



An
Bord
Pleanála

Inspector's Report ABP-305775-19

Development	Change of use of an existing garage to a granny flat along with associated site works.
Location	No. 3 Newpark Road, Wicklow Town, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	19/497
Applicant(s)	Fiona & Robert Downes
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party v. Decision
Appellant(s)	Fiona & Robert Downes
Observer(s)	None.
Date of Site Inspection	11 th February, 2020
Inspector	Robert Speer

1.0 Site Location and Description

1.1. The proposed development site is located in an established residential area, approximately 100m south of Wicklow town centre, at the westernmost end of a small cul-de-sac of housing known as Newpark Road which is accessed via a minor roadway that extends westwards from its junction with St. Mantan's Road. It has a stated site area of 0.26 hectares, is irregularly shaped, and is presently occupied by a single-storey garage structure positioned between a neighbouring two-storey dwelling house to the immediate south and a former women's refuge / support service building located on the lower-lying lands to the north alongside Fitzwilliam Road. Notably, whilst the existing garage is associated with a nearby dormer-style dwelling house to the southeast (as shown on the submitted site layout plan), it is physically separated from that property by the intervening roadway.

2.0 Proposed Development

2.1. The proposed development consists of the conversion of a single storey, detached domestic garage (floor area: 63m²) to use as a self-contained 'granny flat' comprising a bedroom, bathroom, combined kitchen / living area, and a sensory room. Associated site works and elevational changes will include the replacement of the existing garage doorway with a sliding door arrangement, the provision of additional fenestration, the creation of a new doorway, and the installation of rooflights. Water and sewerage services are available via connection to the public mains.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 3rd October, 2019 the Planning Authority issued a notification of a decision to refuse permission for the following single reason:

- Having regard to the provisions of Appendix 1 of the County Development Plan 2016-2022 in respect of the requirements for Independent Living Units, the lack of justification with regard to need, the separation distance between

the unit and the host dwelling and the incompatibility of the unit with the prevailing pattern of development in the area, it is considered that the proposed development would represent an inappropriate, haphazard and substandard form of development on this site, would set an undesirable precedent for similar forms of development in the area and would therefore be contrary to the design standards and objectives of the County Development Plan and would be contrary to proper planning and sustainable development.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

Details the site context, planning history, and the applicable policy considerations before analysing the proposal having regard to the qualifying criteria for independent living units ('Granny-flats') set out in Appendix 1: 'Development and Design Standards' of the County Development Plan. Given the degree of separation between the garage and the main dwelling house, including the intervening land in separate ownership, it was considered that the proposed development would not form an integrated part of the main house and thus failed to comply with the requirements of the Development Plan. Further concerns arose as regards the level of residential amenity likely to be enjoyed by the new accommodation by reference to deficiencies in private open space provision. It was also suggested that the proposal would be out of keeping with the surrounding pattern of development. The report thus recommended a refusal of permission for the reason stated.

3.2.2. Other Technical Reports:

Wicklow Area Engineer: No objection.

Water & Environmental Services: No objection.

3.3. Prescribed Bodies

3.3.1. Irish Water: No objection, subject to conditions.

3.4. Third Party Observations

None.

4.0 Planning History

4.1. *On Site:*

PA Ref. No. 06/623092. Was granted on 2nd April, 2007 permitting Niall & Ernan Esmonde permission for the demolition of an existing c. 120m² dwelling and 2 no. garages c. 38m² in total, construction of 2 no. detached dwellings c. 275m² and c. 263m² respectively and 2 no. garages c. 28m² and 36m² respectively, ancillary works and associated site works, at New Park Road, Wicklow.

PA Ref. No. 07/623175. Was granted on 21st September, 2007 permitting Niall & Ernan Esmonde permission for a change of roof type to previously granted file ref. no. 063092, involving alteration of the previously granted parapet roof type to new overhanging roof type and all associated site works, at New Park Road, Wicklow.

PA Ref. No. 01622573. Was granted on 12th July, 2001 permitting R. and F. Downes permission for an extension and attic conversion with dormer windows at Newpark Road, Wicklow Town.

PA Ref. No. 18/1396. Application by Fiona & Robert Downes for permission for a change of use of an existing garage to a one bedroom dwelling along with associated site works and services at 3 Newpark Road, Wicklow Town. This application was withdrawn.

5.0 Policy and Context

5.1. **Wicklow County Development Plan, 2016 – 2022:**

Chapter 3: Settlement Strategy:

Section 3.2: County Wicklow Settlement Strategy:

Level 2 – Large Growth Town I: Wicklow-Rathnew

Chapter 4: Housing:

Section 4.4: Housing Objectives: Existing Residential Areas:

HD9: In areas zoned / designated 'existing residential', house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and

protection of existing residential amenity will normally be permitted (other than on lands permitted or designated as open space, see Objective HD11 below). While new developments shall have regard to the protection of the residential and architectural amenities of houses in the immediate environs, alternative and contemporary designs shall be encouraged (including alternative materials, heights and building forms), to provide for visual diversity.

HD10: In existing residential areas, infill development shall generally be at a density that respects the established character of the area in which it is located, subject to the protection of the residential amenity of adjoining properties. However, where previously unserved, low density housing areas become served by mains water services, consideration will be given to densities above the prevailing density, subject to adherence to normal siting and design criteria.

Appendix 1: Development and Design Standards:

Section 1: Mixed Use and Housing Developments in Urban Areas: Independent living units ('Granny-flats'):

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. Wicklow Town - Rathnew Development Plan, 2013 – 2019:

5.2.1. Land Use Zoning:

The proposed development site is located in an area zoned as '*Residential – Infill (RE)*' with the stated land use zoning objective '*Existing Residential: To protect and preserve existing residential uses and provide for infill residential development*'.

Description: To protect, provide and improve residential amenities of existing properties and areas while allowing for infill residential development that reflects the established character of the area in which it is located and with minimal impact on the existing residential amenity.

5.2.2. Other Relevant Policies / Sections:

Chapter 3: Residential Development:

Section 3.2: Residential Zoning: Existing Developed Residential Areas (RE):

Within existing developed residential areas potential development sites range from small gap infill, unused or derelict land and backland areas, side gardens of existing houses, up to larger vacant sites within established residential areas. While it is considered that higher residential densities are appropriate in the town/village cores, an appropriate balance is required in the protection of the amenities and privacy of adjoining properties, the protection of established character and the requirements for residential infill developments. Proposals for such infill development will generally be permitted where it can be clearly demonstrated that the proposal respects the existing character of the area and would not have an adverse impact on the amenity value of properties in the area. It is estimated that there is capacity on such sites for up to 200 new units.

Section 3.4: *Housing Objectives:*

RE1: In the RE zone, house improvements, alterations and extensions and appropriate infill / new residential development in accordance with principles of good design and protection of existing residential amenity will be permitted. While new developments shall have regard to the protection of the residential and architectural amenities of houses / buildings in the immediate environs, alternative and contemporary designs shall be encouraged (including alternative materials, heights and building forms), to provide for visual diversity.

Section 3.6.6: *Design Quality: Building Design: (11) Independent living units ('Granny Flats'):*

A granny flat' or 'family flat' is an independent 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 maybe 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 subdivided;
- 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.

5.3. Natural Heritage Designations

5.3.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The Murrough Special Protection Area (Site Code: 004186), approximately 220m northeast of the site.
- The Murrough Wetlands Special Area of Conservation (Site Code: 002249), approximately 1km north-northwest of the site.
- The Wicklow Head Special Protection Area (Site Code: 004127), approximately 1.6km southeast of the site.

5.4. EIA Screening

5.4.1. Having regard to the nature and minor scale of the development proposed, the site location in a built-up area within the development boundary of Wicklow Town which is outside of any protected site, the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- The existing garage was constructed pursuant to PA Ref. No. 06/3092 with Condition No. 6 of that grant of permission stating the following:

‘The proposed garage to the north of the site, shall form a separate residential unit’.

It is considered that there is no reason why that development cannot now be acted upon as approved.

- With regard to the need for the proposed development, the Board is advised that the applicant's son has had support needs since birth and that he is now a young adult with a dual diagnosis of Dyspraxia and Aspergers who struggles with heightened anxiety and dysphagia. It remains the case that he will require the continued support of his parents throughout life although it is anticipated that he will greatly benefit from independent living whilst remaining close to the family home. The subject proposal will provide him with his own home thereby negating any reliance on the provision of an independent living unit or social housing from Wicklow County Council whilst he will also enjoy the dual benefits of independent living with support close at hand.
- With respect to the concerns raised as regards the separation distance between the proposed development and the principal residence, it should be noted that the garage is located at the end of the driveway to the main dwelling on a small cul-de-sac of 5 No. houses. The applicants' son has lived in this cul-de-sac all his life and therefore the separation distance of 30m is not a cause for concern. Furthermore, there have been no objections from any of the neighbouring residents who are familiar with the applicants' circumstances and are in support of the proposal. In addition, there will be no additional population or traffic along the cul-de-sac consequent on the proposed development.
- In reference to the assertion that the proposed unit will be incompatible with the prevailing pattern of development in the area, it is submitted that the existing garage was constructed in accordance with architectural drawings and specifications to match the adjacent properties. Its overall visual appearance will remain unchanged with only very minor alterations proposed whilst the footprint / size of the building will remain the same. It is also of relevance to note that the property adjacent to the garage was substantially redeveloped in 2010 by way of its conversion from a private residence to a large women's refuge without any concerns as to whether it would be incompatible with surrounding housing or the streetscape.
- The suggestion that the subject proposal would represent an inappropriate, haphazard or substandard form of development is rejected. There will be no outward changes to the existing building which has been built to a very high

standard with plumbing and electrics already installed and double-glazed windows throughout. It is not contrary to any design standards and does not contravene the current Wicklow County Development Plan.

6.2. Planning Authority Response

None.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- The principle of the proposed development
- Overall design and layout
- Appropriate assessment

These are assessed as follows:

7.2. The Principle of the Proposed Development:

7.2.1. The proposed development involves the change of use of an existing garage to a 'granny flat' as a means of providing independent living accommodation for a member of the applicants' family and in this regard it should be noted that a 'granny flat' is not typically considered to comprise an entirely separate living unit but is rather an extension of the wider residential use of the main residence i.e. it offers a degree of independent living relative to the principle dwelling house whilst functioning in an ancillary capacity to same. In this respect, I would refer the Board to the considerations set out in Section 1: *'Mixed Use and Housing Developments in Urban Areas: Independent living units ('Granny-flats')* of Appendix 1: *'Development*

and Design Standards' of the Wicklow County Development Plan, 2016 – 2022 (as reiterated in Section 3.6.6 of the Wicklow Town - Rathnew Development Plan, 2013-2019) wherein it is stated that 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, for a temporary period, whilst the construction or conversion of part of an existing dwelling into such 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 will form an integrated part of the structure of the main house, although 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 of a modest size not exceeding 45m² with no more than one bedroom;
- The unit will not be sold or let as an independent living unit and the existing garden will not be sub-divided;
- The unit is capable of being functionally re-integrated into the main house (permission for such units will be restricted to a period of 7 years, after which it must revert to a use ancillary to the main house unless permission has been secured for its continuation as an independent unit for another period).

7.2.2. From a review of the available information, it is apparent that the proposed 'granny flat' is intended for occupation by the applicants' adult son who has seemingly had support needs since birth (as referenced in the accompanying correspondence prepared by medical and educational professionals) and will require the continued support of his parents. In this regard, it is envisaged that the proposed development will allow the individual concerned to enjoy the benefits of independent living whilst simultaneously having support close at hand given the proximity of the family home. Accordingly, it would appear that sufficient justification has been provided for the proposed development in order to satisfy the first criterion of the Development Plan as set out above, however, I would caution the Board that in instances where the proposal involves the conversion of an existing detached structure (as is the case in

the subject application), consideration will only be given to same in 'exceptional circumstances' and subject to the structure being in very close proximity to the main house. This would seem to imply that in circumstances such as the subject proposal, there is a greater onus on the applicant to justify the development. In my opinion, a key consideration in determining whether sufficient 'exceptional circumstances' arise as to warrant the conversion of a detached structure to an independent living unit in line with the aforementioned criterion would likely include an assessment of whether or not an alternative form of accommodation more readily suited to reintegration with (or incorporation into) the principle residence would be feasible or suitable.

Regrettably, the subject application has not been accompanied by any further explanation or rationale as to why the particular form of the development proposed should be deemed preferable or more beneficial than, for example, the construction of a self-contained extension to the main house.

- 7.2.3. With regard to the overall size and nature of the accommodation proposed, whilst I would acknowledge that the floor area of the unit exceeds the maximum threshold of 45m² specified in the Development Plan (and could perhaps accommodate a second bedroom in the event the proposed sensory room were to be converted to same), given the fact that the structure in question is already in place, I am amenable to a relaxation of this requirement as the demolition of part of the existing structure to comply with same would seem to be contrary to the principles of sustainable building practice.
- 7.2.4. Having considered the broader need for and nature of the proposed development, the remaining requirements set out in Appendix 1 of the County Development Plan primarily concern the physical and practical relationship of the proposed 'granny flat' with the main residence. In this respect, I would generally concur with the Planning Authority's assessment of the concerns arising from the physical separation and detachment of the proposed accommodation from the principle dwelling house. The existing garage is a detached structure positioned at the end of a cul-de-sac which is bordered by unrelated properties. It is located outside the curtilage of the applicants' dwelling house with a separation distance of c. 45m between the buildings and is physically separated from same by an intervening private roadway over which various third parties would seem to have a right of access. Furthermore, the absence of any physical connection between the two properties negates the possibility of the

proposed unit benefitting from the use of shared areas (with particular reference to amenity space) as would be the case were the proposal to be sited within the confines proper of the main residence to which it would form an ancillary component. I would also have concerns that the lack of a direct physical relationship between the proposed unit and the existing dwelling house could potentially lend itself to the new accommodation becoming severed from the latter, although I would accept that this could be addressed by way of condition in the event of a grant of permission.

7.2.5. Whilst the proposed flat will not be able to form an integrated part of the structure of the main house upon the cessation of its use as independent living accommodation, it could nevertheless revert to its current usage as a domestic garage / storage space.

7.2.6. On balance, whilst I would acknowledge the legitimacy of the applicants' desire to accommodate the needs of their adult son in view of his ongoing difficulties, in my opinion, given the degree of physical separation between the proposed 'granny flat' and the principle residence, and in the absence of any demonstratable 'exceptional circumstances' warranting a departure from such thinking, including an inability to provide for an alternative form of accommodation more readily suited to integration with the principle residence, it is my opinion that the subject proposal does not accord with the development and design standards set out in Appendix 1 of the County Development Plan.

7.2.7. By way of further comment, and in the interests of clarity, whilst I note the appellants' reference to Condition No. 6 of the grant of permission issued in respect of PA Ref. No. 06/623092 wherein it is stated that the garage in question '*shall form a separate residential unit*', from a review of the description of the development permitted, it would appear that the garage in question was not intended to be utilised as a separate residential unit and that the wording of the condition (as suggested by the case planner) contains an error and should have stated that the garage '*shall not form a separate residential unit*'.

7.3. Overall Design and Layout:

7.3.1. With respect to the overall design and use of the proposed development, given the site context and the surrounding pattern of development, in general terms, I am unconvinced that the proposal could be held to be 'incongruous'. However, I would

have reservations as regards the level of residential amenity likely to be afforded to any future occupant of the development given the absence of private open space on site (and noting that a 'granny flat' would usually avail of the shared usage of amenity areas associated with the principle residence) and the enclosed nature of the site from a security and surveillance perspective.

7.4. Appropriate Assessment:

- 7.4.1. Having regard to the nature and minor scale of the proposed development, the availability of public services, the nature of the receiving environment within the built-up confines of Wicklow Town, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. Having regard to the provisions of Section 1: 'Mixed Use and Housing Developments in Urban Areas: Independent living units ('Granny-flats')' of Appendix 1: 'Development and Design Standards' of the current Wicklow County Development Plan, 2016 – 2022, which provides for the consideration of the construction or conversion of part of an existing dwelling into a 'family flat' subject to certain requirements, it is considered that the siting and physical separation of the existing garage from the principal residence is such that it would militate against the proposed development being functionally integrated with the main house. Therefore, in the absence of any exceptional circumstances to the contrary, and as the proposed accommodation could reasonably be provided by means of modification or extension of the main dwelling, it is considered that the proposed development would contravene

the provisions of the current Wicklow County Development Plan and would be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

12th February, 2020