



An
Bord
Pleanála

Inspector's Report

ABP-317841-23

Development	Retention of granny flat
Location	6 Cherry Court, Delgany, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	23/60089
Applicant(s)	Rory and Micheala O'Connor
Type of Application	Permission (S. 34)
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party (S. 37)
Appellant(s)	Rory and Micheala O'Connor
Observer(s)	None
Date of Site Inspection	25 th July 2024
Inspector	Philip Maguire

1.0 Site Location and Description

- 1.1. The appeal site is located in Cherry Court, a housing estate in Delgany, Co. Wicklow. Cherry Court lies to the north of Church Road (R762), west of the R761 and forms part of an established residential area, southwest of Greystones and c. 0.6km northeast of the village core. The surrounding area is characterised by medium density housing.
- 1.2. The appeal site has a stated area of 0.07ha and consists of a pitched roof two-storey semi-detached house with single-storey extension to the side and rear. The front of the house is northeast facing with brick and render finishes and black roof tiles. There is a paved area to the front with wide vehicular entrance. Three vehicles were parked during my inspection. To the rear of the house, patio doors provide access to an enclosed area of private amenity space with paving and artificial grass. The side and rear extension, which includes its own patio doors to the rear, appears somewhat divorced from the house by a wall and gate. It also has a separate entrance/doorbell.
- 1.3. Directly behind the side/rear extension lies a detached building with a flat roof, rendered finish and distinctive stone quoins framing a semi-recessed porch and doorway. This building is the granny flat to be retained and whilst I was unable to gain access at the time of my inspection, I am satisfied that the building is as illustrated on the drawings. In this regard, it is roughly 2.92m high with a floor area of c. 44sq.m. I also observed a vehicle parked to the side of the granny flat on some hardstanding.

2.0 Proposed Development

- 2.1. Planning permission is sought to retain the existing granny flat to the rear of the dwelling at 6 Cherry Wood, Delgany, Co. Wicklow.
- 2.2. As noted, the submitted drawings illustrate a flat roof structure with a footprint of 8.575m by 6.424m, albeit marginally recessed at the doorway. Internally the building is laid out with open plan kitchen, dining, living space, a bathroom and 1 no. bedroom.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Permission was refused on 25th July 2023 for the following reason:

Having regard to:

- (a) Objective CPO 6.24 of the County Development Plan which is to facilitate family / granny flat extensions for use by a member of the immediate family subject to protection of existing residential amenity and compliance with the criteria set out in in the Development and Design Standards (Appendix 1),*
- (b) The location on lands zoned (RE) Existing Residential under the Greystones/Delgany/Kilcoole LAP,*
- (c) The configuration of the site, the location and nature of the proposed unit, and the established pattern of development in the immediate vicinity of the site,*

It is considered that the proposed development would not accord with Objective CPO 6.24 of the County Development Plan for independent units granny flat, would constitute a second dwelling unit on site and would result in haphazard development that is out of character with the established pattern of development within the immediate vicinity, would give rise to increased parking on adjoining road network, would set a precedent for similar backland development and would be contrary to the amenities of the area and to proper planning and sustainable development.

3.2. Planning Authority Reports

3.2.1. Planning Officer report dated 24th July 2023:

- Basis for the planning authority decision.
- Considers the size of the unit acceptable but does not consider it to accord with the criteria for such structures.
- Suggests that the structure is not a temporary unit for an individual who needs to live beside the family home.
- States that the unit would become a second dwelling on the site and would not meet the requirements of Objective CPO 6.24 and Appendix 1 of the Plan.
- Considers that the proposal would result in a haphazard development that is out of character with the established streetscape and pattern of development within the immediate vicinity.

- States that the development gives rise to additional traffic parking impacts which would not be envisioned for granny flat development and which have not been addressed as part of this application, and which would contribute to further parking on the adjoining road network.
- Recommends refusal on this basis.

3.2.2. Other Technical Reports

None.

3.3. Prescribed Bodies

- Uisce Éireann (04/07/23): No objection subject to condition.

3.4. Third Party Observations

None.

4.0 Planning History

4.1. Appeal site:

- 4.1.1. PA ref. 20/809 – in November 2020, the planning authority granted permission for a 39sq.m single-storey extension to the side and rear of the dwelling.
- 4.1.2. PA ref. 19/1037 – in November 2019, the planning authority refused permission for a two-storey detached house to the side of the dwelling, concluding that it would result in cramped haphazard development that would be out of character with the established pattern of development in the area and therefore contrary to the objectives for this area as set out under the Greystones, Delgany and Kilcoole Local Area Plan.
- 4.1.3. PA ref. 19/636 – in September 2019, the planning authority granted permission for 30sq.m ground floor extension and 30sq.m first floor extension to the side and rear of the dwelling. This permission has not been implemented and is due to expire.
- 4.1.4. PA ref. 19/215 – in April 2019, the planning authority refused permission for a two-storey detached house to the side of the dwelling, concluding that it would result in haphazard development that would be out of character with the established pattern of development in the area and therefore contrary to the Local Area Plan objectives.

- 4.1.5. PA ref. 18/1418 – in February 2019, the planning authority refused permission for a single-storey detached house to the rear of the dwelling, concluding that it would result in haphazard development that would be out of character with the established pattern of development in the area and therefore contrary to the Local Area Plan objectives.

5.0 Policy Context

5.1. Wicklow County Development Plan 2022-2028 (as varied)

- 5.1.1. The current Development Plan came into effect on 23rd October 2022. The planning authority decision of 30th June 2023 was made under the provisions of this Plan.
- 5.1.2. The main policy objectives relevant to the proposal are set out in Chapter 6 (Housing) of the Written Statement. Volume 3 sets out relevant design standards (Appendix 1).
- 5.1.3. The following sections are relevant to the proposed development:
- 6.4 – Housing Objectives (Existing Residential Areas)
 - Appendix 1 – Independent living units (section 3.1.9)
- 5.1.4. Policy objective CPO 6.24 is particularly relevant. It seeks to facilitate family / granny flat extensions for use by a member of the immediate family subject to protection of existing residential amenity and compliance with criteria set out in the Appendix 1.
- 5.1.5. The following text from Appendix 1 (section 3.1.9) is therefore also relevant:

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. Greystones-Delgany & Kilcoole Local Area Plan 2013-2019 (as varied)

- 5.2.1. The Greystones LAP came into effect on 29th September 2013 and is the current land use plan for the settlement until replaced by a new LAP (at pre-draft stage). In addition to the current Plan, this appeal shall be determined under the provisions of this LAP.
- 5.2.2. The appeal site is zoned 'Existing Residential' with a zoning objective to '*protect, provide for and improve residential amenities of adjoining properties and areas while allowing for infill residential development that reflects the established character of the area in which it is located.*'
- 5.2.3. Uses generally appropriate for this zoning include residential development etc.

5.3. Development Management Guidelines

- 5.3.1. The Development Management Guidelines (DEHLG, 2007) are intended to promote best practice at every stage of the development management process. Section 7.5 of the Guidelines sets out the main factors to take into account when deciding whether a temporary permission is appropriate. Firstly, it notes that it will rarely be justified for development of a permanent nature that conforms with the provisions of the Development Plan. Secondly, it states that it is undesirable to impose a condition involving the removal/demolition of a structure that is clearly intended to be permanent. Lastly, it notes that it does not alter or limit the material considerations to which regard must be had in dealing with applications such as impacts on the amenities of an area.

5.4. Natural Heritage Designations

- Glen of the Downs SAC (000719) – c. 1.3km southwest

- The Murrough SPA (004186) – c. 2.1km east
- Bray Head SAC (000714) – c. 2.6km north, northwest
- The Murrough Wetlands SAC (002249) – c. 3.4km southeast

5.5. EIA Screening

- 5.5.1. The proposed development is not a class of development set out in Schedule 5, Part 1 or Part 2 of the Planning and Development Regulation 2001, as amended, and therefore no preliminary examination is required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first party appeal has been lodged by Plan 8 Architects on behalf of the applicants, Rory and Micheala O'Connor.
- 6.1.2. By way of background, the applicants indicate that the granny flat is occupied by their son, daughter-in-law and grandchild. They also state that there is a total of 7 no. people living in the family dwelling i.e., the applicants, their daughter and son-in-law, their son and daughter-in-law and their nephew.
- 6.1.3. The main grounds of appeal can be summarised as follows:
- The current arrangement allows the occupants to be close to their immediate family and they would not be able to rent a similar property in this area.
 - The garage was extended to and converted to facilitate the granny flat and it is exceptionally close, within c. 4.9m, of the existing dwelling.
 - The unit is modest, comprising 44sq.m and only 1 bedroom.
 - The unit shares, and is directly connected with, the existing garden area.
 - The unit cannot be sold or let as an independent living unit given the integrated access arrangements and proximity to the house, nor is the garden subdivided.
 - The structure can be easily converted back into a garage and a restriction of the use of the unit for 7 years is welcomed.

- The policy does not limit the use of the granny flat to single members of the family nor does it exclude any siblings or partners of the family member.
- There are safeguards available to the planning authority to prevent the structure becoming a second dwelling unit by way of a defined use period planning condition.
- It is submitted that the applicant's son's family needs are justified.
- There are ample parking spaces available to cater for the existing family house and the proposed granny flat.
- The planning authority's policy interpretation is too literal and restrictive, a more innovative approach would help alleviate the current housing shortage.

6.2. Planning Authority Response

None.

7.0 Assessment

7.1.1. Having examined the application details and all other documentation on the appeal file, including the appeal submission, and inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal. The issues can be addressed under the following headings:

- Residential Amenity
- Residential Character
- Traffic and Transport

7.2. Residential Amenity

7.2.1. The issues relating to residential amenity can be considered under zoning and policy.

Zoning

7.2.2. The zoning objective for the appeal site seeks to allow infill residential development that reflects the established character of the area whilst protecting, providing for and improving residential amenities of adjoining properties. Infill residential development is therefore generally permissible within this zoning, subject to these safeguards.

- 7.2.3. The principle of infill residential development has previously been tested and rejected at this location under PA refs. 19/1037, 19/215 and 18/1418, with the latter specifically relating to a single-storey house in a similar location to the proposed development. The various refusal reasons are summarised in section 4.1 above with a common planning authority concern relating to cramped and haphazard forms of development that would be out of character with the established pattern of development in the area.
- 7.2.4. Whilst the proposed development refers specifically to a granny flat, a modest 44sq.m, 1-bed unit as noted by the appellant, it is detached from the main family home and a *de facto* dwellinghouse with haphazard access arrangements and limited private amenity space. I therefore share the concerns of the planning authority in this regard and I specifically note its proximity to the eastern boundary and neighbouring houses.
- 7.2.5. The appellant, however, correctly highlights that there are control measures available to the planning authority to prevent the structure from becoming a second dwelling, but I do not consider this overrides the requirement to comply with the zoning objective. This is consistent with the Development Management Guidelines which states that temporary permission does not alter or limit the material considerations to which regard must be had in dealing with applications such as the impacts on amenities.
- 7.2.6. Therefore, having regard to the limited area and access arrangements associated with the granny flat and its relationship to adjoining property, it is considered that the proposal represents inappropriate backland development, is a substandard residential unit and would seriously injure the amenities of adjoining residential property.

Granny / Family Flat Policy

- 7.2.7. The fallback position, and the crux of the appellants appeal submission, is to suggest that the proposed development complies with the policy context for a granny flat.
- 7.2.8. As noted, Development Plan policy objective CPO 6.24 seeks to facilitate family or granny flat extensions for use by immediate family members subject to the protection of existing residential amenity and compliance with Appendix 1 criteria as noted above.
- 7.2.9. Whilst it refers specifically to 'extensions' and Appendix 1 refers to the unit forming an integrated part of the structure of the main house, I do accept that 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, albeit in exceptional circumstances.

- 7.2.10. The Appendix 1 criteria also requires that the need for the unit is justified, and in this regard, I accept, on balance, that the appellant's son, and his family, have a housing need, albeit not explicitly documented. The conversion of the garage to facilitate this need, according to the appellant, is grounded in proximity to the family home and the affordability of similar property. I do not, however, consider this to be exceptional in the context of CPO 6.24 to warrant the conversion of the previous garage on site.
- 7.2.11. The default position is the provision of a granny flat attached to the main house, and the side/rear extension already appears to serve this purpose. In this regard, I note that the appellant has stated that a total of 7 no. people are living in the main dwelling.
- 7.2.12. Moreover, the appellant has stated that the garage was extended and converted to facilitate the granny flat, and this would fall outside the scope of the 'exceptional circumstances', being more than just the conversion of an existing detached garage.
- 7.2.13. Nor am I convinced that the granny flat, being 4.9m from the rear wall of the side and rear extension, could be considered as being within 'very close proximity' to the house. In this regard, I note a high wall and gate separates it from the main amenity space and this, to me, represents a significant detachment from the main family dwelling.
- 7.2.14. The proposal therefore does not satisfy all the Appendix 1 criteria and does not meet the policy test set out under CPO 6.24. Even if the proposal could satisfy all of the stated requirements, the injurious impact on residential amenity, both of the occupants of the granny flat and the main house, notwithstanding their familial relationship, is such that it would fail to satisfy the stated requirements of CPO 6.24 in this regard.

Conclusion on Residential Amenity

- 7.2.15. On balance, and notwithstanding the stated housing need of the appellant's son and family, and their relationship with the occupants of the main house, the proposed development does, in my view, adversely impact on the residential amenity of the area.

7.3. Residential Character

- 7.3.1. As noted above, the zoning objective for the appeal site seeks to allow infill residential development that reflects the established character of the area whilst protecting, providing for and improving residential amenities of adjoining properties. The surrounding area is characterised by suburban housing of detached and semi-detached two-storey units. There is little by way of infill or backland development.

- 7.3.2. The proposed development, whilst modest in scale and form, is obviously out of character with the established pattern of development within the immediate vicinity.
- 7.3.3. To permit the proposed development, even for a temporary period, would set a precedent for similar backland development, contrary to the amenities of the area.

Conclusion on Residential Character

- 7.3.4. On balance, and notwithstanding the stated housing need of the appellant's son and family, and their relationship with the occupants of the main house, the proposed development does, in my view, adversely impact the residential character of the area.

7.4. Traffic and Transport

- 7.4.1. Finally, the planning authority has also suggested that the proposal would give rise to increased parking on the adjoining road network. There were 3 no. vehicles parked in the driveway during my site inspection with another parked adjacent to the granny flat. The appellant submits that there are ample parking spaces available to cater for the existing family house and the proposed granny flat. This may be the case and my overriding concern remains the haphazard access arrangements, as noted above.

Conclusion on Traffic and Transport

- 7.4.2. On balance, I do not consider the proposal will lead to increased on-road parking to the extent that it will impact on public safety by reason of a traffic hazard.

8.0 AA Screening

- 8.1. I have considered the proposed development in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended.
- 8.2. The subject site is not located within or adjacent to any European Site. The closest European Site, part of the Natura 2000 network, is Glen of the Downs SAC (Site Code: 000719), c. 1.3km southwest of the proposed development.
- 8.3. The proposed development is located within a residential area and comprises the retention of a granny flat.
- 8.4. Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site.

8.5. The reason for this conclusion is as follows:

- The small scale and residential nature of the development.
- The location of the development in a serviced urban area, distance from European Sites and the urban nature of intervening habitats, and the absence of ecological pathways to any European Site.

8.6. I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

9.0 Recommendation

9.1. I recommend that permission be **refused** for the reasons and considerations below.

10.0 Reasons and Considerations

1. Having regard to its limited private amenity space and haphazard access arrangements, and its relationship to adjoining property, including the existing dwelling, it is considered that the granny flat represents inappropriate backland development, resulting in a substandard residential unit for the occupants and seriously injuring the amenities of adjoining residential property, conflicting with the character of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Philip Maguire

Planning Inspector

29th August 2024

Appendix 1

Form 1 – EIA Pre-Screening

Case Reference	ABP-317841-23		
Proposed Development Summary	Retention of granny flat		
Development Address	6 Cherry Court, Delgany, Co. Wicklow		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No	X		No EIAR or Preliminary Examination required
Yes			Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No	X	Preliminary Examination required	
Yes		Screening Determination required	

Inspector: _____ Date: _____