



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317991-23

<b>Development</b>	Construction of independent living unit (Protected Structure)
<b>Location</b>	Culloden, Wyndham Park, Bray, Co. Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	2360132
<b>Applicant(s)</b>	E. Coughlan & S. Lynch
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party v. Decision
<b>Appellant</b>	Mrs. O. Geraghty
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	19 <sup>th</sup> September 2024
<b>Inspector</b>	Louise Treacy

## **1.0 Site Location and Description**

- 1.1. The subject site has a stated area of 0.080 ha and is located at the southern end of Wyndham Park, fronting onto the junction with Galtrim Road, Bray, Co. Wicklow. The existing property on the site comprises a detached, 2-storey dwelling (a Protected Structure) with a single-storey garage/shed extension to the side. The façade of the property is characterised by red brick at the ground floor level and pebble-dashed render at 1<sup>st</sup> floor level, with distinctive terracotta roof tiles. The single-storey extension is characterised by double doors and an archway which provides access to the rear of the property. Off-street, gated car parking is provided to the front of the dwelling, with private amenity space located to the side and rear.
- 1.2. Terraced 2-storey residential properties adjoin the site to the north at Wyndham Park and to the south-west at Novara Terrace. The gable wall of No. 7 Wyndham Park adjoins the northern boundary of the appeal site.

## **2.0 Proposed Development**

- 2.1. The proposed development consists of the demolition of a garage and ancillary outbuildings, and the construction of a single-storey independent living unit linked to the side of Culloden (a Protected Structure) together with associated site works.
- 2.2. The proposed independent living unit has a stated area of 44 m<sup>2</sup> and will accommodate a bedroom, bathroom, living room and dining room/kitchen. The proposed development has an overall height of 5.2 m and is connected to the Protected Structure by way of a glazed link. The structure is proposed to be finished in painted render with terracotta roof tiles to match the existing.
- 2.3. The proposed development will be set back from the neighbouring property to the north at No. 7 Wyndham Park by a minimum distance of 1 m.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Notification of the Decision to Grant Permission for the proposed development subject to 6 no. conditions issued on 22<sup>nd</sup> August 2023.

- 3.1.2. Condition no. 2(a) states that the use of the granny flat building shall be ancillary to the use of the main house and shall be occupied only by a close family member of the occupants of the main house.
- 3.1.3. Condition no. 2(b) states that the granny flat shall not be sold or let as an independent living unit and the garden area shall not be subdivided.
- 3.1.4. Condition no. 2 (c) states that within 7 years of the decision, unless otherwise authorised by a separate grant of permission, the use of this building as a granny flat shall cease. Thereafter, this building shall be used as a garage, store, playroom, gym, games room, hobby room or comparable use ancillary to the main dwelling and shall not contain any room that is laid out as or in use as a bedroom.
- 3.1.5. Condition no. 6 requires that all works shall be carried out in accordance with best conservation practice and that all repair of original fabric shall be carried out by appropriately experienced conservators of historic fabric.

### 3.2. **Planning Authority Reports**

#### 3.2.1. **Planning Reports**

3.2.2. Basis of Planning Authority's decision.

#### 3.2.3. **Other Technical Reports**

3.2.4. None.

### 3.3. **Prescribed Bodies**

3.3.1. **Uisce Éireann:** No objection to the proposed development subject to conditions.

3.3.2. **Dept. of Housing, Local Government and Heritage:** None received.

3.3.3. **An Taisce:** None received.

3.3.4. **The Heritage Council:** None received.

3.3.5. **Fáilte Ireland:** None received.

3.3.6. **Irish Rail:** None received.

3.3.7. **The Arts Council:** None received.

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

- 3.4.1. Two third party submissions were made on the application by: (1) Maire Bound, 30 Woodbines Avenue, Kingston-upon-Thames, KT1 2AY, Surrey, United Kingdom, and (2) Mrs. O. Geraghty, 7 Wyndham Park, Bray, Co. Wicklow.
- 3.4.2. A representation was also made by Cllr. Joe Behan, 55 Richmond Park, Herbert Road, Bray, Co. Wicklow.
- 3.4.3. The issues which are raised can be summarised as follows: (1) application is fully supported as it will facilitate semi-independent living accommodation for an older member of the community, (2) the Wicklow Age Friendly Strategy encourages the provision of appropriate accommodation options for older citizens, (3) accommodation is within walking distance to local amenities, (4) proposed development will free up a 4-bedroom dwelling for another family, (5) impact on protected structure not assessed, (6) development does not complement the protected structure, (7) insufficient detail on proposed turning circle, works to entrance gate and off-street parking, (8) detrimental impact on road safety, (9) no details on proposed connection to existing services, (10) impact on maintenance of gable wall of No. 7 Wyndham Park, (11) realistic proposals not provided for the integration of the unit into the main house, (12) existing garage structure should be retained and converted.

### **4.0 Planning History**

- 4.1. **Planning Authority Reg. Ref. 10/630044:** Planning permission granted on 30<sup>th</sup> July 2010 for the reinstatement of the original roof railings and the installation of solar panels on the flat roof behind said railings.
- 4.2. **Planning Authority Reg. Ref. 09/630076:** Planning permission granted on 10<sup>th</sup> November 2009 for the reinstatement of the original porch canopy, the original roof railings, the replacement of the existing windows and the installation of solar panels on the flat roof behind said railings.
- 4.3. **Planning Authority Reg. Ref. 09/630075:** Planning permission granted on 18<sup>th</sup> September 2009 for the demolition of the existing single-storey side extension and

the erection of a replacement single-storey pitched roof domestic extension on approximately the same footprint.

- 4.4. **Planning Authority Reg. Ref. 07/630057; ABP Ref. PL 39.223833:** Planning permission granted on 15<sup>th</sup> October 2007 for a single-storey grotto with open terrace above and a single-storey pitched roof bin shelter to the rear and within the curtilage of the protected structure.

## 5.0 Policy Context

### 5.1. Wicklow County Development Plan 2022-2028

#### 5.2. Built Heritage

- 5.2.1. The existing dwelling is included on the Record of Protected Structures (RPS Ref. B107).
- 5.2.2. **Objective CPO 8.12:** To have regard to “Architectural Heritage Protection: Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011) in the assessment of proposals affecting architectural heritage.
- 5.2.3. **Objective CPO 8.13:** To ensure the protection of all structures, items and features contained in the Record of Protected Structures.
- 5.2.4. **Objective CPO 8.15:** All development works on or at the sites of protected structures, including any site works necessary, shall be carried out using best heritage practice for the protection and preservation of those aspects or features of the structures / site that render it worthy of protection.

#### 5.3. Independent Living Units

- 5.3.1. Development management guidance in relation to independent living units is set out in Appendix 1, Section 3.1.9 of the development plan. Such development will only be permitted where it 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.
  - The unit does not exceed 45 m<sup>2</sup> and shall not have more than 1 bedroom.

- The unit shall not be sold or let as an independent unit and the existing garden shall not be subdivided.
- The structure must be capable of being functionally reintegrated into the main house when its usefulness has ceased. Permission 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 the continuation of the use for another period.

#### **5.4. Bray Municipal District Local Area Plan 2018-2024**

#### **5.5. Land Use Zoning**

- 5.5.1. The site is subject to land use zoning “RE – Existing Residential” which has the objective “to protect, provide and improve residential amenities of existing residential areas”.

#### **5.6. Built and Natural Heritage**

- 5.6.1. **Objective AH1:** To ensure the protection of all structures (or parts of structures) contained in the Record of Protected Structures.
- 5.6.2. **Objective AH2:** To positively consider proposals to improve, alter, extend or change the use of protected structures so as to render them viable for modern use, subject to consultation with suitably qualified Conservation Architects and / or other relevant experts, suitable design, materials and construction methods. All development works on or at the sites of protected structures, including any site works necessary, shall be carried out using best heritage practice for the protection and preservation of those aspects or features of the structures / site that render it worthy of protection. To support the re-introduction of traditional features on protected structures where there is evidence that such features (e.g. window styles, finishes etc) previously existed, while not compromising the need for energy conservation.

#### **5.7. Architectural Heritage Protection Guidelines for Planning Authorities (2011)**

- 5.7.1. These guidelines assist Local Authorities and prospective applicants in dealing with development proposals which relate to a Protected Structure. Guidance in relation to extensions is provided in Sections 6.8.2 – 6.8.5. New work should involve the smallest possible loss of historic fabric and ensure that important features are not

obscured, damaged or destroyed. In general, principal elevations of a Protected Structure, should not be adversely affected by new extensions. Generally, attempts should not be made to disguise new additions or extensions and make them appear to belong to the historic fabric. Extensions should complement the original structure in terms of scale, materials and detailed design while reflecting the values of the present time.

## **5.8. Natural Heritage Designations**

5.8.1. None.

## **6.0 The Appeal**

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

6.1.1. A third-party appeal against the Planning Authority's decision has been lodged by Mrs. O. Geraghty, No. 7 Wyndham Park, Bray, Co. Wicklow. The appellant resides in the house adjoining the appeal site to the north. The grounds of appeal can be summarised as follows:

- The proposed development does not comply with relevant development plan objectives (CPO 8.14, CPO 8.13, CPO 8.16, CPO 8.17, AH2).
- An Architectural Heritage Impact Assessment does not accompany the application.
- The design of the proposed development is contrary to the character of the Protected Structure and adjoining properties and would set a precedent for similar redevelopment proposals.
- The proposed development may endanger or cause disturbance to the foundations of No. 7 Wyndham Park or cause water drainage issues along the gable wall.
- A condition should be attached requiring an independent engineer or surveyor to inspect development close to the boundary wall; that there will be no unforeseen damage to this property; and, that the maintenance of the gable wall will not be inhibited.

- The Planning Authority should have requested a traffic survey and demonstration of compliance with DMURS standards and capacity for access and egress from the property in forward gear across a pedestrian pavement.
- The Planning Authority failed to seek realistic proposals for the functional reintegration of the development into the main house once its use has ceased.
- Inappropriate wording of the condition restricting the length of use of the development.
- The Planning Authority failed to consider 4 of the 5 architectural heritage objectives of the Bray Municipal District Local Area Plan 2018-2024.

6.1.2. The appeal submission includes extracts from the Bray Municipal District Local Area Plan 2018-2024, the Wicklow County Development Plan 2022-2028, the Architectural Heritage Protection Guidelines for Planning Authorities, the report of Wicklow County Council's Planning Officer and various application drawings, and an extract from the Planning Authority's pre-planning guidance on independent living units.

## 6.2. **Applicant Response**

6.2.1. None received.

## 6.3. **Planning Authority Response**

6.3.1. None received.

## 6.4. **Observations**

6.4.1. None.



## 7.0 Assessment

7.1. Having considered the contents of the planning application and appeal, the submissions on file, having regard to relevant local planning policy, and having undertaken an inspection of the subject site and surrounding area, I consider that the key issues arising for assessment in this case include:

- Compliance with Development Plan Objectives
- Impact on Protected Structure
- Impact on Neighbouring Property
- Vehicular Access
- Appropriate Assessment

7.2. Each of these issues is considered in turn below.

### 7.3. Compliance with Development Plan Objectives

7.3.1. The appellant contends that the proposed development does not comply with identified objectives of the Wicklow County Development Plan 2022-2028 and the Bray Municipal District Local Area Plan 2018-2024. In my opinion, Objectives 8.14, 8.16 and 8.17 of the county plan are not directly relevant to this case as they relate to the change of use of Protected Structures, the reintroduction of traditional features and the demolition of such structures. In reaching this conclusion, I note that this case relates to the demolition of a non-original part of the Protected Structure, which was constructed in the 1990s.

7.3.2. I have also reviewed the identified objectives of the Bray LAP which generally relate to the protection of Protected Structures and the carrying out of best practice in undertaking works to same. In my opinion, the requirement to undertake the proposed development in accordance with best conservation practice can be addressed by condition should the Board decide to grant permission for the proposed development.

7.3.3. I have also reviewed the development management standards in relation to independent living units. In my opinion, the proposed development complies with these standards, and I note that the structure is intended to facilitate an elderly family

member of the applicants. I am satisfied that the use of the structure and the duration of same can be appropriately controlled by condition.

#### **7.4. Impact on Protected Structure**

- 7.4.1. The appellant submits that the design of the proposed development is not sympathetic to the character of the Protected Structure or the adjoining properties and would set an inappropriate precedent for similar redevelopment proposals. In considering this issue I note that the existing garage structure is not original to the Protected Structure. The Architectural Heritage Protection Guidelines for Planning Authorities state that attempts should not be made to disguise new additions and make them appear to belong to the historic fabric. Extensions should complement the original structure in terms of scale, materials and design, while reflecting the values of the present time.
- 7.4.2. In my opinion, the proposed extension would not have a negative impact on the Protected Structure and would not set an inappropriate precedent at this location. I consider that the design of the extension is restrained and will not compete with that of the existing structure. The extension is modern in design but the proposed terracotta roof tiles, lintols, cills and painter render finish will match the existing property. As such, I consider that the structure will be appropriately sympathetic to the Protected Structure.
- 7.4.3. While the appellant highlights that an Architectural Heritage Impact Assessment does not accompany the application, I note that a design statement is appended to the planning application cover letter. The design statement identifies that the glazed interface helps to define and articulate the new and existing buildings. The proposed development endeavours to address some aspects of the Protected Structure's features through choice of materials and roof line geometry but is deliberately contemporary in design. It is considered that the proposed development is an obvious contemporary extension to the Protected Structure and not a standalone infill development. In my opinion, the information which is contained within this document is sufficient having regard to the scale of development which is proposed in this instance.

## **7.5. Impact on Neighbouring Property**

- 7.5.1. The appellant resides at No. 7 Wyndham Park, the adjoining house to the north of the appeal site. Concerns have been raised regarding the impact of the proposed development on the foundations of the appellant's property, access to the gable wall for maintenance purposes, impacts on the shared boundary wall and drainage issues.
- 7.5.2. In considering these concerns I note that the proposed extension is set back from No. 7 Wyndham Park by a minimum distance of 1 m and is wholly contained within the applicant's property. Notwithstanding the foregoing, I would also draw the Board's attention to Section 34 (13) of the Planning and Development Act, 2000 (as amended) which states that "a person shall not be entitled solely by reason of a permission under this section to carry out any development". Any issues which may arise during the construction process or regarding access to the appellant's gable wall, are civil matters for agreement between the parties which are not open for consideration under this appeal case.
- 7.5.3. I note that the Planning Authority did not attach a condition in relation to permitted construction hours. In the event the Board considers granting permission for the proposed development, I recommend that such a condition be attached to protect the residential amenities of the neighbouring properties.

## **7.6. Vehicular Access**

- 7.6.1. The appellant contends that an intensification of use of the existing vehicular entrance will occur on foot of the proposed development and that the Planning Authority should have requested a traffic survey to demonstrate compliance with DMURS standards. This application does not seek permission to alter the existing vehicular access arrangements into the site. As such, I consider that this matter is not relevant to the assessment of this appeal case.

## **7.7. Appropriate Assessment: Screening Determination**

- 7.7.1. I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 (as amended). The subject site is not located within or adjacent to any European Site. The closest European Site, part of

the Natura 2000 Network, is Bray Head SAC (site code: 000714) which is located approx. 1.2 km to the south-east of the proposed development at its closest point.

7.7.2. The proposed development is located within a residential area and comprises the demolition of a garage and ancillary outbuildings, and the construction of a single-storey independent living unit linked to the side of the existing residential property, together with associated site works.

7.7.3. 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. The reason for this conclusion is as follows:

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

7.7.4. 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.

## **8.0 Recommendation**

8.1. I recommend that planning permission be granted based on the reasons and considerations set out hereunder.

## **9.0 Reasons and Considerations**

9.1. Having regard to the residential land use zoning objective which applies to the site 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 be acceptable in design, form and scale and would not adversely impact on the character or setting of the Protected Structure or any neighbouring structure or the residential 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, 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><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
3.	<p>The existing dwelling and the proposed extension shall be jointly occupied as a single residential unit and the extension shall not be used, sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p>

	<b>Reason:</b> To restrict the use of the extension in the interest of residential amenity.
4.	<p>The independent family unit for a family member shall not be sold, let or otherwise conveyed as an independent living unit and shall revert to use as part of the main dwelling on the cessation of such use, which shall occur within 7 years of the date of this decision. The existing garden and curtilage of the overall residential property on this site shall not be subdivided.</p> <p><b>Reason:</b> In the interest of residential amenity and to control the density of residential units.</p>
5.	<p>Prior to the commencement of development, the developer shall enter into Connection Agreements with Uisce Éireann (Irish Water) to provide for service connections to the public water supply and wastewater collection network.</p> <p><b>Reason:</b> In the interest of public health and to ensure adequate water/wastewater facilities.</p>
6.	<p>All works to the protected structure shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and advice series issued by the Department of Housing, Local Government and Heritage. Any repair works shall retain the maximum amount of surviving historic fabric on site. All existing original features in the vicinity of the proposed development shall be protected during the course of the works. All repair of original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric.</p> <p><b>Reason:</b> In the interest of the protection of architectural heritage.</p>
7.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Friday inclusive, between 0800 to 1300 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>

	<b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.
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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.

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Louise Treacy  
Senior Planning Inspector

26<sup>th</sup> September 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	317991-23		
<b>Proposed Development Summary</b>	The proposed development consists of the demolition of a garage and ancillary outbuildings, and the construction of a single-storey independent living unit linked to the side of Culloden (a Protected Structure) together with associated site works.		
<b>Development Address</b>	Culloden, Wyndham Park, Bray, Co. Wicklow		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	
		<b>No</b>	No further action required.
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			
<b>No</b>			
<b>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]?</b>			
	<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>



**4. Has Schedule 7A information been submitted?**

<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_