



An
Bord
Pleanála

Inspector's Report ABP-306851-20

Development	Removal of existing window from south west/ side elevation, enlarge existing window ope to form new door ope for access to new 11.35 sq m rear first floor decking, new stairs from first floor decking for access to rear garden and associated site works.
Location	2 Ashford Oaks, Ballinalea, Ashford, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	19/1365
Applicant	Thomas & Margaret Keane
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Thomas & Margaret Keane
Date of Site Inspection	3 rd June 2020
Inspector	Paul O'Brien

1.0 Site Location and Description

- 1.1. Number 2 Ashford Oaks, comprises of a two-storey detached house on a stated area of 0.064 hectares, located on a short cul-de-sac off the L-1096 local road to the south of Ashford, Co. Wicklow. This cul-de-sac serves four houses, two of which are occupied and two are under construction.
- 1.2. The site slopes sharply from the cul-de-sac such that access to the house is via a raised walkway. There is a gentler slope to the south east of the site forming the rear garden. The house is therefore built into the slope and is below road level. The four houses are large units of the same design and are provided with a generous amount of private amenity space to the rear. Car parking is provided off site to the western side of the cul-de-sac.
- 1.3. To the east of the subject site is a large field in agricultural use. Extensive hedgerows and trees provide for the rear garden boundary.

2.0 Proposed Development

- 2.1. The proposed development consists of:
 - Removal of existing window from south west/ side elevation.
 - Enlarge an existing window ope to form new door ope for access to new 11.35 sq m rear first floor decking. Guardrails with class insert panels to be provided at the edge of the decking for safety reasons.
 - New stairs from first floor decking for access to rear garden.
 - Associated site works.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for one reason as follows:

‘The proposed development would seriously injure the amenities of properties in the vicinity because the proposed balcony, due to its position and size, would adversely

affect the amenity of the adjoining property to the south by reason of overlooking. Consequently the proposed development would be contrary to the objectives of the Wicklow CDP 2016 – 2022, would set an undesirable precedent for further such developments in the area and would therefore be contrary to the proper planning and sustainable development of the area’.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The Planning report reflects the decision to refuse permission subject to a single reason. It is noted that the Case Officer reported that no overlooking of habitable rooms would arise from the proposed development and that existing windows to the southeast and southwest provide views over the garden of the neighbouring dwelling. The concern appears to be that the balcony would give rise to increased overlooking of the property to the south. The proposed external stairs were considered to be acceptable.

3.2.2. **Other Technical Reports**

None.

3.2.3. **Prescribed Bodies Reports**

None.

3.3. **Objections/ Observations**

None received.

4.0 **Planning History**

P.A. Ref. 97/6096 refers to an April 1997 decision to grant four houses, no. 1 being one of these units.

P.A. Ref. 19/1366 refers to a decision to refuse permission for the removal of window, enlarge a window, provide a balcony area and stairs at no. 1 Ashford Oaks, the property to the south of the subject site. This development is also on appeal –

ABP. Ref. 306849 refers.

5.0 Policy and Context

5.1. Development Plan

5.1.1. Under the **Wicklow County Development Plan 2016 – 2022**, the site is located within Ashford which is defined as a Level 5 Settlement – Small Growth Town.

5.1.2. Appendix 1 refers to ‘Development and Design Standards’ and full regard has been had to the section on ‘House Extensions’ and the following are noted:

- ‘The extension shall not provide for new overlooking of the private area of an adjacent residence where no such overlooking previously existed;
- In an existing developed area, where a degree of overlooking is already present, the new extension must not significantly increase overlooking possibilities. If for example a two-story dwelling already directly overlooks a neighbour’s rear garden, a third storey extension with the same view will normally be considered acceptable;
- New extensions should not overshadow adjacent dwellings to the degree that a significant decrease in day or sunlight entering into the house comes about. In this regard, extensions directly abutting property boundaries should be avoided’

5.1.3. **Ashford Town Plan 2016 – 2022** forms part of the Wicklow County Development Plan. The subject site is within lands with the zoning objective RE – ‘Existing Residential’. I note that the lands to the north are zoned R20 – Residential with a specific local objective – SLO5. These 2.6 hectares can allow for the development of up to 56 houses.

5.2. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

The first party appeal can be summarised as follows:

- The layout and site topography provides for a poor means of access to the private amenity space to the rear of the house. The new balcony and stairs accessed from the kitchen will improve the means of access to the garden. There is a considerable fall from west to east and a further fall to the south of the site.
- There is a considerable amount of overlooking already from the kitchen windows, especially from the south face one and the proposed development will not increase the amount of overlooking.
- Concern regarding the appraisal on the basis of a site visit and the draft refusal reason was modified by the Senior Executive Planner without any evidence that the site was visited by this person. Appellant cannot understand how the development would give rise to a 'significant increase' in the amount of overlooking.
- In support of the appeal it is proposed to revise the balcony such that it will be screened on the south western and part of the south eastern by the use of obscured glazed panels.

7.0 **Assessment**

7.1. The main issues that arise for consideration in relation to this appeal can be addressed under the following headings:

- Nature of the Development
- Impact on Visual and Residential Amenity
- Appropriate Assessment Screening

7.2. **Nature of the Development**

7.2.1. The development consists of modifications to existing windows, the provision of a first-floor deck and external stairs to the side/ south west of the house to allow for access to the rear garden. The stairs turn back towards the front/ west of the house so that they do not project into the rear garden. The existing house has a two-storey projecting bay to the rear and in effect the proposed first-floor decking will in-fill this area.

- 7.2.2. In support of the appeal, the applicant has proposed that an obscured privacy screen be placed on the south western side and part of the south eastern side of the deck so as to prevent overlooking of the property to the south. As originally submitted, glass panels of 1.1 m in height supported by guard rails were proposed to enclose the decking area. The revised details indicate that a panel of 1.9 m in height is to be placed on the south west side of the deck and another panel of 1.9 m in height to be attached to this on the south eastern side of the deck. Two other panels of 1.1 m in height will enclose the decked area.
- 7.2.3. I note that a similar development at no. 1 Ashford Oaks, is also on appeal. No.1 projects slightly more to the east than the neighbouring three houses, including No.2. The proposed decking does not project beyond the rear building of No.3.

7.3. Impact on Visual and Residential Amenity

- 7.3.1. The proposed alterations to the windows of the existing house, the provision of a stairway and a decked area at first floor level are visually acceptable. The alterations will not be visible from the public road and the large, well screened rear garden ensures that the development is not easily visible from adjoining sites to the north and east.
- 7.3.2. The main issue for refusal related to the loss of residential amenity through overlooking of the property to the south. I am satisfied that the provision of obscured screening will overcome this issue. From the site visit it was evident that overlooking of the rear garden of no.3 Ashford Oaks is currently possible, from the windows in the rear of no.2 at first floor level. I agree with the appeal, that the provision of obscured panels to the south west/ south east of the decking will remove overlooking issues including those that are currently possible from the first-floor level of the house.
- 7.3.3. The Planning Authority state in their reason for refusal that ‘..the proposed development would be contrary to the objectives of the Wicklow CDP 2016 – 2022, would set an undesirable precedent for further such developments in the area..’. The Planning Authority have not stated as to which objectives the development is contrary to. I also note ‘Appendix 1 – Development and Design Standards’ of the Wicklow County Development Plan 2016 – 2022 which includes clear guidance on ‘House Extensions’. A number of basic principles are included in this appendix and I

note that extensions should not give rise to overlooking of the private amenity space of an adjoining property in the case of where no such overlooking exists and 'In an existing developed area, where a degree of overlooking is already present, the new extension must not significantly increase overlooking possibilities'. I am satisfied that the extension, in this case a decked area with suitable screening, does not give rise to significant increased 'overlooking possibilities'. I foresee no impact to No.1, the property to the north of the subject site.

- 7.3.4. The issue of precedent is noted as included in the reason for refusal by the Planning Authority; all appeals are assessed on their own merits having regard to the unique circumstances of all sites. I note the concurrent appeal under ABP-306849-20 for No.1 Ashford Oaks. That house is at the end of the row of four houses, whereas the subject site is mid row between nos. 1 and 3 and the topography is slightly different.

7.4. Appropriate Assessment Screening

- 7.4.1. Having regard to the nature and scale of the proposed development and the location of the site and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on an European site.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to the following conditions and reasons.

9.0 Reasons and Considerations

- 9.1. Having regard to the nature, extent and design of the proposed development and the provisions of the Wicklow County Development Plan 2016 – 2022 and the Ashford Town Plan 2016 - 2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 19th of December 2019, and as amended by the further plans and particulars submitted on the 9th of March 2020 in support of the appeal, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be carried out as follows:</p> <p>(a) A 1.9 m high screen of obscured glazing shall be provided to the side/ south west and rear/ south east of the decking area as indicated on Drawing no. JESE/6-19, dated 09/03/2020. This shall be permanently left in situ.</p> <p>(b) Full details of the support guardrails and the level of glazing obscurity to be provided.</p> <p>Revised drawings and supporting details showing compliance with these requirements shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of development.</p> <p>Reason: In the interest of residential amenity.</p>
3.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>

Paul O'Brien
Planning Inspector

11th June 2020