



An
Bord
Pleanála

Inspector's Report

ABP-321212-24

Development	Retention: Change of use from garage to apartment and construction of shed.
Location	Lowerton Beg, Blueball, Tullamore, Co. Offaly.
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	2460029
Applicant(s)	Chris and Denise Delaney
Type of Application	Retention
Planning Authority Decision	Split Decision
Type of Appeal	First Party
Appellant(s)	Christopher and Denise Delaney
Observer(s)	None.
Date of Site Inspection	4 th February 2025
Inspector	Matthew O'Connor

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Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The appeal site is 0.53ha and located in the townland of Lowerton Beg, Blueball, Co. Offaly. The appeal site contains a detached dormer bungalow with a detached converted garage to the east of the dwelling and a detached shed building in the rear garden area situated to the rear of the dwelling. The surrounding area is rural and characterised by agricultural lands with associated farm buildings and one-off rural dwellings of varying styles. There are residential dwellings to the immediate east and west of the subject site. There are no Protected Structures or Recorded Sites and Monuments located within or immediately adjacent to the appeal site.

2.0 Proposed Development

- 2.1. The subject development comprises:
- retention of change of use from garage to family apartment (44.47sq.m); and,
 - retention of construction of domestic shed (27.12sq.m).

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 The Planning Authority issued a 'split decision' in respect of the subject development, granting retention for the construction of the domestic shed but refused retention permission for the change of use from garage to family apartment.

- 3.1.2 Retention permission was refused for the following reason:

1. *The family flat development is considered to be contrary to Offaly County Development Plan 2021-2027 standard DMS-56 which relates to 'Family Granny Flats/Self- Contained Residential Unit'. DMS-56 states that that "Granny flat/unit shall be attached to the existing dwelling. The design of the granny flat should ensure that it is an integral part of the main dwelling unit capable of reintegration for single family use and from public view retains the appearance of a single dwelling unit" and "Granny flat/unit shall be linked internally to the existing dwelling". The development of an independent family flat is contrary to this policy. The family flat development therefore materially contravenes the 2021-2027 Offaly County Development Plan.*

3.1.3. Retention granted, subject to 3 no. conditions which are summarised as follows:

- Condition 1: Development to be retained in accordance with plans/particulars
- Condition 2: Use of shed restricted for purposes ancillary to residential use only and not for habitable or commercial use.
- Condition 3: Surface water collection/ drainage.

3.2. Planning Authority Reports

3.2.1. Planning Report(s)

- The first Planner's Report had regard to the submitted documentation, locational context of the site, site planning history, policy framework of the Development Plan and inter departmental/referral reports.
- Further Information was sought in relation to 2 no. items as summarised:
 - The development does not appear to comply with DMS-56 of the Development Plan as family flat is not attached to the dwelling. No proposal to attach the family flat has been submitted. Applicant requested to comment on this issue/submit revised particulars to same. Applicant may consider a proposed link between the house and family flat.
 - Applicant should submit a report and updated site layout from a professionally qualified person regarding the integrity/capacity/ability of existing septic tank and percolation area serving the existing and additional habitable space; the septic tank and percolation area must be SR6 compliant. The Engineering Report should include: photographic inspection, detailed description of the existing septic tank and percolation area, existence of a number of septic tanks in close proximity, and if the existing septic tank and percolation area cannot be shown to be SR6 compliant then a site suitability assessment should be carried out and submitted for upgrading in accordance with 2021 EPA Code of Practice Domestic Waste Water Treatment Systems (P.E. <10)
- The second Planner's Report provides an analysis of the applicant's Further Information response. The family flat to be retained is considered to be contrary to DMS-56 Family Granny Flats/Self-Contained Residential Unit. The details received in respect of the existing wastewater treatment system was deemed acceptable. It was recommended that retention be refused for the change of

use from garage to family apartment and that retention permission be granted for the construction of a domestic shed to the rear of the dwelling.

3.2.2. Other Technical Reports

- Area Engineer: No objection, subject to conditions on surface water and roadside gullies.
- Environment & Water Services: Initial report recommended Further Information with regard to foul sewerage. Subsequent response indicates 'no objection' subject to conditions.

3.3. Prescribed Bodies

- None.

3.4. Third Party Observations

- None.

4.0 Planning History

23/161 Retention permission for (a) change of use from garage to family apartment, and (b) construction of a domestic shed to the rear of the dwelling. Applicants: Chris and Denise Delaney. Status: DEEMED WITHDRAWN.

04/625 Permission GRANTED for the construction of a domestic garage with storage area and relocation of driveway.

01/499 Permission GRANTED for alteration, extension to roof of dwelling to provide dormer accommodation. Applicant: Christopher Delaney.

5.0 Policy Context

5.1. Development Plan

5.1.1 The Offaly County Development Plan 2021-2027 is the relevant Development Plan for the appeal site.

5.1.2. Section 13.9.3: Residential (Open Countryside) of Chapter 13 – Development Management Standards. The following is relevant:

DMS-51: On-site Wastewater Treatment

Where public services in the form of water supply and sewerage mains are available (or likely to be), the developer will be required to connect to them;

For individual on-site wastewater treatment systems, the standards and guidance on design, operation and maintenance of on-site wastewater treatment systems as set out in the Environmental Protection Agency (EPA) 'Code of Practice on Wastewater Treatment and Disposal Systems serving Single Houses' (October, 2009) or any later version that may be issued by the EPA, shall be complied with.

5.1.3. Section 13.9.4: Other Residential Development (Rural and Urban) of Chapter 13 – Development Management Standards. The following is relevant:

DMS-56: Family Granny Flats/Self-Contained Residential Unit

Planning applications for the provision of accommodation for a dependant family member or relative comply with the following criteria;

- *Granny flat/unit shall be attached to the existing dwelling. The design of the granny flat should ensure that it is an integral part of the main dwelling unit capable of reintegration for single family use and from public view retains the appearance of a single dwelling unit;*
- *Granny flat/unit shall be linked internally to the existing dwelling;*
- *Separate access to granny flat/unit shall be avoided to the front elevation of existing dwelling; and*
- *Should be capable of being served by on-site wastewater treatment or public sewer, and if not proposals should be submitted to accommodate the additional loading.*

DMS-57: Domestic Garages/Stores

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

- *The garage/store shall have a maximum floor area of 100m² and a maximum height of 5 metres in the open countryside;*

- *The maximum floor area and height of a garage/store in urban areas will be accessed on a case by case basis having regard to the size of the dwelling it serves, the rear garden size and potential to overshadow adjacent properties;*
- *The design and external finishes of the domestic garage/store shall be in keeping with that of the dwelling house.*

The Council may consider exceptions to these criteria having regard to the need for the development and the characteristics of the site.

5.2. Natural Heritage Designations

5.2.1. The appeal site is not located on or within any designated Natura 2000 sites, with the nearest designated sites being the Clonaslee Eskers and Derry Bog Special Area of Conservation (Site Code: 000859) which is located approximately 4.73km to the south of the appeal site. The Charleville Wood Special Area of Conservation (Site Code: 000571) is located approximately 7.09km to the northeast of the appeal site. The Screggan Bog NHA (Site Code: 000921) is located approximately 3.9km to the west of the site. In addition, the appeal site is also approximately 0.968km to the south of Kilcormac Esker pNHA; approximately 2.42km to the southwest of Pallas Lough pNHA.

5.2. EIA Screening

4.1.1 Having regard to the nature and scale of the development, which is for the retention of a change of use from garage to apartment and the retention of a domestic shed on an established residential plot in a rural location, it is not considered that it falls within the classes listed in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended), and as such preliminary examination or an Environmental Impact Assessment is not required. See Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first party appeal has been lodged by the applicants. By way of brief background, the applicants have indicate that the family apartment is occupied by their daughter and grandchild.
- 6.1.2. The main grounds of appeal can be summarised as follows:

- There are cases in County Offaly which have received planning permission which were not attached to the main dwelling.
- The reason for not attaching the apartment to the dwelling is due to savings being spent to convert the garage into a family apartment.
- It is not financially feasible to internally and externally alter both properties to make a connection.
- The apartment is built to a high stand and meets health, safety and fire regulations.
- The occupant of the apartment is trying to save money in the hope of securing a mortgage. A letter demonstrating the genuine need for the family flat has been provided
- The applicants have aging parents who may require care should they be unable to live independently.
- The applicants have other grandchildren who would be offered the family apartment so as to receive the opportunities as their daughter and save money for their own home.
- The apartment is not for financial gain but a solution to create a home.

6.2. Planning Authority Response

- No response received.

6.3. Observations

- None.

7.0 Assessment

Having examined the application details and all other documentation on file, the reports of the Planning Authority, having conducted an inspection of the site, and having reviewed relevant local policies and guidance, I consider that the main issues in this First Party appeal can be addressed under the following relevant headings:

- Development Plan Policy Context
- Wastewater Treatment
- Appropriate Assessment (Screening).

7.1 Development Plan Policy Context

Family Flat

- 7.1.1. The family apartment to be retained is 44.47sq.m and indicated on the submitted drawings as containing two bedrooms with a kitchen/dining/living area and bathroom. I note that access to the converted garage is via a door at the rear (south) of the building. As outlined, the pre-existing garage was converted to this family apartment and is detached from the main family home/dwelling by a distance of approximately 2.5 metres. The First Party claims that the family apartment is occupied by their daughter and grandchild. At the time of my inspection, I did not access the converted garage however, from my external observations, I am satisfied that the interior of this building is as illustrated on the submitted drawings.
- 7.1.2. The Planning Authority's refusal reason for the retention of the change of use from garage to family apartment is based on the consideration that the family flat is contrary to Offaly County Development Plan 2021-2027 standard DMS-56 relating to 'Family Granny Flats/Self-Contained Residential Unit'. The grounds of appeal state that the unit has not been attached to the main dwelling as savings were spent to facilitate the conversion of the garage to residential use and it would not be financially feasible to both internally and externally adapt both buildings to provide a connection. In addition, the First Party claim that there are cases in County Offaly which were not attached to the main dwelling but have received planning permission.
- 7.1.3. I therefore consider that DMS-56: 'Family Granny Flats/Self-Contained Residential Unit' of Section 13.9.4: 'Other Residential Development (Rural and Urban)' in Chapter 13: Development Management Standards of the Offaly County Development Plan 2021-2027 is of critical importance to the assessment of this proposal and therefore, the change of use from garage to family apartment must be assessed against the above-mentioned residential standard. The criteria set out for the provision of accommodation for a dependant family member or relative and requires that: the granny flat/unit shall be attached to the existing dwelling and the design should ensure that the granny flat is an integral part of the main dwelling unit and capable of reintegration for single family use and retains the appearance of a single dwelling unit from public view; the granny flat/unit shall be linked internally to the existing dwelling; separate access to granny flat/unit shall be avoided to the front elevation of the

dwelling; and, should be capable of being served by on-site wastewater treatment or public sewer.

7.1.4. Based on the above, I do not consider that the retention of the change of use from a garage to an apartment accords with the development standards of the Development Plan for a 'Family Granny Flats/Self-Contained Residential Unit'. I have formed this view as the unit fails to meet a number of the required standards as it is a separate building which is not attached to the main dwelling; the design, as submitted as a detached building, cannot ensure that the unit is either an integral part of the main dwelling or capable of reintegration for single family use; and, the family flat unit is not linked internally to the main dwelling. As such, the family apartment, as built, would effectively remain occupied as an independent habitable unit separate from the main dwelling which would be at odds with the criteria for a 'Family Granny Flats/Self-Contained Residential Unit' as prescribed in the Development Plan. Retention permission should therefore be refused.

7.1.5. I note that the Planning Authority presented the applicants with an opportunity to submit revised particulars to address their concerns regarding compliance with DMS-56 of the Development Plan which included consideration of a proposed link between the existing house and the family flat. However, the First Party did not submit any revised proposals with their response to the request for Further Information nor have they submitted design revisions for consideration as part of this appeal. I note that the rationale provided by the First Party for not connecting the apartment to the dwelling is based on such adaptations not being financially feasible and that savings have been spent on the conversion of the garage building. I am of the view that the issue of costs is not a material planning consideration when assessing the subject proposal against the provisions of the Development Plan.

7.1.6. Furthermore, I note that the First Party state that there are cases in the County which have received planning which are not attached to the main dwelling (Reg. Refs. 19/544 and TU13006) and also refers to a potential need to use the family apartment in the future for the wider family. From my review of the stated applications, I have confirmed that they date from 2013 and 2019 respectively which is prior to the operative Development Plan. In considering the subject development, I am cognisant that all applications must be considered on its own merits and against the provisions of the operative Development Plan. Therefore, this development is assessed against the

residential standard of DMS-56: 'Family Granny Flats/Self-Contained Residential Unit'. I do not consider the grounds of the First Party regarding potential need for the apartment in the future as applicable to the subject development as I have already outlined that the subject development is not in accordance with the aforementioned provisions of the Offaly County Development Plan 2021-2027.

Domestic Garage

- 7.1.7. The subject development also seeks retention for the construction of a domestic shed to the rear of the dwelling. The Planning Authority granted retention for the domestic shed as it was deemed to generally comply with DMS-57 – Domestic Garages/Stores of the Offaly County Development Plan 2021-2027, subject to three conditions.
- 7.1.8. DMS-57 (Domestic Garages/Stores) of the Development Plan requires that garage/store shall have a maximum floor area of 100sq.m and a maximum height of 5 metres in the open countryside; and, that the design and external finishes of the domestic garage/store shall be in keeping with that of the dwelling house. Furthermore, the Planning Authority may consider exceptions to the above criteria on account of need and site characteristics.
- 7.1.9. The domestic shed to be retained has a floor area of 27.12sq.m with a shallow pitched roof rising to 2.66 metres in height. The shed is rectangular in shape and contains a garage door along with a standard access door and windows on the side/rear elevations. The shed is finished with coated metal sheeting. I am of the view that the requirement for this shed unit is for storage ancillary to the residential use. Notwithstanding, in considering the retention of this domestic shed to on its own merits, I am satisfied that it complies with the parameters of DMS-57 (Domestic Garages/Stores) of the Development Plan. Given the established residential nature of the site and its setting on an individual plot, I have no concerns from a visual or residential amenity perspective given the shed's modest scale, low profile and siting to the rear of the dwelling and I am of the view that sufficient private amenity space will remain to serve the dwelling. Therefore, I am satisfied that retention permission can be granted for the domestic shed.

Conclusion on Development Plan Policy Context

7.1.10 Having regard to the above, I consider that the change of use from garage to family apartment to be retained does not satisfy or meet all of the criteria set out in residential standard DMS-56 of the Offaly County Development Plan 2021-2027 with respect to Family Granny Flats/Self-Contained Residential Units. Therefore, I recommend that retention permission be refused. I am satisfied that the domestic shed to be retained would be in accordance with residential standard DMS-57 of the Offaly County Development Plan 2021-2027 with respect to Domestic Garages/Stores and I recommend that retention permission be granted for this particular element of the subject development.

7.2. Wastewater Treatment

7.2.1. The Planning Authority requested Further Information in respect of the existing wastewater treatment system and its condition, capacity and suitability to serve the existing dwelling and the additional loading from the family flat unit. The applicants submitted an Engineering Report concerning the existing wastewater treatment system and percolation area on the site. The inspection report states that the current system is in good condition, has capacity for approximately 3.5 cubic metres and has 2 chambers. There is approximately 72 linear metres of on washed stone as a percolation area with a vent pipe. The percolation area is stated as working well with no evidence of ponding. The system has been serving the additional development with no adverse problems. The report states that the works are carried out in accordance with SR6. According to the Planner's Report, the response of the applicants was referred to the Environment/Water Services section who have no concerns with the application.

7.2.2. Given that the family flat would likely only provide for a modest increase in living accommodation and the potential occupancy on the site would be consistent with the wastewater treatment system already permitted by the Planning Authority, I consider that the existing wastewater treatment system on site has adequate capacity to cater for the effluent generated by the development on site. I do not anticipate any risk of environmental pollution or public health issues.

8.0 Appropriate Assessment (Screening)

- 8.1. I have considered the subject development, which comprises the retention of conversion of a garage to apartment use and retention of a domestic shed in light of the requirements S177U of the Planning and Development Act 2000 (as amended).
- 8.2. The subject development is located in a rural area approximately 4.73km to the north of the Clonaslee Eskers and Derry Bog Special Area of Conservation (Site Code: 000859). The subject development has no hydrological or other connection directly to any European site.
- 8.3. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment as there is no conceivable risk to any European site. The reason for this conclusion is as follows:
- The scale and nature of the development;
 - The distance to the nearest European site and the lack of connections; and,
 - Taking into account the screening determination of the Planning Authority.
- 8.4. I conclude 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 a retrospective Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 (as amended) is not required.

9.0 Recommendation

- 9.1. I recommend a SPLIT decision with retention permission GRANTED for:

- the construction of a domestic shed to the rear of the dwelling;

for the reasons and considerations set out under Schedule 1 below together with the conditions thereunder and that retention permission for:

- the change of use from garage to family apartment

be REFUSED for the reasons and considerations set out under Schedule 2 below.

10.0 Reasons and Considerations

Schedule 1

Reasons and Considerations

1. Having regard to standard DMS-57 of the Offaly County Development Plan 2021-2027 which relates to 'Domestic Garages/Stores and subject to the conditions set out below, the retention of the domestic shed would be an appropriate form of development which is ancillary to the existing dwelling and would not seriously injure the character or the visual amenities of the area. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Schedule 2

Reasons and Considerations

1. Based on the information submitted with the planning application and appeal, the Board considers that the change of use from a garage to a family apartment would not meet the criteria specified in residential standard DMS-56 of the Offaly County Development Plan 2021-2027 which relates to Family Granny Flats/Self-Contained Residential Units. The development to be retained is not attached to the main dwelling; the design cannot ensure that the unit is an integral part of the main dwelling and capable of reintegration for single family use; and, the unit is not linked internally to the main dwelling. The Board considers that the development to be retained would therefore result in an inappropriate form of development, would set an undesirable precedent for similar developments in the area, and would be contrary to the proper planning and sustainable development of the area.

11.0 Conditions

1. The domestic shed shall be retained in accordance with the plans and particulars lodged with the application, 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. The domestic shed hereby retained shall not be used for human habitation, commercial use, industrial use or for any other purpose other than a purpose incidental to the enjoyment of the dwelling.

Reason: In the interest of development control.

3. The disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

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.

Matthew O Connor
Planning Inspector

06 February 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-321212-24		
Proposed Development Summary	Retention: Change of use from garage to apartment and construction of shed.		
Development Address	Lowerton Beg, Blueball, Tullamore, Co. Offaly.		
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)?			
Yes			Proceed to Q3.
No	X		No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No			Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ Date: _____