



An
Bord
Pleanála

Inspector's Report

ACP 322762-25

Development	Permission for Retention of Bedroom Extension to Side of Dwelling
Location	Ballyprecas, Newtownbarry, Co. Wexford
Planning Authority	Wexford Co. Co.
Planning Authority Reg. Ref.	20241476
Applicant(s)	Elizabeth Kenny.
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party
Appellant(s)	Angela Brennan.
Observer(s)	None.
Date of Site Inspection	2 nd of September 2025.
Inspector	Caryn Coogan

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	4
3.4. Third Party Observations	4
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations	7
5.3. EIA Screening	7
6.0 The Appeal	7
6.1. Grounds of Appeal	7
6.2. Applicant Response	9
6.3. Planning Authority Response	10
7.0 Assessment.....	10
8.0 AA Screening.....	13
9.0 Recommendation.....	14
10.0 Reasons and Considerations	15
11.0 Conditions	16

Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The subject site, 0.24Ha, contains a rural dwelling located in the townland of Ballyprecas, 2km south of Bunclody, Co. Wexford. It is a small site and low profile bungalow, located on an elevated site.
- 1.2. The site is accessed from a short private lane off the R746. This lane also provides access to another dwelling positioned at the junction of the lane with the R746, a yard with a shed, and a field fronting the subject dwelling.
- 1.3. Of note, the sewage treatment system serving the subject dwelling is located in the field immediately in front of, or west of the subject bungalow. This field is in different ownership to the dwelling house. The field slopes towards the public road in a east to west direction.
- 1.4. On the day of inspection, 04/09/2025, the field fronting the dwelling house, was for grazing three small ponies. I noted the septic tank in place and a drainage pipe protruding from same.
- 1.5. To the south of the dwelling is a yard area and a shed which is not within the curtilage of the subject site.

2.0 Development

- 2.1. Retention of bedroom extension to side of existing dwelling, and Permission for upgrade of percolation area to EPA Code of Practice.

3.0 Planning Authority Decision

3.1. Decision

Wexford Co. Co. granted planning permission for the retention of the development on the 23rd of May 2025, subject to 9No. conditions.

Condition 6 relates to the existing domestic wastewater treatment system

Condition No. 7 requires the submission of a certificate conforming the correct installation of a percolation area/ polishing filter.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

- Details, of the site, the development, third party submission, interdepartmental reports, planning policy, planning history are outlined. The details relating to the sewage treatment system satisfy the Environment section and address previous refusals relating to the development.
- Permission is recommended.

3.2.2. *Other Technical Reports*

Senior Executive Scientist (Environment)

- A Site Characterisation Form must be submitted as required by the EPA Code of Practice.
- In the event the existing system needs to be redesigned full details of same to be submitted
- A report from a suitability qualified person indicating the existing system is adequate

Following receipt of the details outlined above on the 1st of May 2025, a recommendation to grant permission was forwarded by the relevant department.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

An objection was received from Angela Brennan citing the following:

- She is a sister of the former landowner who has passed away and she owns the land where the subject sewage treatment system is located.
- The lands are farmed and she intends applying for planning permission on the lands for a dwelling for her son.

4.0 Planning History

4.1 Planning Application 20231091

Permission for retention of the side extension to dwellinghouse and all associated alterations was Refused by Wexford County Council for the following three reasons:

1. There is a paucity of information regarding the capacity, location and operation of the existing Wastewater Treatment System serving the site and in the absence of this detailed information the planning authority are unable to make a full and detailed assessment on whether the existing system has the capacity to adequately treat and dispose of all wastewater generated by the existing dwelling and extension seeking retention. The development is therefore considered prejudicial to public health and proper planning and sustainable development of the area.
2. The location of the wastewater treatment system is outside the curtilage of the site and is therefore contrary to the proper planning and sustainable development of the area.
3. A detailed report compiled by a suitably qualified person to show that the waste water treatment system serving the site has the capacity to treat and dispose of all wastewater generated by the existing dwelling and the extension seeking retention has not been submitted. The development is therefore considered prejudicial to public health and proper planning and sustainable development of the area.

4.2 Planning Application 20221096

Permission for retention of the side extension to dwellinghouse and all associated alterations was Refused by Wexford County Council for the following reason:

There is a paucity of information regarding the capacity, location and operation of the existing Wastewater Treatment System serving the site and in the absence of this detailed information the planning authority are unable to make a full and detailed assessment on whether the existing system has the capacity to adequately treat and dispose of all wastewater generated by the existing dwelling and extension seeking retention. The development is therefore considered prejudicial to public health and proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Development Plan

The relevant development plan is the Wexford County Development Plan 2022-2028.

Volume 2 Development Management

Section 3.4 Extensions to Dwellinghouses

The continued use of existing dwellings and the need for people to extend and renovate their dwelling houses is recognised and encouraged. Accordingly, appropriate extensions to existing dwelling houses will be considered subject to compliance with the following criteria (only relevant criteria was selected) :

- The proposed extension must be of a scale and position on the site which would not be unduly incongruous with its context.
- The extension should not have an adverse impact on the amenities of adjoining properties through undue overlooking, undue overshadowing and/or an over dominant visual impact.
- Where required, it will be necessary to demonstrate that the existing on-site wastewater treatment facilities serving the main dwelling house are adequate and can facilitate the additional loading from the extension. Where this cannot be demonstrated, it will be necessary for the on-site wastewater facilities to be upgraded as part of the development proposal.

8.3 Wastewater

8.3.1 Private On-Site Wastewater Treatment Systems

Where a private on-site wastewater treatment system is required to serve an individual dwelling house:

- The subject site shall have a minimum area of 0.2ha.
- The wastewater treatment system must be within the site edged red and on lands in the applicant's ownership.

- The planning application shall include a Site Suitability Assessment carried out by suitably qualified and approved Site Assessor.
- The siting, design and installation of the wastewater treatment system shall be in accordance with the requirements of the Code of Practice: Wastewater Treatment and Disposal Systems serving Single Houses

5.2. **Natural Heritage Designations**

Blackstairs Mountains SAC , 00070, 8km west of site

River Barrow and River Nore SAC

River Slaney Valley SAC, Site Code 000781, 2km west of site

pNatural Heritage Area

Bunclody Slate Quarries, 2km west of site

River Slaney Valley, 00781, 3km north of site

6.0 **EIA Screening**

Having regard to the nature and scale of the development, which is for retention of an extension to a dwellinghouse in a rural area, is not considered to fall 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 Form 1 attached to this **report.**

7.0 **The Appeal**

7.1 **Grounds of Appeal**

Mrs Angela Brennan has taken this third-party appeal against Wexford Co. Co. decision to grant planning permission for the proposed extension to a dwelling. The following is a summary of the relevant issues raised in her appeal.

- 7.1.1 **The percolation system is to be installed in her field.** The appellant is the new owner of the land where the planning authority has granted planning permission for the upgrade of the percolation area. Her brother passed away on 20-09-2024 and willed the land to the appellant. However, since she inherited the field, Wexford Co. Co. has granted planning permission to Elisabeth Kenny for a large percolation

system which will take up most of the field. Her brother James kindly gave the applicant (another sister) a site to build her house in 1999, and gave her a right of way for right of way access to her site. The right of way also included maintenance and access to existing septic tank and percolation area. The agreement between her siblings related to a three bedroomed dwelling back in 1999. The new extension has resulted in two bathrooms. The new percolation area will take up half of the field the appellant has now inherited.

Elisabeth Kenny was refused planning permission twice on 16th of August 2022 under planning registration number 20221096, and on 12th of September 2023 under case number 20231091. After her brother's passing, the applicant sought retention for her extension and a percolation upgrade in her field. The planning authority did not take into account her submission dated 18th of December 2024

- 7.1.2 Her property will be devalued if the percolation system is installed in her field.
- 7.1.3 The Health and Safety of her livestock is a concern in her field because she is a farmer. She wishes to sow vegetables and potatoes in her field but if a large percolation area is installed in her field she won't be able to. She does not want to be concerned about the risk of damaging a third party's percolation pipes in her field. She has included photographs of livestock on her land and a pipe sticking out of the ground
- 7.1.4 Her private well is close to the proposed percolation system to be installed. She is concerned about her own wellbeing and the occupants of her dwelling
- 7.1.5 Her son wishes to build a house in the area, i.e. on her land, as he does not own a dwelling in the area. He is currently in pre-planning negotiations with Wexford Co. Co. on the issue. He intends to build on the land in the future.
- 7.1.6 The Development Management Guidelines 2007 states under section 5.13 that the planning system is not designed as a mechanism for resolving disputes about titles relating to land. These are a matter for the courts. None of the concerns cited above were acknowledged by Wexford Co. Co.
- 7.1.7 The original drawings failed to detail the full extent of the extension in particular they ensuite bathroom until the appellant pointed it out. The Planning Report states the objectors concerns relate to land ownership issues and do planning issues. This

was not a fair comment and other concerns were not addressed in the report. There is a window in the attic facing her land, and it should be removed as it invading her privacy.

7.1.8 She is concerned about public liability and if a person were to get injured working on her land at the percolation system

7.2 Applicant Response

Note: Some of the submitted information is sensitive in nature and I will focus my summary on the relevant planning considerations only.

- The site was given to the applicant in 1998 and Wexford Co. Co. erected the dwelling on it. She purchased the dwelling from the Council in 2008. She lived beside her brother Jim for 20years.
- The planning objections and appeal is a direct personal attack and relates to the appellant falling out with her sibling the applicant. It is not relevant to the planning process as rightly assessed by Wexford Co. Co.
- The appellant is not a farmer and resides at Rossard, Bunclody. Herself and her husband trade in piebald ponies. She can sow vegetables at her own house 5.6km from the applicant's house.
- The land she is concerned about is rented out to a Polish family.
- The issue raised regarding Aidan Nolan's original letter is not relevant because the planning authority date stamped when it was submitted
- Her argument that the percolation area would take up half of the field is ludicrous. She is arguing over something that has existed trouble free since 1998. An upgrade can only serve to improve the efficiency of the treatment system.
- The wayleave and right of way to the percolation area and road access has been in place since 1998.
- In terms of a house for her son, they are renting out her brothers former house, he could reside in that house. Her son is in his thirties and lives at home with his parents., he is not in need of a dwelling. In addition, a new dwelling house in the field would imply three sewage treatment systems in the

field, and this would cause much high risks to public health than the current situation.

- When the applicant previously applied for retention of the extension, the two previous applications were refused due to problems with the drawings. Her brother, did not object to the extension and was happy with it.
- The wayleave and right of way onto the percolation area, and the road access has been in place since the house was built in 1998. The County Council installed the access gate to the field at that time to maintain the property.
- There is no loss of privacy associated with the small window, which can be seen in attached photographs.
- The dwelling house remains a three bedroom dwelling and there is no increase in occupancy associated with the dwelling. The upgrade of the sewage treatment is not required. The only reason it is being upgraded is because the planning authority stated yellow land drainage pipes are not to be used. However, they were used at the same of installation, and it is not the fault of the applicant. She is trying to do things correct by upgrading the existing system to comply with the EPA Code of Practice. Her previous architect failed to address this issue which resulted in two previous refusals and the delay in the planning process. It was the planning authority requested the upgrade, which was acceptable to the applicant.

7.3 Planning Authority Response

There was no further comment regarding the issues raised in the appeal.

8.0 Assessment

- 8.1 I have inspected the site and considered the appeal file. There are two elements to the planning application, i.e. (i) Retention of the side extension to the dwelling house, and (ii) permission for an upgrade to the existing percolation area serving the dwellinghouse. I will assess the case on relevant planning issues arising only. I note the appeal file contains sensitive family information that does not form part of the appeal process, nor do I consider it to be relevant to the appeal. In addition,

some issues raised in the third-party appeal are beyond the remit of the Commission as detailed below.

8.2 Retention of Extension

- 8.2.1 The application is for retention of an extension to the southern (side) gable of the existing bungalow. The bungalow was originally constructed in 1998 by Wexford Co. Co. for the applicant, Ms Elisabeth Kenny. It is modest dwelling at 118sq.m. including the subject extension for retention. The extension to the side of the dwelling is 34sq.m. and is an ensuite bedroom. The extension also includes a small attic window in the gable end of the extension. From the front, side and rear elevations the finish and design of the extension blend in seamlessly with the exterior appearance of the original dwelling.
- 8.2.2 The third-party appellant claims the attic window on the gable end of the dwelling invades her privacy (Photo Plate 2). The window does not serve any of the main living rooms in the dwelling. It is an attic window. It does not overlook a residential curtilage. The property to the south is a yard area with a small shed (Plate 4). There is adequate separation distance and screening between the window and the adjoining property.
- 8.2.3 The third-party appellant has not substantiated how her privacy could be or is compromised by the small attic window located in the gable end of the dwelling. Having regard to the fact the window is small and is an attic widow overlooking the applicant's own private residential curtilage, I consider this claim to be unreasonable and should be dismissed by the Commission.
- 8.2.4 Having regard to section 3.4 of Volume 2 Development Management, Wexford County Development Plan 2022-2028, I consider the extension for retention is in keeping with the scale and design of the existing dwelling on the site, will not create an adverse impact to adjoining properties, and represents a sustainable form of development. It is acceptable in principle.

8.3 Permission to Upgrade Existing Percolation Area

- 8.3.1 Under Planning History, section 4 of this report, it details two previous refusals associated with the same applicant, same site and same development under Planning References 20231091 and 20221096 which related to the existing

wastewater treatment system serving the development. The reasons for refusal under 20231991 are as follows:

1. *There is a paucity of information regarding the capacity, location and operation of the existing Wastewater Treatment System serving the site and in the absence of this detailed information the planning authority are unable to make a full and detailed assessment on whether the existing system has the capacity to adequately treat and dispose of all wastewater generated by the existing dwelling and extension seeking retention. The development is therefore considered prejudicial to public health and proper planning and sustainable development of the area.*
2. *The location of the wastewater treatment system is outside the curtilage of the site and is therefore contrary to the proper planning and sustainable development of the area.*
3. *A detailed report compiled by a suitably qualified person to show that the waste water treatment system serving the site has the capacity to treat and dispose of all wastewater generated by the existing dwelling and the extension seeking retention has not been submitted. The development is therefore considered prejudicial to public health and proper planning and sustainable development of the area.*

8.3.2 This current application addresses the previous reasons for refusal cited under planning reference 20231091. In addition, since the previous decision, the original landowner, brother of the applicant has passed away, and allegedly, the ownership of the land, where the existing sewage treatment system is installed, has changed to the third party appellant, Mrs Angela Brennan. Both parties to this appeal, Ms Kenny and Mrs Brennan, are sisters of the former landowner, the late Mr. James Kenny.

8.3.3 The original dwelling was erected in 1998 on the subject site (0.2Ha) which is accessed via a private laneway (a legal a right of way), and with a legal wayleave over land to the front of the site for maintenance of the septic tank and percolation area. The right-of-way and wayleave serving the property were put in place in favour of Wexford Co. Co., who built the dwelling, and it's successors. The right-of-way and wayleave are still in place, and documentary evidence has been submitted by the applicant, with the planning application to demonstrate this (Folio 12751F, dated 24th of September 1999).

8.3.4 The third-party appellant submits the former landowner, her brother, passed away and she inherited the land (to the west of the dwelling) where the existing sewage

treatment is located, and has been in place since 1998. The appellant is concerned the sewage treatment will impact on the value of her land, impact on the safety of her livestock, impact on her potential to develop the land for her son and sow vegetables. However, these concerns do not address the legal right-of way or wayleave associated with the property. In fact the third-party appeal does not reference the right of way or wayleave.

- 8.3.4 It is my opinion, issues to do with title, Rights of Way/ Wayleaves are not matters which can be adjudicated by the Commission. I refer to Section 5.13 of the *Development Management Guidelines for Planning Authorities (2007)* which states that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. I also refer to **Section 34(13) of the Planning and Development Act 2000** (as amended) states that '*a person shall not be entitled solely by reason of a permission under this section to carry out any development*'. In this regard, I consider that the Commission has no role in this matter in so far as it relates to the wayleave over land - it is a civil matter between the respective affected parties.
- 8.3.5 I note from the submission documents on the planning application file, the existing septic tank shall be retained. The percolation pipes consist of yellow land drain pipes and these need to be replaced. Following a Site Characteristics Evaluation the existing pipes will be replaced by 100mm pvc percolation pipes along with an additional 18m percolation pipe giving a total of 90metres to serve the existing dwelling in accordance with the EPA Code of Practice 2021.
- 8.3.6 The proposed replacement of the pipes is acceptable in principle and is the design response to a detailed site assessment. I note the site for the percolation pipes slopes from east to west. There is no surface water drain or watercourse along the western site boundary. The Site Characteristics Study revealed the underlying soil to be free draining which is consistent with my general observations on site.

9.0 AA Screening

- 9.1 The subject site is located 2km from the River Slaney Valley SAC, Site Code 000781. There is a tributary 1km southwest of the site.

- 9.2 The proposed development comprises of the retention of a domestic extension in a rural area, and the replacement of existing percolation pipes associated with the existing sewage treatment plant. No nature conservation concerns were raised in the planning appeal. There is no hydrological or ecological link from the subject site to the nearest European sites.
- 9.3 Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it would not have an effect on a European Site.
- 9.4 The reason for this conclusion is as follows:
- The relatively small-scale nature of the works proposed
 - The lack thereof of any hydrological connection from the development to the Natura 2000 site.
 - Having regard to the screening report/determination carried out by the Planning Authority.
- 9.5 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. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Water Framework Directive

- 10.1 The subject site is located in the rural area of Ballyprecas, outside the town of Bunclody, Co. Wexford. The nearest relevant water body, the River Clody, is located c.1km south of the site (tributary of River Slaney 2km to the west) . The water quality status is 'Good', and under the Water Framework Directive it is not at risk.
- 10.2 The proposed development comprises an extension of the existing house (31sq.m.) along with replacement of existing percolation pipes associated with the existing sewage treatment plant on the adjoining lands.
- 10.3 No water deterioration concerns were raised in the planning appeal. I have assessed the proposed development of an extension of the existing house along with internal and external alterations of the existing structure, and replacement of the yellow

drainage pipes with 100mm uPVC percolation pipes. I have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. 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 surface and/or groundwater water bodies either qualitatively or quantitatively.

10.4 The reason for this conclusion is as follows:

- The nature and scale of the development proposed which includes for the installation of an on-site wastewater treatment system to current EPA standards.
- Distance from the nearest relevant water bodies, and the lack of hydrological connections.

I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

11.0 Recommendation

I recommend that the planning authority's decision to grant planning permission for the development be upheld.

12.0 Reasons and Considerations

Having regard to the information submitted with the application and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would comply with the development standards as set out in the Wexford County Development Plan 2022-2028, would not be injurious to the visual or residential amenities of the area, would

be acceptable in terms of public health and would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 25th of November 2024 and as amended by Further Information received on the 1st of May 2025, 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. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. (a) The septic tank/wastewater treatment system including a new percolation area hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application on the 1st of May 2025, and shall be in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)” Environmental Protection Agency, 2021.

(b) Treated effluent from the septic tank/ wastewater treatment system shall be discharged to a percolation area which shall be provided in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)” – Environmental Protection Agency, 2021. ABP-322409-25 Inspector’s Report Page 23 of 31

(c) Within six months of the decision, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/ wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

Reason: In the interest of public health and to prevent water pollution

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.

Caryn Coogan
Planning Inspector

4th of September 2025

Appendix 1 - Form 1**EIA Pre-Screening
[EIAR not submitted]**

An Bord Pleanála Case Reference	ABP 322762-25		
Proposed Development Summary	Retention of Extension to the Side of a dwellinghouse and permission to		
Development Address	Ballyprecas, Newtownbarry, Co. Wexford		
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			
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. Has Schedule 7A information been submitted?		
No	X	
Yes		

Inspector: _____

Date: _____