



An  
Bord  
Pleanála

## Inspector's Report

**ABP-319022-24**

<b>Development</b>	Retention of a shed and its commercial use
<b>Location</b>	'Moyglass', 5 Burnaby Park, Greystones, Co. Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	23876
<b>Applicant(s)</b>	Ann & William Teehan
<b>Type of Application</b>	Retention permission
<b>Planning Authority Decision</b>	Refusal for 1 no. reason
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Lilly Teehan
<b>Observer(s)</b>	3 no. – Eugene Rellis, Valerie Jennings & Joe McCarthy and Eric Colhoun
<b>Date of Site Inspection</b>	24 <sup>th</sup> April 2024
<b>Inspector</b>	Bernard Dee

## 1.0 Site Location and Description

- 1.1. The appeal site is located in Burnaby Park, a suburban estate to the south of Greystones village. The site is accessed via Mill Road (R762) and 5 Burnaby Park is one of 14 no. single and 1.5 storey dwellings dating to the 1970/1980s. Most of the dwellings have reasonably sized front gardens and mature screen planting.
- 1.2. The shed for which retention is sought is located in the SW corner of the front garden area of No. 5 Burnaby Park and is screened to the south (public road and footpath) and west (neighbouring house) by mature planting. The house is gable fronted with an attic window and to the right (east) is a family flat which was formerly a carport.

## 2.0 Proposed Development

- 2.1. The shed (a timber cabin type structure) for which retention permission is sought is a single storey shed with a GFS of approximately 12.7m<sup>2</sup> on an overall site area of 0.077ha. The footprint of the shed measures approximately 3m x 5m and the maximum ridge height is approximately 3m. There is a glazed door and two windows in the east elevation which faces onto the driveway of 5 Burnaby Park.
- 2.2. The shed is used for commercial purposes, stated to be a makeup room, run by the daughter (Beth Teehan) of William and Anne Teehan who occupy 5 Burnaby Park.
- 2.3. The Board should note that Google streetview of the appeal site captured in July 2009 does not contain the shed which is the subject of this appeal.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission for the development was refused on 29th January 2024 for 1 no. reason:

*Having regard to the location of the structure in the front garden of a dwelling, its positioning forward of the established building line and its proximity to the roadside boundary, the design and external finish of the structure, and the extent to which the development will be reliant on planting to screen it from the public view along the roadside, it is considered that the development proposed for retention would adversely impact upon the established pattern of*

*development and would detract from the visual amenity of the area and of the streetscape generally. The retention of the development would set an undesirable precedent for similar types of development in the area. The retention of the development 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 Senior Planner's Report, in summary, states the following:

- The suggestion of the Executive Planner to seek Further Information (relating to the justification of a home based economic activity in terms of the intensity of its use and compliance with Policy CPO 9.24 of the Wicklow County Development Plan 2022-2028 and why this home based economic activity needed to take place in a shed in the front garden area as opposed to within the main house or in a shed in the rear garden area) is noted but not agreed with.
- The location of the shed in a front garden area screened by planting is not acceptable having regard to the scale and finishing of the shed and the undesirable precedent that a grant of retention would set with regard to similar developments in the area.
- The Planner's Reports noted that neither AA nor EIA is required in respect of the development for which retention is sought.

#### 3.2.2. Other Technical Reports

- None received.

#### 3.2.3. Prescribed Bodies

- None received.

#### 3.2.4. Observations

- The Planner's Report on file states that 6 no. submissions were received in opposition and 5 no. submissions received in support of this retention application.

## 4.0 Planning History

### 4.1. On the Appeal Site

- Ref. 138172 - permission was granted on 4th June 2013 for the removal of an existing car port and construction of single storey granny flat (70m<sup>2</sup>) attached to east side of existing dormer dwelling (218m<sup>2</sup>).

### 4.2. In the Vicinity of the Site

- Ref. 102627 – retention permission was refused on 17<sup>th</sup> August 2010 at Farm Lane, The Burnaby, Greystones (approximately 200m to the NW of the current appeal site) for the change of use of existing premises from domestic garage/games room (49.5m<sup>2</sup>) to eyelash extension studio (home based economic activity) for 1 no. reason:

*With respect to the RE zoning objective for this site which seeks “To preserve and improve residential amenity, infill housing shall reflect the prevailing density and character of its immediate surroundings”, and given the over-riding residential character of the area it is considered that the provision of commercial development in this location would be contrary to the zoning objective, would result in the piecemeal alteration of the character of this area and would set a precedent for further commercial development in this Residential zoning and would be contrary to the objectives of the Greystones/Delgany Local Area Plan 2006-2012.*

## 5.0 Policy and Context

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

The relevant sections of the Plan are set down below.

#### 6.4 Housing Objectives - Existing Residential Areas

- CPO 6.21 - In areas zoned ‘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 CPO 6.25 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.

- CPO 6.29 Temporary residential structures (e.g. mobile homes, caravans, cabins, portacabins etc) form a haphazard and substandard form of residential accommodation and generally have poor aesthetic value and can detract from the overall appearance of an area. Therefore, permission will generally not be granted for such structures.
- CPO 6.33 To protect the existing housing stock to meet housing demand and require that any proposals for short-term letting<sup>13</sup> provide a detailed justification for the proposed use and demonstrate to the satisfaction of the Planning Authority that any proposals don't undermine the provision of housing and that there is a sufficient supply of rental properties available for longer-term rental in the area. The cumulative impact of applications will also be considered in the assessment of any application. Proposals that would increase pressures on the housing market including the rental market will not be considered favourably.

#### Home Based Economic Activity

- CPO 9.24 - To encourage, where appropriate, home-based economic activity including the provision of small-scale individual enterprises. Proposals which involve the change of use and/or new development for purposes of home-based employment will generally be considered favourably where it can be clearly demonstrated that:
  - the nature of the proposed process or activity to be carried out shall be appropriate to and compatible with the character and amenity of the adjoining area;
  - the proposed development is of an appropriate scale for its location;
  - there is no adverse environmental, health and safety impacts; and

the development is not detrimental to residential amenity. In dealing with applications for such developments, the planning authority will have regard to the following:

the nature and extent of the work;

the effects on the amenities of adjoining properties particularly as regards hours of operation, noise and general disturbance;

the anticipated level of traffic generation; and

the generation, storage and collection of waste.

Permissions for change of use shall be temporary for a period of five years, to enable the Planning Authority to monitor the impact of the development.

Permission will not normally be granted for such changes of uses in apartments. The Planning Authority will determine the appropriate number of employees that will be permitted at a development. In certain cases, it may be appropriate that a development is restricted to owner operator use only, and no other employees will be permitted. In any case, no more than three people, including the owner-operator will be permitted to be employed at such a development.

## Appendix 1 – Development and Design Standards

### 3.1.10 Temporary residential structures

Temporary residential structures (e.g. mobile homes, cabins, caravans, portacabins etc) form a haphazard form of residential accommodation and generally have poor aesthetic value and can detract from the overall appearance of an area.

Furthermore, by reason of the overall design and construction of such structures, they are normally seriously substandard as regards attainable amenity as a place of residence with reference to:

- The recommendations in the DoEHLG Best Practice Guidelines “Delivering Homes for Sustainable Communities” (Durability)
- The criteria set out under Section 66 of the Housing Act 1966 (fitness of a dwelling i.e. stability, resistance to dampness, pest control etc.)
- Compliance with the Building Regulations.

Therefore, permission will generally not be granted for such structures.

## Greystones - Delgany – Kilcoole LAP 2013-2019

(Extended but currently under review, submissions were invited from 29 November 2023 to 31 January 2024 on the Pre-Draft Public Consultation stage of the plan making process).

The appeal site is zoned R10 Residential – 10/ha on Map A and Table 11.1 (Zoning Matrix) of the LAP - To provide for the development of sustainable residential communities up to a maximum density of 10 units per hectare and to preserve and protect residential amenity.

A zoning matrix is not included in this LAP. The development management section of the planning authority shall determine each proposal on its merits, and shall only permit the development of uses that enhance, complement, are ancillary to, or neutral to the zoning objective. Uses that are materially inconsistent with and detrimental to the zoning objective shall not be permitted.

Uses generally appropriate for residential zoned areas include houses, apartments, residential open space, education, community facilities, retirement homes, nursing homes, childcare, health centres, guest house, bed and breakfast, local corner shops (subject to objective as set out in this plan), places of public worship, home based economic activity, utility installations and ancillary development and other residential uses in accordance with the CDP.

### 5.2 Objectives - Employment and Economic Development

- EMP1: To facilitate the development of employment generating activities on suitably zoned lands within Greystones-Delgany and Kilcoole, in accordance with the employment strategy of this local area plan and in accordance with the objectives and development standards set out in the Wicklow County Development Plan.

### 5.2. Natural Heritage Designations

- The Murrough SPA 004186 – is located approximately 1km east of the appeal site.

### 5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any 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. The relevant planning grounds of the Third Party appeal (by Lily Teehan, the grandmother of Beth Teehan who is the daughter of the applicants William and Anne Teehan) are, in summary, as follows:

- The intensity of use of the shed is approximately 6 to 8 clients per week and is by appointment only which are scheduled for daytime hours to protect the residential amenity of the area.
- Ample off street parking is located within the curtilage of the dwelling.
- The design, materials and colour of the shed are not out of character in this residential area.
- The assessment by the Planning Authority seems to be a worst case scenario assessment and a time-limited retention permission would address the “what if” concerns of the Planning Authority.

6.2. Planning Authority

- The Planning Authority has not responded to this appeal.

6.3. Observations

Three Observations have been received in relation to this case from Eugene Rellis, Valerie Jennings & Joe McCarthy and Eric Colhoun, and collectively and in summary the planning issues raised are as follows:

- The shed for which retention is sought is forward of the established building line in the front garden and near the roadside and its presence has an adverse impact on the streetscape.



- The shed is completely out of character in a residential estate and is visually negative in its impact.
- The timber finish of the shed is not in keeping with the render, brick and stone facades throughout the estate.
- The unauthorised commercial activity being run in the front garden of a suburban dwelling sets a poor precedent in the community for future developments.
- The use of the shed contravenes the R10 zoning of the site which is for residential units at 10 units per hectare.
- The commercial use of the shed generates additional traffic and parking on the estate road narrowing the carriageway available to vehicular traffic to a significant degree.
- The screening hedge referred to by the Third party appellant is not 3m as stated in the appeal but is approximately 2m in height.

## 7.0 **Assessment**

Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise.

The main issues relate to the reason for refusal, therefore, the planning issues to be assessed are as follows:

- Principle of development/Development Plan policy.
- Impact on visual and residential amenity.
- AA Screening.

## 7.1. Principle of Development & Development Plan Policy

- 7.1.1. The reason for refusal cited by the Planning Authority relates to the location of the shed in the front garden of 5 Burnaby Park which breaches the established building line of the row of detached houses on Burnaby Park with a consequent adverse impact on the streetscape. In addition, the Planning Authority view is that the design and finish of the shed is inappropriate in its context and reliant on screen planting to reduce its visual impact. The Planning Authority state that the retention of the shed and its use would create an undesirable precedent.
- 7.1.2. The Third Party argues that the shed is well integrated into the streetscape , is not visually obtrusive and that the use of the shed is not intensive and does not have an adverse impact on the residential amenity of the area.
- 7.1.3. Having inspected the site, I am of the opinion that the presence of a shed, for whatever purpose, in the front garden of a suburban house would be completely inappropriate in principle. The shed for which retention is sought is visible in the streetscape, notwithstanding the presence of the current screen planting, and has a significantly negative impact on the streetscape and the visual amenity of the area.
- 7.1.4. In addition, the use of the shed as a commercial operation, regardless of the intensity of use which could in fact increase or decrease without any method in place to manage same, is entirely inappropriate in a residential area. Were the commercial use located within the main dwelling or in a shed located in the rear garden area it would still require planning permission but perhaps would be acceptable subject to conditions and in compliance with CPO 9.24 of the Development Plan (home based economic activity) in either alternative location.
- 7.1.5. The retention of the shed itself and the commercial use of same would create an undesirable precedent for other suburban estates in the area and I find that retention of the shed and the use of the shed for commercial purposes would not be in accordance with best planning practice and procedure.
- 7.1.6. The issue of traffic generation by the commercial use of the shed is not, in my opinion, a critical aspect in the determination of this appeal and I would not recommend a reason for refusal on this planning issue.

7.1.7. I conclude therefore that the development for which retention is sought constitutes piecemeal and haphazard commercial development in a residential area that is visually harmful to the streetscape and would create an undesirable precedent in the area.

## 7.2. AA Screening

7.2.1. Having regard to the relatively minor development proposed within an existing housing estate and the fact that there are no European sites in the vicinity of the appeal site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

I recommend that retention permission be refused for the shed and its commercial use for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

Having regard to the provisions of the Wicklow County Development Plan 2022-2028, it is considered that the development for which retention is sought would have an adverse impact on the visual and residential amenity of the area and constitute an undesirable precedent for development in similar suburban locations. The proposed development would, therefore, not be in accordance with 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.

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**Bernard Dee**  
**Planning Inspector**

**25<sup>th</sup> April 2024**

**Appendix 1 - Form 1**  
**EIA Pre-Screening**  
**[EIAR not submitted]**

<b>An Bord Pleanála</b> <b>Case Reference</b>	ABP-319022-24		
<b>Proposed Development Summary</b>	Retention of shed in front garden of dwelling and retention of its commercial use		
<b>Development Address</b>	'Moyglass', 5 Burnaby Park, Greystones, 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>	√
<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>			EIA Mandatory EIAR required
<b>No</b>			Proceed to Q.3
<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</b>	<b>Conclusion</b>

			(if relevant)	
<b>No</b>		N/A		No EIAR or Preliminary Examination required
<b>Yes</b>				Proceed to Q.4

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: 25<sup>th</sup> April 2024

**Bernard Dee**