



An
Bord
Pleanála

Inspector's Report

ABP-321779-25

Development	Retention of change of use, renovation and extension of an existing garage to provide a 1 bedroom independent unit and all associated site works.
Location	Station Road, Dunlavin, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	2460691
Applicant	Catherine Browne
Type of Application	Retention
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant	Catherine Browne
Observer(s)	None.
Date of Site Inspection	21 st March 2025
Inspector	Matthew O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site is 0.089ha and located in the townland of Dunlavin Lower, Dunlavin, Co. Wicklow. The appeal site is situated on the western side of Station Road (R412)

some 730 metre to the north-west of Dunlavin village. The site contains a 1.5 storey dwelling with a detached garage, converted to habitable use.

- 1.2. The surrounding area is rural in character with a number of detached dwellings located to the immediate north and south of the appeal site and on the eastern side of Station Road. The wider locality is defined by agricultural lands. 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, renovation and extension of an existing garage to provide a 1-bedroom independent unit; and,
- Connection to existing drainage infrastructure.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 The Planning Authority recommended refusal for the subject development for the following two reasons:

1. *Having regard to the size and scale of the unit for retention, the provisions of the Objective 6.24, to facilitate family / granny flat extensions for use by a member of the immediate family subject to protection of existing residential amenity and compliance with the criteria set out in the Development and Design Standards (Appendix 1), it is considered that the proposal represents a separate habitable unit on site, would not accord with Objective 6.24 and the provisions set out in Appendix 1, and would therefore represent sporadic development in a rural area contrary to the settlement strategy as set out in the County Development Plan, would set a precedent for similar footloose development which would undermine the policies of the County Development Plan 2022-2028, and would be contrary to the proper planning and sustainable development of the area.*
2. *The proposed development would represent consolidation of un-authorised development on this site, having regard to*
 - i. *The provisions and conditions of PRR 06/6399.*

- ii. *The garage as constructed on site which would not accord with the Condition 1 or Condition 5 of PRR 06/6399.*
- iii. *The lack of evidence to show compliance with the conditions 2 and 6 attached to PRR 06/6399*
- iv. *The evidence of hard standing in the area where the upgraded effluent treatment system to the family home was to be located.*

the provision of such a form of development unduly impacts on the amenities of the area, public health, the amenities of adjoining properties, undermines the planning regulations and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planner's Report forms the basis for the decision to refuse retention.
- The report notes site planning history, associated policy context from the Development Plan and any comments returned on internal/external referrals.
- In terms of assessment, the Planning Authority noted the cover letter provided on behalf of the applicant with a justification for the development to be retained based on the applicant's health grounds.
- The development was considered against the provisions of the Development Plan and deemed that the scale of the works at 80sq.m was excessive.
- The Planning Authority noted that the conditions of a previous permission on the site (Reg. Ref. 06/6366) in respect of the siting of the garage and occupancy of the main house.
- No evidence has been submitted in respect to the current effluent treatment system serving the dwelling, compliance with Condition 6 of Reg. Ref. 06/6366 regarding wastewater treatment or that the system can accommodate the increased effluent from the proposed development.
- There is no reference to either AA or EIA in the Planner's Report.

3.2.2. Other Technical Reports

Environmental Health Officer: Further Information requested. No information submitted on current wastewater treatment system. Details required on sizing/type of existing waste water treatment and evidence that it complies with relevant standards and is appropriately sized for the increase in loading from the garage conversion. The distribution box should be uncovered for inspection and the exact nature and extent of the percolation area should be indicated. A site plan showing same should be included.

3.3. Prescribed Bodies

- None.

3.4. Third Party Observations

- None.

4.0 Planning History

The following planning history is associated with the site:

06/6366 Permission GRANTED for new dwelling with on-site effluent disposal system also for a replacement on-site effluent disposal system for the existing dwelling & all associated site works. Applicant: Stephanie Browne.

5.0 Policy Context

5.1. Development Plan

5.1.1 The Wicklow County Development Plan 2022-2028 is the relevant Development Plan for the appeal site.

5.1.2. Chapter 6 relates to 'Housing' with Section 6.4 setting out a number of general housing objectives. I consider that the following housing objective is relevant:

CPO 6.24 To facilitate family / granny flat extensions for use by a member of the immediate family subject to protection of existing residential amenity and compliance with the criteria set out in the Development and Design Standards (Appendix 1).

5.1.3. Volume 3 of the Development Plan contains a number of Appendices of which Appendix 1: 'Development and Design Standards' is considered to be of particular relevance. Section 3.1.9 relates to independent living units ('Granny-flats') is applicable:

A 'granny flat' or 'independent living unit' is a separate living unit on an existing house site, used to accommodate a member of the immediate family, often an elderly parent, for a temporary period. The construction or conversion of part of an existing dwelling into a 'family flat' will only be permitted where the development complies with the following requirements:

- The need for the unit has been justified and is for the use of a close family member;*
- The unit forms an integrated part of the structure of the main house – in exceptional circumstances, the conversion of an existing detached garage / store etc. may be considered subject to the structure being in very close proximity to the main house;*
- The unit is modest in size and in particular, it shall not exceed 45sqm and shall not have more than 1 bedroom;*
- The unit shall not be sold or let as an independent living unit and the existing garden shall not be sub-divided;*
- The structure must be capable of being functionally re-integrated into the main house when its usefulness has ceased. Permission for such units shall be restricted to a period of 7 years, after which it must revert to a use ancillary to the main house (e.g. garage, store, hobby room) unless permission has been secured for its continuation as an independent unit for another period.*

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 Slaney River Valley SAC (Site Code: 000781) which is approximately 7km to the south of the appeal site. The Wicklow Mountains Special Area of Conservation (Site Code: 002122) is located approximately 9.37km southeast and the Wicklow Mountains Special Protection Area (Site Code: 004040) is located approximately 10.5km also to the southeast of the appeal site. In addition, the Dunlavin Marshes pNHA is approximately 1.16km to west of the site.

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of development for the retention of the change of use, renovation and extension to a 1-bed independent unit on an existing residential plot in a rural area, 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 The First Party appeal has been prepared and submitted on behalf of the applicant against the Planning Authority's decision to refuse. The grounds of appeal are summarised as follows:

Refusal Reason No. 1

- The subject development was not made for a granny flat but for the retention of a new independent dwelling.
- The applicant is fully aware that due to the size and nature of the unit it would not qualify under Objective 6.24 of the Development Plan which specifies clear restrictions on floor area and dependency on the primary dwelling.
- The assertion that the development does not comply with Objective 6.24 of the Development Plan is misplaced as the application was not made under this provision. The unit is not a subservient extension but a self-contained dwelling with its own access, drainage and amenities.
- The site is located where residential development can be considered. The scale/function of the unit do not constitute sporadic rural development but instead is a modest residential addition which is in line with the settlement strategy.

Refusal Reason No. 2

- The reference to PRR 06/6399 is incorrect and has no connection with the subject development.

- Reference made to upgrades to local sewage infrastructure which indicate that there is no longer a requirement for an independent effluent treatment system as all dwellings could be connected to the mains drainage system.
- Concerns regarding the wastewater treatment system are unfounded as the proposal was designed in accordance with the updated infrastructure provision.
- The application should be assessed on its own merits and not in relation to an unrelated permission (PRR 06/6399).

Other Comments

- The development has no negative impacts on amenity of surrounding properties or the character of the area.
- The practical and compassionate reasons for the unit must be acknowledged.
- The applicant is open to the imposition of a condition requiring the dwelling be returned to former state when no longer required.

6.2. Planning Authority Response

- A response has been received from the Planning Authority which confirms its decision. The Planning Authority also notes that the reference to plan ref PRR 06/6399 is a typographical error and should read 06/6366.

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 Connection
- Other Matters
- Appropriate Assessment (Screening).

7.1 Development Plan Policy Context

- 7.1.1. The subject development seeks retention of the change of use, renovation and extension of an existing detached garage to provide a 1-bedroom independent unit. The submitted particulars and application form indicate that the floor area of the pre-existing garage was 30sq.m and was increased with a 50sq.m rear extension to a unit totalling approximately 80sq.m. The development to be retained comprises an en-suite bedroom, a kitchen, dining, living room, W/C and rehabilitation room.
- 7.1.2. The Planning Authority's first refusal reason is based on the consideration that the unit for retention represents a separate habitable unit on site and does not accord with Objective 6.24 and Appendix 1 of the Development Plan insofar as it relates to family/granny flat development. The grounds of appeal state that the subject development was not made for a granny flat but rather the retention of a new independent dwelling. The applicant outlines their awareness that the size and nature of the unit would not qualify it for consideration under Objective 6.24 of the Development Plan and that the application was never made under this provision. According to the applicant, the subject site is located in an area where residential development can be considered and that the modest nature/function of the unit does not constitute sporadic rural development but rather a residential addition that aligns with the settlement strategy.
- 7.1.3. In assessing the subject development, I consider it prudent to address the matter of the subject development before the Board. In my view, the development as applied for and described in the statutory notices was for a '1 bedroom independent unit'. The Cover Letter submitted with the application set out the justification of need; proximity and size; and, unit usage which are all directly relatable to the criteria for Independent Living Units ('Granny-flats') as prescribed in section 3.1.9 of Appendix 1: Development & Design Standards of the Development Plan. Therefore, I consider the subject development relates to the abovementioned use and was assessed as such by the Planning Authority. I am of the opinion that the development should be assessed in terms of Objective CPO 6.24 of the Development Plan as the applicable policy basis with respect to facilitating 'Family/Granny Flat' extensions notwithstanding the assertions now being set out in the grounds of appeal by the applicant that the development relates to a new independent dwelling. I shall now consider the subject development in terms of its consistency with the various criteria for Independent Living Units as pertained in the Development Plan.

- 7.1.4. The first criteria relates to whether the need has been justified and whether it is for the use of a close family member. The applicant outlined the need for the unit in a Cover Letter submitted with the application. The justification was based on a health-related necessity which has impacted on the applicant's mobility. The self-contained unit will offer a controlled environment which minimises potential household hazards and reduces injury risk. The unit will also be proximate to close family supports. A letter from a local medical centre has been provided which indicates that the applicant would benefit from living in single level accommodation as opposed to the first floor level bedroom in the main dwelling. I acknowledge the rationale set out by the applicant for the unit on health related ground. However, I am not satisfied, based on the information submitted, that the applicant has demonstrated why the existing dwelling cannot be altered/adapted to better suit the needs of the applicant over the conversion and extension of a garage building. As such, I do not consider that the need for the unit has been justified and that the subject development is not in accordance with the Development Plan in respect of independent living units.
- 7.1.5. The second criteria notes that a proposal may be acceptable if the unit forms an integrated part of the structure of the main house. I further acknowledge that the Development Plan policy states that in exceptional circumstances, the conversion of an existing detached garage may be considered subject to the structure being in very close proximity to the main house. The development to be retained is detached and located approximately 7 metres to the southwest of the main dwelling. I consider that the design, as submitted, cannot ensure that the unit is an integral part of the main dwelling. In addition, I do not consider the unit to be retained to be in very close proximity to the main house so as to be deemed an exceptional circumstance and I further note that the applicant has not put forward reasoning for any exceptional circumstances that may be applicable in this instance. Therefore, I consider that the proposal would not be in accordance with the criteria for independent living units as set out in the Development Plan.
- 7.1.6. The design standards of the Development Plan stipulate that independent living units shall be modest in size and in particular, shall not exceed 45sq.m or have more than 1 no. bedroom. As previously noted, the subject development to be retained totals 80sq.m with the pre-existing garage (30sq.m) being increased by way of rear extension (50sq.m). The submitted drawings indicate the unit as containing 1 no. bedroom. I consider that the development fails to comply with the criteria set out in

Section 3.1.9 of Appendix 1 of the Development Plan in respect of independent living units ('Granny-flats') as the unit to be retained is almost double the maximum floor area permissible.

7.1.7. It is a further policy requirement of the Development Plan that the unit shall not be sold or let as an independent living unit and the existing garden shall not be sub-divided. The Cover Letter submitted with the application stated that the applicant would undertake that the existing unit will never be sold, let, or inhabited as an independent living unit and that the unit is solely intended for the applicant's use and would welcome a condition regarding same. I am of the view that the use of the subject unit could be conditioned in the event of a grant of permission to restrict the occupancy of the unit and ensure that it is not sold or sub-let. I am also satisfied that a similar condition could be attached prohibiting the sub-division of private amenity space. However, notwithstanding these matters being subject to standard conditions, I note the concerns raised by the Planning Authority regarding the lack of detail surrounding occupancy of the main dwelling on the site as the applicant resides in the unit to be retained. The occupancy of the main dwelling has not been clarified which in my view is insufficient for the consideration of the unit in the context of the overall site.

7.1.8. An additional criteria of the Development Plan is that the structure must be capable of being functionally re-integrated into the main house when its usefulness has ceased. Furthermore, units shall be restricted to a period of 7 years after which it must revert to a use ancillary to the main house. According to the Cover Letter submitted with the application, the applicant has no objections to the implementation of a time limited permission where the unit would revert to domestic garage use and the extension be removed when deemed no longer capable of meeting the applicant's needs. I consider that the development to be retained would not be capable of being functionally re-integrated into the main house when the independent living unit use has ceased as the converted and extended garage would remain detached from the main dwelling. However, I consider that the removal of the extension and return of the building to its pre-existing use as a garage ancillary to the main dwelling could be conditioned in the event of a grant of permission and restricted by way of time limitation.

7.1.9. Having regard to the above, I consider that the change of use, renovation and extension of the garage to independent unit does not satisfy or meet all of the criteria set out in Appendix 1: 'Development and Design Standards' of the Wicklow County

Development Plan 2022-2028 with respect to Independent Living Units ('Granny-flats'). Therefore, I recommend that retention be refused.

7.2. Wastewater Connection

7.2.1. The Planning Authority's second refusal reason is partly based on the subject development representing a consolidation of unauthorised development on the site in terms of the lack of evidence regarding an upgraded effluent treatment system which was to be located on the site under a previous permission. The First Party has countered the Planning Authority's second refusal reason by indicating that the concerns regarding wastewater treatment are unfounded as there is no longer a requirement for an independent effluent treatment system to serve the site as all dwellings could be connected to the mains drainage system. Correspondence in the form of two letters from Wicklow County Council both dated January 2013 indicated that the applicant will be permitted to connect to the Dunlavin Sewerage Scheme upon completion of works; and, details of Draft Wayleave Documentation for connection to the Dunlavin Sewerage Scheme.

7.2.2. I note that the development description states 'connection to existing drainage infrastructure' however, the precise nature of the service connections is vague. Question 20: Services of the submitted application form indicates that the proposed wastewater management/treatment is an existing connection to a conventional septic tank. The submitted Site Layout Plan does not illustrate any foul/water connections whilst the Plans/Elevations/Section drawing includes a basic annotation with arrow stating 'Connected to Existing S/W & Foul Drainage'. The First Party appeal has not provided any updated drawings clarifying the nature of the service connections on the site for consideration and there are no details of a connection from Uisce Eireann.

7.2.3. On the day of my site inspection, I was unable to access the site to verify any evidence of service connections for the property. Notwithstanding, I would consider that the information provided with the application and the appeal, is inadequate and does not satisfactorily demonstrate or clarify the wastewater connections in place at this site to make an informed assessment of such a matter. Therefore, should the Board be minded to refuse this application based on the substantive reason of the principle of the independent living unit to be retained, the applicant shall be advised that it is prudent that this matter be clearly established and any future application on the subject lands should accurately detail water service connections.

7.3. Other Matters

- 7.3.1. The Planning Authority's second reason for refusal refers to the subject development represent consolidation of un-authorised development on this site, having regard to conditions 1, 2, 5 and 6 of a previous permission on the subject site. Having reviewed the site planning history, I note that these conditions essentially relate to the siting/layout of the detached garage, occupancy restrictions of the dwelling and effluent disposal. As a further point of clarity, I note that refusal reason No.2 refers to Reg. Ref. 06/60399. This is an error and has been acknowledged by the Planning Authority in their response to the appeal. Whilst I accept the incorrect reference to a different application in the refusal reason, having reviewed the Planner's Report I note that correct reference is made to Reg. Ref. 06/60366 which applies to a previous planning permission on the appeal site.
- 7.3.2. The First Party appeal does not expand on any of the claims by the Planning Authority regarding unauthorised development on the site. I note that there is no specific policy provision within the Wicklow County Development Plan 2022-2028 with respect to unauthorised or non-conforming uses which would preclude the Board from considering a development which seeks to consolidate unauthorised development. Nevertheless, I am of the opinion that such issues of any apparent unauthorised development are not a matter for the Planning Authority and is outside of the remit of the Board for consideration in this appeal.

8.0 Appropriate Assessment (Screening)

- 8.1. I have considered the subject development, which comprises the change of use, renovation and extension of an existing garage to provide a one bedroom independent unit 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 7km from the Slaney River Valley Special Area of Conservation (Site Code: 000781); approximately 9.37km from the Wicklow Mountains Special Protection Area (Site Code: 004040) and approximately 10.5km from the Wicklow Mountains Special Area of Conservation (Site Code: 002122). 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; and,
- The distance to the nearest European site and the lack of connections.

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 that retention be REFUSED for the following reasons and considerations as set out below.

10.0 Reasons and Considerations

1. Based on the information submitted with the planning application and appeal, the Board considers that the development to be retained comprising the change of use, renovation and extension of an existing garage to provide a one bedroom independent unit would not meet the criteria specified in Section 3.1.9: Independent Living Units ('Granny-flats') of Appendix 1: 'Development and Design Standards' of the Development Plan. It is considered that the need for the unit has not been sufficiently justified, the conversion of the pre-existing garage cannot ensure that the unit forms an integral part of the main dwelling or would be capable of reintegration for single family use due to its detached setting on the stie and that the size of the development to be retained at 80sq.m substantially exceeds the maximum floor area prescribed. The Board considers that the development to be retained would 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.

2. The Board is not satisfied, on the basis of the information provided, that there is efficient provision of public services and infrastructure on the subject site to effectively dispose of foul effluent arising from the development to be retained. It is considered that the subject development would therefore be prejudicial to public health and contrary to the proper planning and sustainable 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.

Matthew O Connor
Planning Inspector

24th April 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-321779-25		
Proposed Development Summary	Retention of change of use, renovation and extension of an existing garage to provide a 1 bedroom independent unit and all associated site works.		
Development Address	Station Road, Dunlavin, County Wicklow		
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: _____