



An
Bord
Pleanála

Inspector's Report ABP321009-24

Development

The permanent subdivision of a two bedroom and bathroom extension from the main dwelling to be occupied as a separate dwelling not connected to the main dwelling and to be able to let the sub-division as a separate dwelling.

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Location

Coole, Monasterevin, Co. Kildare.

Planning Authority

Kildare County Council.

Planning Authority Reg. Ref.

24257

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Applicant

Trevor Martin.

Type of Application

Permission.

Planning Authority Decision

Refusal of permission.

Type of Appeal

First Party

Appellant

Trevor Martin

Observer

None

Date of Site Inspection

21st January 2025.

Inspector

Derek Daly

1.0 Site Location and Description

- 1.1. The development is located to the west of the town of Monasterevin on the northwestern fringe of the built up area of the town. The site fronts onto a local road which defines the site's eastern boundary and part of the southern boundary. The River Barrow Navigation Canal defines the southwestern boundary and there is a dwelling to the south/southwest of the appeal site also accessed from the same roadway. A railway line defines the northern boundary. The site is irregular in configuration and has a stated area of 0.94 hectares.
- 1.2. On the site is a single storied dwelling located in the eastern area of the site. The site is serviced by a domestic wastewater treatment unit and percolation area located to the northwest and west of the dwelling. It would appear from the submitted drawings that the dwelling to the southwest is serviced by a septic tank which is located on the appeal site.

2.0 Proposed Development

- 2.1. The proposed development as received by the planning authority on the 14th October 2024 is for the permanent sub-division of a two room and bathroom extension from the main dwelling to be occupied as a separate dwelling not connected to the main dwelling and to be able to let the sub-division as a separate dwelling. The two rooms are a sitting room and bedroom which forms an extension to the gable of the dwelling in effect forming a sub-division of the current dwelling.
- 2.2. A cover letter with the application refers to the conversion of a garage and fuel store to a family flat. Reference is made to the planning history of the site including permission for the conversion of the garage to a flat and a recent refusal of subdivision of the flat as a separate dwelling unit.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The decision of the Planning Authority was to refuse planning permission. Four reasons were stated.

The first reason refers to the development as contrary to Policy HO P11 Kildare County Development Plan (CDP) 2023-2029 in that local need is not demonstrated.

The second reason refers to minimum standards in the CDP for housing with the proposal having an inadequate floor area for a separate dwelling unit which requires a minimum gross floor area of 55m², the absence of private amenity open space where a minimum of provision of 48m² is required and is therefore a substandard form of residential development and contrary to the development management standards as set out in chapter 15 of the CDP.

The third reason refers to the proposal as contrary to condition no 3 of PL21/833 which precluded sub-division of the existing residential unit.

The fourth reason refers to issues of wastewater treatment and that the proposal is contrary to Policy HO 27 of the current County Development Plan.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report dated the 1st October 2024 refers to the planning history of the site; provisions of the current County Development Plan (CDP); an assessment of the proposal which is in a rural area in the context of the provisions of the CDP considering that proposal cannot be considered as an independent housing unit and issues relating to treatment of wastewater and a recommendation from the Environment Department for refusal. Refusal was recommended.

- 3.2.2. The environment report dated the 17th September 2024 recommends refusal indicating it is contrary to council policy for two dwellings to be served by a single wastewater treatment system and therefore the proposal as submitted is not acceptable.

4.0 Planning History

4.1. P.A Ref. No 24118

Permission refused for a similar development to the current appeal proposal and the same reasons are stated. It is noted that the environment department report recommended refusal stating it is contrary to Council policy for two dwellings to be served by one wastewater treatment system and therefore the proposal as submitted is not acceptable.

4.2. P.A Ref. No 21855.

Permission granted for change of use of garage and fuel store to a one bedroomed granny flat.

Condition no.3 refers to the existing dwelling and proposed extension shall be jointly occupied as a single housing unit.

Condition no.4 related to disposal of wastewater to a new wastewater treatment system.

Condition no. 5 required decommissioning of the existing septic tank.

4.3. P.A. Ref. No 221301 / ABP 317103-23

The construction of a 45m² garden shed/workshop granted by the planning authority and the financial contribution condition was the subject of an appeal.

5.0 Policy and Context

5.1. Development Plan

5.1.1. The statutory development plan is the Kildare County Development Plan 2023-2029.

5.1.2. In relation to local area plans it is indicated that Kildare County Council will have regard to the following adopted Local Area Plans until such time as they are reviewed or another plan made and this includes the Monasterevin Local Area Plan 2016-2022. The appeal site is located outside of the development area boundary of the town.

5.1.3. Chapter 3 refers to housing section 3.13 to Sustainable Rural Housing.

Section 3.13.3 3 to compliance with the Rural Housing Requirements and outlines criteria for assessment of new housing in rural areas particularly in relation to an applicant's genuine local and housing need.

Policy HO P11 refers to *Facilitate, subject to all appropriate environmental assessments proposals for dwellings in the countryside outside of settlements in accordance with NPF Policy NPO 19 for new Housing in the Open Countryside in conjunction with the rural housing policy zone map (Map 3.1) and accompanying Schedule of Category of Applicant and Local Need Criteria set out in Table 3.4 and in accordance with the objectives set out below. Documentary evidence of compliance with the rural housing policy must be submitted as part of the planning application.*

Table 3.4 outlines applicant category and rural housing need assessment criteria.

Objective HO 048 encourages the appropriate re-use and adaption of the existing residential building stock as a sustainable alternative to new build

Section 3.15 refers to environmental and technical considerations and section 3.15.1 to domestic/on-site wastewater treatment systems and that the Council will implement the provisions and standards of the Code of Practice for Domestic wastewater treatment systems (EPA, 2021) (and any amendment thereof) and the development management standards as set out in Chapter 15.

Policy HO P27 Requires all applications to demonstrate, to the satisfaction of the Planning Authority that the proposed development site can accommodate an on-site wastewater treatment system in accordance with the EPA Code of Practice for Wastewater Treatment Systems for single houses (2021), the County Kildare Groundwater Protection Scheme, and any other relevant documents / legislation as may be introduced during the Plan period.

5.1.4. Chapter 15 refers to Development Management.

Section 15.4.6 refers to house design and table 15.2 to minimum floor space and open space requirements for houses and unit types and in relation to one bedroom units a floor area of 55m², a storage area of 3m² and private open area amenity space of 48m².

15.4.7 refers to apartment Developments An apartment can be defined as a residential unit in a multi-unit building with grouped or common access. Planning applications for apartments shall be assessed against the Sustainable Urban Housing: Design Standards for New Apartments (2020).

Section 15.4.12 outlines the principles in relation to extensions to dwellings where it refers to if 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 proposed extension. 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.

15.4.13 refers to Domestic Garage / Store / Home-Work Pod / Garden Room The development of a domestic garage/store/home-work pod /garden room for use ancillary to the enjoyment of a dwelling house will be considered.

Section 15.4.14 refers to family flat (often known as granny flats) and which refer to a temporary subdivision or extension of an existing dwelling unit and that 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 requirements which include 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; 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.

5.2. National Guidance

- 5.2.1. Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities Prepared by the Department of Housing, Local Government and Heritage December 2022.
- 5.2.2. The guidance sets out design standards in relation to new apartments with an emphasis in the provision of apartments to provide qualitative living. Standards are outlined in relation to internal design, floor areas in relation to unit size, living space, bedroom areas, storage space, private amenity open space and other parameters and these are outlined in appendix 1.
- 5.2.3. The National Planning Framework Project Ireland 2040 (NDF) was published in 2018 and is updated with a new draft in November 2024, is a planning framework to guide development and investment over the coming years.

Chapter 5 refers to Planning for Diverse Rural Places with the aim of strengthening Ireland's rural fabric and supporting the communities who live there. Objectives are outlined which aim to strengthen rural areas including;

National Policy Objective 16 Target the reversal of rural decline in the core of small towns and villages through sustainable targeted measures that address vacant premises and deliver sustainable reuse and regeneration outcomes. This objective is restated as National Policy Objective 25 in the 2024 draft.

National Policy Objective 19 Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere: In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements; In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements. This objective is restated as National Policy Objective 28 in the 2024 draft.

The EPA Code of Practice Domestic Waste Water Treatment Systems (DWWTSs) (Population Equivalent ≤ 10 updated in 2021 outlines requirements in relation to assessment of suitability for domestic wastewater treatment systems.

5.3. Natural Heritage Designations

The subject site is located within relatively close proximity to a designated European site the River Barrow and River Nore SAC site code 002162 and also the Grand Canal pNHA site code 002104.

5.4. EIA Screening

- 5.5. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The first party appeal in summary refers to;

- There is reference to the site history.
- In relation to the first reason for refusal refers to the proposal as contrary to Policy HO P11 and by extension NPF Policy HO P19.

NPF Policy HO P19 applies to new housing in the countryside but the proposal although new is not new development as the conversion from a fuel store already exists. There is therefore no requirement to show a need.

Section 3.13 of the CDP is aimed at the building of new houses and this is supported by objective HO 048 which encourages the appropriate re-use and adaption of the existing residential building stock as a sustainable alternative to new build.

The proposal is also contrary to the government policy and guidance in relation to the rent a room scheme.

- In relation to the second reason for refusal it is contended that chapter 15 of the CDP refers to residential developments consisting of two or more dwellings and does not apply in relation to this development.

Permission was granted for the conversion of the fuel store under 21-855 and the size and composition of this family flat has not changed and there is inconsistency in the planning authority decision.

There is no intention to sell this unit as a separate dwelling.

- In relation to the third reason for refusal the original need of the previous owner no longer exists and to link a temporary sub division to a permanent application for a permanent sub division makes no sense and should be considered on its own merits. The issue of undesirable is a value judgement and the CDP does permit sustainable intensification and this can be achieved through sub division of larger houses and other means.
- In relation to the fourth reason for refusal in previous correspondence and in the appeal submission it is demonstrated that the WWTP was installed by a qualified contractor and that it can adequately cater for the additional separate residential unit.
- The reasons for refusal seem an extreme response to a simple change to make permanent what is allowable on a temporary basis or a basis to prevent this based on the CDP and national policy.
- Details in relation to the installation of the WWTP are included in the appeal submission.

6.2. Planning Authority Response

The planning authority in a response requests the Board to confirm its decision.

7.0 Assessment

- 7.1. The main issues in this appeal are principle of the development and the grounds of appeal. Appropriate Assessment also needs to be considered. I am satisfied that no other substantive issues arise.

The issues are addressed under the following headings:

- The principle of the development
- Reasons for refusal.

7.2. The principle of the development.

- 7.2.1. The proposal as submitted is for the permanent subdivision of a two bedroom and bathroom extension from the main dwelling to be occupied as a separate dwelling not connected to the main dwelling and to be able to let the sub-division as a separate dwelling. The principle of such a proposal can be considered but it would be subject to consideration in relation to the standards as outlined in current statutory plans and also standards in relation to apartments as set out in national guidance and compliance with these standards and also in relation to national guidance in relation to the satisfactory disposal of wastewater.

7.3. Reasons for refusal

Four reasons were stated in the decision of the planning authority. I would note that there is a level of interrelationship between the stated reasons in relation to of County Development plan provisions and national guidance and the planning history of the site.

- 7.3.1. The first reason for refusal refers to the development as contrary to Policy HO P11 Kildare County Development Plan (CDP) 2023-2029 and by extension NPF Policy NPO 19 in that local need is not demonstrated based on the provisions as set and outlined in relation to the category of applicant and local need criteria.

The appellant in the grounds of appeal contends that Policy HO P19 applies to new housing in the countryside but the proposal although new in terms of occupancy is not new development as the conversion from a fuel store already exists, NPF Policy HO P19 is irrelevant and therefore there is no requirement to show a need. It is also contended that section 3.13 of the CDP is aimed at the building of new houses and this is supported by objective HO 048 which encourages the appropriate re-use and adaption of the existing residential building stock as a sustainable alternative to new build. The proposal is also contrary to the government policy and guidance in relation to the rent a room scheme.

In relation to the stated reason for refusal the site is located outside of the development boundary of Monasterevin and within the general rural area and the planning authority have therefore applied criteria in relation to new housing in rural areas for assessing this proposal which would include consideration of need as the main criterium in assessing new residential development in the general rural area.

The proposal is not in the fullest sense new development as stated in the grounds of appeal as the development exists and has the benefit of a planning permission under P.A Ref. No 21855 where permission was granted for change of use of garage and fuel store to a one bedroomed granny flat. Condition no.3 of P.A Ref. No 21855 refers to the existing dwelling and proposed extension shall be jointly occupied as a single housing unit.

It is noted that such a development for “granny flats” is provided for in many statutory development plans including the current Kildare County Development Plan where in section 15.4.14 there is reference to a family flat (often known as granny flats) and which refer to a temporary subdivision or extension of an existing dwelling unit and that 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).

The permitting of such development therefore is perceived as meeting a specific form of accommodation for an immediate family member and considered to be a temporary subdivision where in effect the proposed unit should be linked directly to the main dwelling by a connecting door; the accommodation must be subsidiary to the main dwelling in scale and conditioned 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.

In relation to granting of the family flat under 21/855 the applicant submitted details in relation to the need to accommodate a parent and the drawings show interconnectivity between the main dwelling and the additional unit and condition no.3 reflects the provisions specific to permitting a family flat and this is specifically referred to in reason no. 3 of the decision to refuse planning permission. This serves an important consideration as to why the unit which is the subject of this appeal was granted and the specific circumstances in which it was granted.

I would accept that there is merit in the grounds of appeal that it is not a new development as largely expressed in the provisions of the development plan which apply to new development and more specifically new build construction and that applying these criteria may not be the correct response but in applying these provisions it was in the context of a separate dwelling located in the rural area and the sub-division as proposed other than for family units is not specifically provided for within the plan.

As the unit exists it would I consider be required to be considered on its merits rather a need based assessment as it is an in place development rather than a new development and be considered in the context of whether it would comply with standards and guidance of what would be an appropriate standard of an independent residential unit in relation to area and facilities offered to serve an independent residential unit.

- 7.3.2. The second reason for refusal refers to minimum standards in the CDP for housing with the proposal having an inadequate floor area for a separate dwelling unit which requires a minimum gross floor area of 55m², the absence of private amenity open space where a minimum of provision of 48m² is required. The proposal provides for 34m² and inadequate room size for the living room, storage space and bedroom and it is not indicated that private open space is available and is therefore a substandard form of residential development and contrary to the development management standards as set out in chapter 15 of the CDP.

In relation to the second reason for refusal it is contended in the grounds of appeal that chapter 15 of the CDP refers to residential developments consisting of two or more dwellings and does not apply in relation to this development. Permission was granted for the conversion of the fuel store under 21-855 and the size and composition of this family flat has not changed and there is inconsistency in the planning authority decision. There, is no intention to sell this unit as a separate dwelling.

As already stated in relation to the issue of inconsistency the permission as granted under 21-855, I consider was a specific form of development namely a family flat which is specifically provided for in the county development was granted in

compliance with the provisions of the county development plan and the conditions of the permission reflect the provisions.

I would also note that there is no minimum standards relating to area, open space etc. outlined in relation to family flats in the plan but they are considered as an integral part of the main dwelling rather an independent unit.

An independent unit would therefore be required to be considered in the context of standards as set out in chapter 15 of the plan and national guidance in relation to design standards for apartments.

Section 15.4.6 refers to house design and table 15.2 to minimum floor space and open space requirements for houses and unit types and in relation to one bedroom units a floor area of 55m², a storage area of 3m² and private open area amenity space of 48m².

Current national guidance as set out in the Sustainable Urban Housing: Design Standards for New Apartments (2022) in chapter 3 indicated apartment design standards and states minimum apartment floor areas for a studio apartment (1 person) 37m² and 1-bedroom apartment (2 persons) 45m². The guidance in section 3.8 refers to safeguarding higher standards and that in the interests of sustainable and good quality development and the guidelines should be applied in a way that ensures delivery of apartments not built down to a minimum standard. Section 3.30 refers to internal storage and that as part of required minimum apartment floor areas, provision should be made for general storage and utility of a minimum 3m² for studios and one bedroom unit and are intended to accommodate household utility functions and the storage of bulky personal or household items. Section 3.35 refers to private amenity space and that it is a policy requirement that private amenity space shall be provided in the form of gardens or patios/terraces for ground floor apartments, private amenity space shall incorporate boundary treatment appropriate to ensure privacy and security and designed to minimise overshadowing and overlooking. The minimum space indicated is 4m² for a studio and 5m² for a 4 one bedroom unit.

I note the appellant's contention that the standards as outlined in the development plan and national guidance refer to new apartment units but they do provide

minimum qualitative standards which should apply for a new independent apartment unit.

In relation to the proposal which is the subject of this appeal if considered in the context of being a studio it would be less than floor area stated and significantly below the minimum floor area for a one bedroom apartment to accommodate more than one person. There is no provision for storage or private amenity space and the bedroom floor area is less than the minimum as set out in national guidance. There is no indicated provision for private amenity open space for the residential unit. It is important again to state this assessment is based on consideration of a separate apartment unit as distinct from a family unit where shared use of space is likely to occur.

I therefore consider the second reason to be reasonable as the development would result in a substandard residential amenity for occupants of the unit.

- 7.3.3. The third reason for refusal refers to the proposal as contrary to condition no 3 of PL21/833 which precluded sub-division of the existing residential unit and which specifically refers to *“the existing dwelling and proposed extension shall be jointly occupied as a single housing unit. The extension shall not be subdivided from the remainder of the dwelling and sold or let as a separate dwelling unit”*.

In relation to the third reason for refusal the grounds of appeal contend that the original need of the previous owner no longer exists and to link a temporary sub division to a permanent application for a permanent sub division makes no sense and should be considered on its own merits. The issue of undesirable is a value judgement and the CDP does permit sustainable intensification and this can be achieved through sub division of larger houses and other means.

As already stated, the permission granted under PL21/833 was granted specific to a grant of a retention of permission for change of use of garage and fuel store to a one bedroomed granny flat. The permission was granted following consideration and assessment which permitted the retention considered to be a temporary subdivision or extension of an existing dwelling unit providing additional accommodation with a level of semi-independence for an immediate family member dependent on the main occupants of the dwelling. Where it is demonstrated that there is a genuine need for the family flat the proposed unit remains linked directly to the main dwelling by a

connecting door and that this form of accommodation remains subsidiary to the main dwelling.

Granting a family flat in this context was and is reasonable and the insertion of condition no.3 was and is reasonable. It is open to an applicant to request that a planning authority to review the terms of a previous permission by way of an assessment of a new planning application. Any decision to amend a previous permission to a new occupancy arrangement is based on an assessment and consideration of any new application in accordance with the provisions of the county development plan and national guidance.

For the reasons outlined in considering reason no.2 a grant of permission would taken into consideration that the new application for a separate residential unit would be assessed on the basis on meeting standards for residential accommodation which I consider are not met in relation to the current proposal and were acceptable for the development permitted under PL 21/833. For this reason, I consider the third reason as stated to be reasonable.

- 7.3.4. The fourth reason for refusal refers to issues of wastewater treatment and that the proposal is contrary to Policy HO 27 of the current County Development Plan and that the additional dwelling unit can be catered for within the existing WWTP.

In relation to the fourth reason for refusal it is contended in the grounds of appeal in previous correspondence and in the appeal submission it is demonstrated that the WWTP was installed by a qualified contractor and that it can adequately cater for the additional separate residential unit. The reason for refusal seem an extreme response to a simple change to make permanent what is allowable on a temporary basis or a basis to prevent this based on the CDP and national policy. The grounds of appeal also outline details in relation to the installation of the WWTP.

The basis of the planning authority decision is the environment report dated the 17th September 2024 which recommended refusal indicating it is contrary to council policy for two dwellings to be served by a single wastewater treatment system and therefore the proposal as submitted is not acceptable.

In relation to policy chapter 15 of the plan in relation to development management the provisions does not state a specific policy in relation two dwellings served by a single wastewater system and in relation to extensions to dwellings and family flat

reference is made to 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.

Policy HO P27 as stated in the reason for refusal requires all applications to demonstrate, to the satisfaction of the Planning Authority that the proposed development site can accommodate an on-site wastewater treatment system in accordance with the EPA Code of Practice (CoP) for Wastewater Treatment Systems for single houses (2021), the County Kildare Groundwater Protection Scheme, and any other relevant documents / legislation as may be introduced during the Plan period.

The EPA Code of Practice Domestic Waste Water Treatment Systems (DWWTSs) (Population Equivalent ≤ 10 outlines requirements in relation to assessment of suitability for domestic wastewater treatment systems and that DWWTSs are designed to treat the waste water to minimise contamination of soils, subsoils and water bodies and provides guidance on DWWTSs for single houses or equivalent developments with a population equivalent (PE) of less than or equal to 10 in relation to design, installation, operation and maintenance. It is also indicated that for the purposes of this CoP, a domestic waste water treatment system (DWWTS) is a system serving a dwelling house or equivalent, with a PE of less than or equal to 10, with toilet, living, sleeping, washing and bathing, cooking and eating facilities. The presumption of the CoP is single houses but it does provide for equivalent subject to serving a PE ≤ 10 . Although therefore by inference it is desirable that each individual dwelling is served by an individual DWWTS it is possible that DWWTS could serve more than a single dwelling unit. Any grant of permission would be contingent on the inclusion of conditions specific to such an arrangement.

In relation to the issue of wastewater treatment It would appear that the appellant exchanged correspondence in relation to a DWWTS installed on the site in December 2022 and also that in relation to an application P.A. Ref. No 221301 for a workshop the issue of the DWWTS arose. The DWWTS installed on the site in December 2022 would appear to have been installed to comply with the requirements of condition nos 4 and 5 of 21/855 and this was raised as an issue in

P.A. Ref. No 221301 but there is no indication that the planning authority considered the new DWWTS complied with condition nos 4 and 5 of 21/855 or that the matter of compliance was not fully determined.

The principle issue notwithstanding any issue the planning authority may raise in relation to two residential units being serviced by a single DWWTS is whether the DWWTS currently in place can satisfactorily comply with the requirements of the EPA CoP and notwithstanding any ongoing and past correspondence the onus is on the applicant to submit details that indicate compliance with the CoP as part of the planning application to demonstrate anticipated loadings from the existing and proposed dwelling units can be satisfactorily treated in a manner not to prejudice public health and this has formed part of the current application.

The reason for refusal is therefore I consider reasonable.

8.0 Appropriate Assessment Screening

- 8.1. I have considered the proposal for a permanent subdivision of a two bedroom and bathroom extension from the main dwelling to be occupied as a separate dwelling not connected to the main dwelling and to be able to let the sub-division as a separate dwelling in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located on an established residential site.
- 8.2. The subject site is located within 50 metres of a designated European site the River Barrow and River Nore SAC site code 002162 which consists of the freshwater stretches of the Barrow and Nore River catchments as far upstream as the Slieve Bloom Mountains to the sea with a large number of qualifying interests in relation to species and habitats. The main threats to the site and current damaging activities as identified by the NPWS data include high inputs of nutrients into the river system from agricultural run-off and several sewage plants, over-grazing within the woodland areas, and invasion by non-native species.
- 8.3. The Grand Canal pNHA site code 002104 is also within 100 metres in proximity to the appeal site. NPWS data identifies that a number of different habitats are found within the canal boundaries - hedgerow, tall herbs, calcareous grassland, reed fringe, open water, scrub and woodland and also within the water channel itself. The

ecological value of the canal lies more in the diversity of species it supports along its linear habitats than in the presence of rare species. It crosses through agricultural land and therefore provides a refuge for species threatened by modern farming methods

- 8.4. The proposed development comprises in effect an change in the manner of occupancy of an existing permitted development as outlined in section 2 in the Inspectors report. 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; the nature of the development and the absence of any construction works relating to the development under consideration as the proposal is a change in the nature of occupation of the structure.
- 8.5. 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 and 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 permission be refused.

10.0 Reasons and Considerations

1. Having regard to the nature of the proposed development as the permanent subdivision of a two bedroom and bathroom extension from the main dwelling to be occupied as a separate dwelling not connected to the main dwelling and to be able to let the sub-division as a separate dwelling; the floor area of the proposed residential unit, the absence of storage area and private amenity open space it is considered that the proposed development would represent a substandard form of residential development; would be contrary to the standards as set out in the current Kildare County Development Plan 2023-2029 and current national guidance as set out in the Sustainable Urban Housing: Design Standards for New Apartments (2022) in relation to apartment design standards and for safeguarding higher standards in

the interests of sustainable and good quality development for the occupants of new residential apartment units. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the extension as permitted under P.A. Ref. No. 21/855 and the nature of the development permitted which was for a retention of a change of use from a garage and fuel store to a one bedroom granny flat and condition no. 3 of the said permission which stated "*the existing dwelling and the proposed extension shall be jointly occupied as a single housing unit and the extension shall not be subdivided from the remainder of the dwelling and sold or let as a separate dwelling unit*" and which is considered to be reasonable given the nature of the development applied for and permitted. It is therefore considered that the proposed development as a permanent subdivision of a two bedroom and bathroom extension from the main dwelling to be occupied as a separate dwelling would contravene materially the said condition and would be contrary to the proper planning and development of the area.

3 it is not clearly or adequately demonstrated in the documentation submitted as part of the planning application that the separate residential unit can be adequately can be catered for within the existing domestic wastewater treatment system in accordance with the requirements of the EPA Code of Practice Domestic Waste Water Treatment Systems (DWWTSs) (Population Equivalent ≤ 10 which outlines requirements in relation to the assessment of suitability for domestic wastewater treatment systems for the proposed development and site. The development would therefore be prejudicial to public health and contrary to the proper planning and 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.

Derek Daly
Planning Inspector

10th February 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	321009-24		
Proposed Development Summary	The permanent subdivision of a two bedroom and bathroom extension form the main dwelling to be occupied as a separate dwelling not connected to the main dwelling and to be able to let the sub-division as a separate dwelling.		
Development Address	Coole, Monasterevin, County 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	Tick if relevant and proceed to Q2.	
	No X	Tick if relevant. No further action required	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	Tick/or leave blank	State the Class here.	Proceed to Q3.

No X	Tick or leave blank		Tick if relevant. No further action required
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3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?

Yes	Tick/or leave blank	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No	Tick/or leave blank		Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?

Yes	Tick/or leave blank	State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)
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5. Has Schedule 7A information been submitted?

No	X	Screening determination remains as above (Q1 to Q4)
Yes	Tick/or leave blank	Screening Determination required

Inspector: Derek Daly Date: 10th February 2025