to a detached garage or store where:

- The unit is located within the curtilage of the dwelling;
- The unit does not exceed 15 sqm and is single storey;
- The design and external finishes are compatible with the dwelling and the external materials are durable;
- The unit would not adversely impact on existing effluent treatment systems;
- The unit would not result in any significant loss of privacy or amenity to any adjoining property; and
- The unit is only used for remote working associated with the occupants employment.

Objective ED54 seeks to facilitate remote working and consider the development of home office units for use by the occupiers of the dwelling. The unit shall be attached to the dwelling. In certain circumstances and subject to Section 5.4 Home Based Economic Activity in Volume 2 Development Management Manual the Council will consider detached units.

Objective ED127 seeks to facilitate new development and/or the conversion of part of a dwelling to an appropriate home-based economic activity in rural areas, where the dwelling remains as the main residence of the practitioner, and the economic use is clearly ancillary to the residential use and subject to compliance with normal planning and environmental criteria and the development management standards contained in Volume 2.

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.



Aiden O'Neill
Planning Inspector

17th November, 2024