



An  
Bord  
Pleanála

## Inspector's Report ABP-303428-19

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<b>Development</b>	Change of use of 28 holiday houses to private family homes
<b>Location</b>	Belair Village, Belair Hotel , Cronroe Demesne , Ashford, Co Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	181168
<b>Applicant(s)</b>	Ashford Owners Management Company Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Ashford Owners Management Company Ltd.
<b>Observer(s)</b>	William Freeman
<b>Date of Site Inspection</b>	23 <sup>rd</sup> April 2019
<b>Inspector</b>	Emer Doyle

## 1.0 Site Location and Description

- 1.1. The appeal site is located to the south west of the village of Ashford, Co. Wicklow. The site is located within an existing development of holiday homes known as Belair Village and comprises of 28 No. 3 bedroom semi-detached houses. The main area of public open space is paved and is overlooked by houses Nos. 1-20. Car parking is located in a lower part of the site and is overlooked by houses 21-28.
- 1.2. Belair Village is adjoined to the south by an equestrian centre and Belair Hotel. The access to the equestrian centre and hotel is a right of way shared by the holiday homes and is c. .5km from the main road at this location.
- 1.3. The stated floor area of each of the dwellings is 118.3m<sup>2</sup> and the overall site area is stated to be 0.8713 hectares.

## 2.0 Proposed Development

- 2.1. Permission is sought for the change of use of 28 No. holiday homes previously granted permission under PPR 94/440 and PPR 98/8860 to private family homes.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission refused for two reasons relating to the material contravention of the settlement strategy of the Development Plan and the rural housing policy of the National Planning Framework, the inadequate quantum and poor quality of existing private and public amenity space provision and lack of adequate parking, and the contravention of Objective WI8 of the County Development Plan which does not permit private wastewater treatment plants for multi-house developments.

### 3.2. Planning Authority Reports

- 3.2.1. Planning Reports

- The Planning Report noted that the Belair Hotel and equestrian centre was in operation and considered that even if they were closed down, the houses could still operate as a standalone holiday development and the proposed change of use would not be considered. It also noted the following:
- ‘contrary to the submitted site layout plan, there is little or no private open space available to serve most of the dwellings. Furthermore, some of the rear gardens are steeply sloped and are unusable. It is stated in the submission that the available public open space consists of 501m<sup>2</sup> hard landscaped area and 1,260m<sup>2</sup> soft landscaped area. However, on site inspection, it is noted that this is incorrect. Firstly, I am not convinced that the hard landscaped area is 501m<sup>2</sup>. Furthermore, the soft landscaped area is elevated, steeply sloped and is unusable.’

#### 3.2.2. Other Technical Reports

- None on file.

#### 3.3. **Prescribed Bodies**

- No reports.

#### 3.4. **Third Party Observations**

One observation submitted which considers that the proposed development is contrary to the Development Plan and considers that the change of use would impinge on the workings of the hotel and equestrian centre.

## 4.0 Planning History

Relevant history files include the following:

### **UD: 3643C**

Non compliance with conditions PRR 00/2665.

### **PA 15/681**

Permission refused for a change of use of holidays homes previously granted permission under PRR 94/440 and PRR 98/8860 to permanent residences for three reasons similar to the current appeal.

### **PA 15/438**

Permission refused for change of use of holiday homes previously granted planning permission under PRR 94/440 and PRR 98/8860 to permanent residences for three reasons similar to the current appeal.

### **PA 00/2655/ ABP PL 27.120770**

Conditions 2 and 3 of an 8 holiday home development were appealed to the Board. The application was for the same development as PA 99/1711 but was submitted so that condition 2 could be regularised and the same wording used for the 20 holiday homes developments previously granted and the whole development could be operated as 28 holiday homes rather than two separate units of 20 houses and 8 houses. Condition 3 related to a financial contribution for roads improvements. The Board attached condition No. 2 and amended condition No. 3.

### **PA 99/1711**

Permission granted for 8 No holiday homes.

**PA 98/8860**

Permission granted for 20 No. holiday homes.

**PA 94/440**

Permission granted for 20 No. holiday homes

**5.0 Policy and Context**

**5.1. Development Plan**

**Wicklow County Council Development Plan 2016-2022**

Ashford is designated as a small growth town in the Wicklow County Council Development Strategy. There is no restriction on the occupancy of houses within the settlement as it is a designated growth town. The site is located on unzoned lands outside of the Ashford Town Plan boundary.

Chapter 3 – Settlement Strategy

Level 10 – All the rural areas outside of the designated settlements

Section 3.3 Settlement Strategy Objectives

Objective SS4 To require new housing developments to locate on designated housing land within the boundaries of settlements, in accordance with the development policies for the settlement.

Chapter 7 Tourism and Recreation

Chapter 9 Objective WI8 Private wastewater treatment plants for multi-house developments will not be permitted.

**5.2. National Planning Framework**

Chapter 5 deals with Planning for Diverse Rural Places.

### 5.3. **Natural Heritage Designations**

5.3.1. The Murrough SPA/ SAC is located c. 4km from the site.

### 5.4. **EIA Screening**

5.4.1. Based on the information on the file, which I consider adequate to issue a screening determination, it is reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the proposed development and an environmental impact assessment is not required.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

The first party appeal can be summarised as follows:

- The site is located in close proximity to zoned lands and there is a public footpath from the gates to the village.
- The hotel on the site is not open for business except for small private arrangements. Without a fully operational hotel in place, it is very difficult to let these houses.
- The development should not be held up for scrutiny against the current Development Plan standards.

### 6.2. **Applicant Response**

- The vast majority of the owners of houses have signed letters of consent and are in full support of the application. A number of properties are in the hands of receivers/banks and as such letters of consent were not forthcoming however they did not object to the application.

- The planning permission granted by Wicklow County Council linked the development of the hotel, equestrian centre and houses together. That proposal has long since failed as a commercial entity.
- The local authority states that they have not permitted any developments that are dependent on private treatment plants for over 15 years, which means that they have in the past permitted such systems. As they have been granted in the past, an exception should be made in this case on the basis that the system is to remain under the ownership and management of the Management Company.
- A separate response is attached from the Management Company which sets out the background to the development, together with proposals for future management.

### 6.3. Planning Authority Response

The Planning Authority response can be summarised as follows:

- The appellant is not the owner of the site/ development and would not appear to have the written consent of all owners.
- The Planning Authority understands that the hotel, house and equestrian centre were not developed by a single developer.
- The responsibility for complying with the permission granted under plan ref. 00/2665 was with the developer of the subject development. Any enforcement action taken, or not taken, by a local authority has no bearing on whether a development is compliant or not. Furthermore, the Planning Authority did use its enforcement powers as is clearly evidenced by the fact that issues of non-compliance were the subject of legal proceedings and Court hearings. Hence, the Planning Authority strongly refutes the wholly inaccurate and misleading statement contained in item 2 and item 4 of the Grounds of Appeal that insinuates that the Planning Authority were tardy in its legal proceedings and as a result were somehow responsible for the non-compliant development constructed by the developer.

- The County Council does not own and operate numerous treatment plants around the County. A private management company cannot be compared to a public authority. The Planning Authority has not granted permission for any residential development reliant on a private treatment plant for over 15 years and has a policy in its County Development Plan prohibiting such development, i.e. Objective WI8.

#### 6.4. **Observations**

An observation from William Freeman of the Belair Hotel and Equestrian Centre can be summarised as follows:

- He has not given his consent and the validity of the planning application is questioned.
- The hotel has not closed, nor has the Equestrian Centre which is an integral part of the overall business at Belair.
- When permission was sought by his mother for these holiday homes in 1994/1995, they were never intended as permanent family homes. Firstly, due to their location in close proximity to the hotel and to the equestrian facilities in the centre of the overall Belair estate with access along the hotel avenue. Secondly, the arrangement of the units is not compatible with permanent residential houses which would impinge on the privacy, security and proper working of the hotel and the equestrian centre.

#### 7.0 **Assessment**

7.1. The following are considered to be the main issues in the assessment of this appeal:

- Principle of Development
- Impact on Residential Amenity
- Appropriate Assessment



## 7.2. Principle of Development

7.2.1. The site is located on unzoned lands outside of the village of Ashford which is designated as a Level 5 Town in the Wicklow County Council Development Plan.

7.2.2. Part of the first reason for refusal was as follows:

*'The proposed change of use would materially contravene the settlement strategy of the County Development Plan 2016-2022, would be contrary to the overarching policy in respect of rural housing as set out in the National Planning Framework, would undermine the tourism objectives of the County Development Plan, and would result in a sub standard level of residential amenity for future permanent occupants of the dwellings. Therefore to permit this development would set an undesirable precedent for similar sporadic development in the rural area, and would undermine the core values of the County Development Plan 2016-2022.'*

7.2.3. The appeal sets out the background to the development and the reason behind the application and appeal. A total of 28 No. houses are located within Belair Village granted as part of a tourism development for short term lets with an equestrian centre and hotel on the site. However, the economic collapse within the country devastated the tourism industry and the hotel stopped letting the houses with the result that the owners had to take over the responsibility for this element of the development. It would appear that a number of the houses are now let for much longer periods than holiday lettings specified in the conditions of permission.

7.2.4. I am of the view that this is unzoned land in a rural area and I consider that to permit a change of use from holiday homes to permanent residences at this location would be contrary to local and national policy. Whilst the site is on the edge of the village of Ashford and linked to it by a footpath at the entrance, the right of way to the site coloured in yellow on in the application documentation is c. .5km in length with no footpaths, and the site is reliant on a private treatment plant contrary to Objective WI8 of the Development Plan.

7.2.5. The Ashford Town Plan recognises that the designation of specific lands for residential development has been provided in a manner that facilitates greater connectivity between the village core and the existing developed lands within the plan area. It is stated that sufficient lands have been zoned in order to meet the projected population targets as set out in the Wicklow County Development Plan

2016-2022. It is part of the vision for Ashford to develop the tourism potential of the area as a visitor/ tourist destination in itself and in its role as a 'gateway' linking the east and southeast of the County and the Wicklow Mountains.

- 7.2.6. I note that Condition No. 2 of PA Reg. Ref. 98/880 required the applicant to enter into an agreement with the Planning Authority specifying that the development as a whole shall be held in single ownership, not be subdivided and shall be for short term tourist use only. The reason for this condition was as follows: 'In the interests of clarity and to ensure single ownership for the maintenance of the proposed drainage system. To protect the rural character of the area and to prevent sporadic development.' Condition 2 of PA Reg. Ref. is as follows: 'Before development commences the applicant shall enter into an agreement with the Planning Authority specifying that the entire development, consisting of the Hotel and the Riding Arena on the site that this permission refers to, shall be held in single ownership and shall not be subdivided and shall be available only for holiday letting. This agreement shall be registered as a burden against this site in the Land Registry within three months of commencement of development. Reason: To ensure that the water supply and sewage effluent facilities can be adequately maintained, to be consistent with paragraph 3.5.2 of the County Development Plan that does not permit privately owned treatment plants serving several properties, and to ensure that the development be retained as tourism infrastructure, that can be effectively marketed.'
- 7.2.7. I consider that the proposed change of use from holiday homes to permanent dwellings would materially contravene the settlement strategy of the Development Plan, would undermine the permitted tourist use of this site and would materially contravene a condition attached to an existing permission. On the day of inspection, I considered that the site was very busy with a lot of the car parking spaces in use. I consider that both the hotel and holiday homes are well maintained. I consider that the proposed change of use would have a negative impact on both tourism facilities in the area and the pattern of development in the village core of Ashford which is described in the plan as 'quite disjointed with large sites remaining undeveloped or underutilised.'
- 7.2.8. On the basis of the above, I consider that the proposed change of use from holiday homes to permanent homes would be contrary to the settlement strategy of the

Development Plan and contrary to the overarching national policy in respect of rural housing as set out in the National Planning Framework.

**7.3. Impact on Residential Amenity**

- 7.4. A key concern in terms of changing the use from holiday homes to permanent homes relates to the impact on residential amenity.
- 7.5. This development was designed as a holiday home scheme and many of the houses have limited rear garden depths particularly houses 3 to 18. At present, there is little in the way of fencing between rear gardens and a number of houses have constructed a small balcony to the rear as their only form of private space. In other cases, the rear garden is not flat and the rear door is accessed by wooden stairs. Other houses only have a small area where on the day of inspection, there was room for a clothes horse and little else. I draw the Board's attention to photographs of the site taken on the site inspection and photographs attached to the Planning Authority report.
- 7.6. I note the following from the planner's report: 'contrary to the submitted site layout plan, there is little or no private open space available to serve most of the dwellings. Furthermore, some of the rear gardens are steeply sloped and are unusable.' I would concur with the Planning Authority that the appearance on the ground is that many of the private rear gardens are very limited in size and would not be functional for normal family use on a permanent basis.
- 7.7. In terms of policy, a total of 6 No. houses do not meet the Development Plan requirement of 60m<sup>2</sup> for 3 bedroom houses. It is proposed to provide additional private open space to the front of these houses – Nos. 3, 6, 7, 10, 14, and 15. I would have concerns about the usability of these spaces, in some cases on sloped grounds and separated from the houses by a footpath. I also note that some of the spaces are located adjacent to a shared ramp serving a number of houses or public open space. I note that it is proposed to provide timber fencing of 1.8m height between all houses.
- 7.8. I also have concerns regarding the quality of public open space serving the development. At present, the main public open space is a fully paved open space area centrally located and overlooked by houses 1-20. The only form of play

equipment on this space is a basketball ring which was in use on the day of inspection by a number of teenagers. Whilst, there are a number of green areas designated as public open space on the site layout, many of these are steeply sloped and narrow and would not be suitable as play areas for children kicking a ball etc.

7.9. I note that the Development Plan requires 2 car parking spaces per 3 bedroom house. A total of 42 spaces are provided in lieu of the Development Plan requirement of 56 spaces. All of these spaces are provided in a shared lower area of the site which is a significant distance to some houses. The nearest footpath to the site is c. .5km from the shared car park and as such I consider that many residents would need to rely heavily on car use.

7.10. It is obvious that the design and layout of the site was as a tourist facility for short term letting. I note that the observation submitted states that the houses were never built by his mother as permanent residences and two issues arise in relation to the shared road with the equestrian centre and the hotel and impacts on security, privacy, and proper management of the hotel and equestrian centre. Whilst I accept these concerns, my greatest concern would be for future residents of the houses as in my view, they represent a poor form of development unsuitable for long term occupancy. I consider the open space facilities would lead to a poor form of residential amenity for future occupants. As such, I do not consider that the design and layout of the site and associated infrastructure and facilities is of a standard that meets development plan standards or that is of a sufficient standard to support the proposed permanent residential use.

#### 7.11. **Appropriate Assessment**

7.12. Having regard to the existing use of the site as holiday homes, and the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site

## 8.0 Recommendation

8.1. Having regard to the above it is recommended that permission be refused based on the following reasons and considerations:

## 9.0 Reasons and Considerations

1. Having regard to the location of the site on unzoned lands outside of the village of Ashford and the settlement strategy as set out in the Wicklow County Council Development Plan 2016-2022 which requires under Objective HD1 that new housing is located on suitably zoned or designated lands in settlements, and will only be considered in the countryside when it is for the provision of a rural dwelling to those with a housing, social or economic need to live in the open countryside, it is considered that the proposed change of use from holiday homes to permanent residences would materially contravene the settlement strategy of the Development Plan and would be contrary to over-arching national policy in respect of rural housing as set out in the National Planning Framework. The proposed development would, therefore, set an undesirable precedent for further development of this kind and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development by reason of the proposed change of use from holiday homes to permanent residences would materially contravene Objective WI8 of the Wicklow County Council Development Plan 2016-2022 which does not permit private wastewater treatment plants for multi-house developments. The proposed development would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
3. Having regard to the design, layout, quantum, and poor quality of the existing public and private open spaces and the location and quantum of car parking spaces, it is considered that the proposed change of use to permanent residences would result in a sub-standard level of residential amenity for future permanent residential occupants of the dwellings and would conflict

with the provisions of the Development Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4. It is considered that the proposed development would materially contravene a condition attached to an existing permission, that is condition number 2 attached to planning permission register number 98/8860 and condition number 2 attached to planning register number 2665/00 which requires that the use is restricted to short term tourist use only/ holiday letting and the development as a whole is held in single ownership. The proposed development would, therefore, set an undesirable precedent for further such changes of use, and would be contrary to the proper planning and sustainable development of the area.

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Emer Doyle

8<sup>th</sup> of May 2019