



An
Bord
Pleanála

Inspector's Report

ABP-319060-24

Development	Retention of a change of use and new window
Location	Mullinaveigue, Roundwood, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	2360086
Applicant(s)	Jer Price
Type of Application	Retention permission
Planning Authority Decision	Split decision
Type of Appeal	First Party
Appellant(s)	Jer Price
Observer(s)	None
Date of Site Inspection	24 th April 2024
Inspector	Bernard Dee

1.0 Site Location and Description

- 1.1. The appeal site is located in c.1.85km north of the town of Roundwood. The site which is of an irregular shape is accessed from the L-1036-68 road via a shared access with the dwelling to the east of the appeal site. The appeal site which is comprised of a double garage, is well screened from nearby properties and the public road by existing mature trees and hedgerow.
- 1.2. On site there is an existing dormer bungalow and garage (single) to rear of the dwelling with the appeal garage (double) located adjacent and to the SE of the main dwelling.

2.0 Proposed Development

- 2.1. Retention permission is sought for a gable window in the attic of a double garage and the retention of the use of the attic space above the garage for use ancillary to the main dwelling. There is a home office, sitting/kitchen area and bathroom with shower in the attic space lit by velux windows and the gable window. Access to the garage attic space is via a stairway that is accessed externally and is separate from the ground floor double garage space, i.e. entry is not via the garage space.

3.0 Planning Authority Decision

3.1. Decision

Permission for the proposed development was refused on 22nd January 2024 for 1 no. reason:

1. *Having regard to the layout of the first floor storage area which includes kitchen and bathroom fittings creating an space more akin to a self-contained residential unit it is considered that the proposed development would result in an additional separate residential unit on site without having regard to the provisions pertaining to 'independent living units' as defined in the Wicklow County Development Plan 2022-2028 and would therefore seriously injure the residential amenities of the adjacent property, would set an unfavourable precedent for similar development and would therefore be contrary to the*

provision of the County Development Plan and proper planning and sustainable development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The applicant was requested to submit Further Information to justify the use of this unit having regard to the provisions of the County Development Plan 2022-2028 as set out in Appendix 1 : Development and Design Standards , S3.1.9 Independent living units ('Granny-flats'). Following the receipt of Further Information which reiterated the ancillary domestic use of the garage attic, the Planner's Report, in summary, states the following:

- The parent permission, Ref. 114811 is for a garage for private domestic use only and shall not be used for human habitation or any commercial use (Condition 4 of that grant of permission refers).
- The use of the first floor for residential purposes has been the subject of a current enforcement file (UD5495c refers).
- It is considered that the applicant's contention that the upper floor of the garage is an integral part of the main dwelling is at variance with the garage being wholly separate and detached from the main dwelling and the existing first floor accommodation which provides facilities consistent with an independent living space which include kitchen facilities and toilet shower room.
- It is considered that as the applicant has not provided justification for this independent living space in accordance with the provisions of the County Development Plan 2022-2028 as set out in Appendix 1: Development and Design Standards, S3.1.9 the retention for change of use to home office and living space cannot be permitted.
- The gable window in the garage attic space for which retention is sought is acceptable.
- 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

- The Environmental Health Office (EHO) – no issues following receipt of Further Information.

3.2.3. Prescribed Bodies

- The Planner's Report on file states that no submissions were made by prescribed bodies in relation to this application.

3.2.4. Observations

- The Planner's Report on file states that no Observations were made in relation to this application.

4.0 Planning History

4.1. On the Appeal Site

- Ref. 114811 – permission was granted on 22nd January 2012 for a single storey garage with loft space to be used for storage subject to 6 no. conditions. Conditions 3 and 4 of this permission are of relevance to the current appeal.
 3. The window in the front elevation and the 'roof light' in the side elevation roof shall be omitted. REASON: To restrict the use of the loft for storage only.
 4. This garage shall be used for private domestic use only and shall not be used for human habitation or for any other commercial purpose. REASON: To safeguard the residential amenities of adjoining properties.
- Ref. 002269 - permission was granted on 13th December 2000 for a dormer bungalow, septic tank and garage subject to 18 no. conditions.
- Ref. UD5495c – Relates to enforcement action in relation to the non-compliance with PRR114811 as the garage attic is capable of being used for human habitation.

4.2. In the Vicinity of the Site

- No planning history for similar developments in the vicinity of the appeal site.

5.0 Policy and Context

5.1. Wicklow County Development Plan 2022-2028

The relevant sections of the Development Plan are set down below.

The appeal site is located in lands designated as Hierarchy 3: Area of High Amenity – North East Mountain Lowlands Transitional lands located between the corridor zone and the Area of Outstanding Natural Beauty. This area comprises of rolling undulating terrain including Trooperstown hill, large tracts of forestry lands including Devils Glen, a listed County Geological site and a number of views and prospects in particularly those surrounding the Vartry Reservoir.

In such transitional lands it is Council policy to:

1. To protect and facilitate the conservation of structures, sites and objects within the north east Mt. lowlands which are part of the County's cultural heritage, whether or not such structures, sites and objects are included on the Record of Protected Structures.
2. To encourage the preservation and enhancement of native species within and surrounding the Devil's Glen area and the Vale of Clara.
3. To support and facilitate the provision of amenity routes, in a manner which does not detract from the scenic nature of the area and ensure that new development is sited such that any impacts on the recreational amenity of any such route is minimised.
4. Through appropriate siting and design to ensure that developments along local/regional roads in particular those bordering the Mountain Uplands AONB will not be conspicuous or have a disproportionate or dominating visual impact on the surrounding environment as seen from the local scenic routes and settlements.

Appendices:

Appendix 1 Development and Design Standards.

Section 3.1.9 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. Natural Heritage Designations

- Wicklow Mountain SAC (002122) – located approximately 2.8km west of the appeal site.
- Wicklow Mountain SPA (004040) – located approximately 2.8km west of the appeal site.
- Vartry Reservoir pNHA (001771) – located approximately 450m 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 First Party appeal are, in summary, as follows:

- The garage is not intended for use as a “granny flat” or as an independent living space.
- The use of the garage space was initially intended for storage purposes as per planning permission Ref. 114811 but during the Covid lockdown period this space was used as a home office and living space and such use was intended only as a temporary measure.
- However, this temporary use of the garage attic for ancillary domestic use has continued to be used by family members and the kitchen and bathroom that have been installed are purely to enhance the functionality of this space for family use.
- The garage attic space has never been rented out for holiday or other residential purposes and there is no intention to do so in future.
- The ground floor is used as a garage space as per the original permission.

6.2. Planning Authority

- The Planning Authority has not responded to this appeal.

6.3. Observations

- None received.

7.0 Assessment

7.1. 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.

7.1.1. The main issue for assessment therefore relates to whether the use of the garage attic space is in compliance with the relevant provisions of the County Development Plan. AA Screening is also addressed in the assessment below.

7.2. Development Plan Policy

The reason for refusal cited by the Planning Authority relates to the belief that the retention of the use of the garage attic would be in breach of Section 3.1.9 Independent living units ('Granny-flats') of the Development Plan. This section of the Plan is intended to accommodate independent living for a close family member and it requires that the independent unit is capable of being reintegrated into the main family home when the independent living unit is no longer required.

7.2.1. The First Party states that the garage attic is not an independent living unit but instead is an extension of the domestic use of the main dwelling albeit a use contained in a separate building in close proximity to the main dwelling and on the same site, using the same access and the same effluent treatment system.

7.2.2. I have had regard to both viewpoints and on the balance of probability I find that the use of the garage attic space is not intended by the appellant to be as an independent living space, but rather as a spillover domestic use ancillary to the main dwelling. I do not think that Section 3.1.9 of the Development Plan is applicable to the type of use for which retention is sought and I am also of the opinion that the Development Plan is silent on such a spillover domestic use of a separate building in the grounds of the main dwelling. To my mind this situation is similar to a garden shed used as a summer room or home office/gym that is detached from the main dwelling but not available to rent out independently of the house.

7.2.3. As long as a restrictive condition is attached to a Board Order I see no reason not to grant permission for the works (including gable window) and the domestic use of the garage attic space. There are no material planning impacts, negative or positive, related to the ancillary domestic use of the garage attic area. The use of the garage attic as a commercial rental unit would be in breach of Section 3.1.9 of the Development Plan.

7.3. AA Screening

7.3.1. Having regard to the relatively minor development within an existing garage 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 granted for the reasons and considerations set out below and subject to the conditions set down hereunder.

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 not contravene relevant Development Plan policies, would not injure the visual or residential amenities of the area, or of property in the vicinity. 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 5th day of June 2023, as amended by the further information received on 19th day of December 2023 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 garage attic space shall be solely used by members of the applicant's immediate family as a home office and domestic related uses and shall not be utilised for commercial purposes or rented out as an independent residential unit.</p> <p>Reason: To ensure that the garage is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to ancillary domestic use in the interest of the proper planning and sustainable development of the area.</p>
3.	<p>The existing garage structure shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p> <p>Reason: To restrict the use of the garage in the interest of residential amenity.</p>
4.	<p>The developer shall pay to the planning authority a financial contribution of 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</p>

	<p>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. The application of any indexation required by this condition 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.</p> <p>Reason: 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>
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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.

Bernard Dee
Planning Inspector

25th April 2024

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

An Bord Pleanála Case Reference	ABP-319060-24		
Proposed Development Summary	Retention of change of use from storage space to home office and ancillary domestic space plus retention of window		
Development Address	Mullinaveigue, Roundwood, 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	
		No	√
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?			
Yes			EIA Mandatory EIAR required
No			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)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes				Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: 25th April 2024

Bernard Dee