



An
Bord
Pleanála

Inspector's Report ABP-319505-24

Development	Retention of change of use from residential to short-term letting use and associated works.
Location	11 Avoca Wood, Avoca, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	2460035
Applicant(s)	Matthew Aquilina
Type of Application	Retention permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Matthew Aquilina
Observer(s)	None
Date of Site Inspection	04/03/2025
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1. The subject site is located in a mature residential housing estate on the outskirts of Avoca village, in south County Wicklow. Plots are occupied by large detached houses with stand alone single story garages. The nature of the estate is open, with low planting delineating plots on a winding cul-de-sac estate road.

2.0 Proposed Development

- 2.1. On the 29th January 2024 permission was sought for retention of a change of use from residential to short-term letting.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 19th March 2024, the Planning Authority issued a notification of their intention to REFUSE retention permission for the following reason:

1 Having regard to

(a) the location of the existing dwelling within a rent pressure zone,

(b) CPO 6.33 which seeks to ensure that any proposals do not undermine the provision of housing and that there is a sufficient supply of rental properties available for longer term rental in the area and to ensure that proposals do not put increased pressure on the housing market,

(c) the need for rental properties in Avoca and the surrounding area and

(d) the number of occupants that the short term let is advertised as catering for,

it is considered that the proposed development by itself and by the precedent for which a grant of permission would set, would be contrary to the provisions of the Wicklow County Development Plan 2022-2028. It would result in the loss of a long-term residential property within the County and within a rent pressure zone, it would conflict with national policy and it would be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

- 3.2.1. **Chief Fire Officer:** Seven standard conditions to be attached if permission is granted.
- 3.2.2. **District engineer:** No issues in relation to roads or drainage as road has not been taken in charge.
- 3.2.3. **Roads:** No observations
- 3.2.4. **Planning Report:** Applicant has not demonstrated that there is a sufficient supply of rental properties in the area in accordance with CPO6.33. Notes that there are no properties available to in rent in Avoca village and very few within the 20 minute catchment. Property is available on a short-term rental website as accommodating 14 no. guests in three bedrooms, substantially more than a standard family home in a residential housing estate. This would have an undue impact in terms of privacy and amenity and would set an undesirable precedent. Recommendation to refuse permission.

3.3. **Prescribed Bodies**

- 3.3.1. **Uisce Eireann:** Conditions recommended to attach if permission is granted.

3.4. **Third Party Observations**

- 3.4.1. A submission from the Avoca Wood Residents Association objected to the proposal on the grounds of the family estate in an area of high demand for local housing being unsuitable for short-term lets. Issues of noise and traffic are raised.

4.0 **Relevant Planning History**

- 4.1.1. None on the subject site.

5.0 **Policy Context**

5.1. **Wicklow County Development Plan**

- 5.1.1. **CPO5.6** of Avoca: Revitalise the centre of these settlements through small scale regeneration projects that address dereliction, deliver compact growth, provide remote working space and improve amenities.
- 5.1.2. All of Wicklow is a rent-pressure zone. **Section 6.3.3** of the plan refers to RPZ's stating that they were introduced as part of the Residential Tenancies (Amendment)

Act 2019. A Rent Pressure Zone (RPZ) is a designated area where rents cannot be increased by more than 4% per annum. Rent Pressure Zones are located in parts of the country where rents are highest and rising, and where households have the greatest difficulty finding affordable accommodation. All of County Wicklow is designated a rent pressure zone. New planning reforms were introduced to control short term letting in rent pressure zones.

- 5.1.3. **Section 6.3.3** of the plan refers to short-term letting, stating that it “is defined as the letting of a house or apartment, or part of a house or apartment, for any period not exceeding 14 days. The use of any house or apartment for short-term letting use in a rent pressure zone is a ‘material change in the use’ of the structure and is therefore deemed to be development requiring planning permission except where the relevant exemptions apply. Applications for change of use from residential to short term letting will have to provide a detailed justification for the proposed use and demonstrate that there is not a shortage of housing in the area”.
- 5.1.4. **CPO 6.33** To protect the existing housing stock to meet housing demand and require that any proposals for short-term letting 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.

5.2. **Avoca LAP 2022-2028**

- 5.2.1. Site is located in a ‘Secondary Development Area’ (Map no. 1 refers) which has the stated vision “to provide for the sustainable development of a mix of uses including residential, employment, community and recreational uses that provide for the needs of the existing settlement and that allows of the future growth of the settlement.”

5.3. **Natural Heritage Designations**

- 5.3.1. None in the immediate area. Buckroney-Brittias Dunes and Fen SAC (000729) is 6.2km to the east.

5.4. EIA Screening

- 5.4.1. The proposed development does not come within the definition of a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings. Refer to Form 1 in Appendix 1 of report.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The applicant has appealed the decision of the Planning Authority to refuse permission. The grounds of the appeal can be summarised as follows:
- The subject dwelling is located in the secondary zone of the Avoca level 6 settlement.
 - The house is used by the owner several months of the year, at short notice. The house is the only home the applicant has in Ireland.
 - The applicant has a keen interest in nature, outdoors and supports voluntary organisations in Malta. The house is used by tourists, locals and Bird Life Malta.
 - The house has been used for short-let since 2016 by the previous owner. The owner wishes to regularise and apply for licences from Fáilte Ireland if necessary.
 - The applicant wishes to generate tourism in Avoca which has a special interest to nature lovers and tourists. The town does not have a hotel, with only short term lets & B&B's available.
 - Leaving the house vacant is not sustainable and does not help climate change goals or the town of Avoca.
 - The house cannot be let long-term as it is used by the family several months per year.
 - The house manager, the gardener and the handy man are all local Avoca residents. The more the house is used, the more work and income is generated in Avoca.
 - It is submitted that the Planning Authority did not take account of the benefits to the town.

- The appellant fails to understand how the subject short term rental will impact availability of long term rentals in the area. CPO 6.33 is quoted.
- The Planning Authority did not take account of the fact that the Avoca LAP specifically refers to tourist developments.
- It is submitted that the housing crisis experienced in Dublin is not visible in all parts of Wicklow. The appellant fails to understand how one single home will support the building of additional homes, homes needed for social housing or long letting.
- It is submitted that the Planning Authority have approved short term lets in Wicklow, in 2022, 2023 and 2024.
- It is submitted that Wicklow is above the threshold for housing stock in the County. The CSO states that the target was 1411, with the targets achieved in 2022 (1544) and in 2023 (1427). Appendix 3 of the County Development Plan states that the housing targets can be achieved.
- The Wicklow vacancy rate at 7% is significantly below the national rate of 15%. With appropriate planning permissions, this can drop to the optimum rate of 6%.
- There are a substantial number of long lets available in Wicklow. The census of 2022 shows a total of 587 rentals.
- The County Development Plan does not differentiate between housing stock and that available for rental and so housing amounts must be used.
- 4934 commencement notices from 2021 to 2024 shows that Wicklow will be in surplus of housing targets by the end of 2026. Objective 9.1 of appendix 3 requires 1150 units to be delivered annually between 2021 and 2026. The County Development Plan has adequate zoned land to meet the housing target.
- The appellant understands the need to restrict corporate built to-short-lets but the subject house is already built.
- An FOI to the Housing department shows that short term lets were approved 3 times in 2021, once in 2022 and 11 times in 2023.
- The Planning Authority granted permission for a short term let under 22/1162.

- There are homes for sale in the estate and in the wider area. The town needs employment opportunities.
- NPO 35 seeks to increase residential density through a range of measures, including reducing vacancy.
- It is submitted that part 1a of the reason for refusal has been rebutted – it has been proven that the Planning Authority have approved short term lets in a rent pressure zone. It has been proven that there is adequate housing stock, therefore parts 1b and 1c of the reason are refuted.
- With regard to part 1d of the reason for refusal, the more people in the house, the lesser the carbon footprint of heating a large 5 bedroom house. The house can cater for 14 no. people however the appellant would be willing to accept a condition restricting the number of guests if the Board requires.
- The appellant is willing to restrict the number of days per year the house is available for short term let. The objective of the appellant is to bring tourism and employment to Avoca whilst making the best use of existing housing stock.
- It is submitted that the proposed development is supported by CPO 4.9, CPO 9.1, CO 9.4, CPO 11.10, CPO 11.1, CPO 11.2, and CPO 11.3 of the County Development Plan as it provides employment, tourism, attracts people to the village and is a tourist related use at an appropriate site.
- It is submitted that not using the house to its full potential is not a sustainable choice.
- The subject dwelling is near the red kite walk and so supports CPO 11.17.
- There are no hotels or B&Bs in the town and therefore CPO11.31 is not fulfilled. The Sheep Walk House is in Arklow.
- It is submitted that the decision of the Planning Authority to refuse permission goes against the Glendalough & Wicklow Mountains National Park Visitor Experience & Management Plan 2023 which specifically mentions Avoca and notes that a diversity of accommodation is needed. It is submitted that short lets are a perfect form of accommodation to allow tourism in a town.

- The Wicklow County Council working Group October 2020 refers to the lack of market-appropriate tourist accommodation as being the biggest constraint to growth of the visitor economy.
- Project Ireland 2040- National Planning Framework NPO6 refers to the rejuvenation of towns and villages through accommodating changing roles and functions. NPO22 seeks to facilitate tourist development. NPO34 seeks to encourage lifetime adaptable homes.
- In conclusion the Board is requested to grant permission.

6.2. **Planning Authority Response**

6.2.1. None on file.

6.3. **Observations**

6.3.1. None on file.

6.4. **Further Responses**

6.4.1. None on file.

7.0 **Assessment**

7.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of development
- Precedent

7.2. **Principle of Development**

7.2.1. As noted by the Planning Authority, all of Wicklow County is designated as a rent pressure zone (section 6.3.3 of the plan refers). Policy CPO 6.33 of the 2022-2028 County Development Plan seeks to protect the existing housing stock to meet housing demand in RPZ's. The policy requires that any proposals for short-term letting provide a detailed justification for the proposed use, 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. Further, the cumulative impact of applications will also be considered in the assessment of any application and proposals that would increase pressures on the housing market including the rental market will not be considered favourably.

- 7.2.2. In response, the appellant submits that the subject dwelling is used by them for part of the year and in order to avoid vacancy the dwelling is let out on a short term basis. The appellant notes that the dwelling is not available for long term let.
- 7.2.3. The appellants provides details of the housing targets of Wicklow County and submits that evidence regarding housing commencements indicates that targets will be met by 2026. The appellant submits that using their single dwelling as a short term let will not undermine the provision of housing in the County, as required by CPO 6.33. In terms of a justification for the proposed use, the appellant submits that the proposed development is a tourist endeavour and is supported by policies in the Avoca LAP, the Wicklow County Development Plan and national policies and that use of the house as opposed to vacancy is the more sustainable option. Answering the requirement to demonstrate that there is a sufficient supply of rental properties available for longer-term rental in the area, the appellant notes that there is a dwelling for sale in the estate and that the 2022 census identified 587 vacant homes in Wicklow.
- 7.2.4. I acknowledge that a refusal of permission to use the dwelling as a short-term let may not result in the dwelling being available as a long-term let, therefore not achieving one of the goals of policy CPO6.33. I am not satisfied however, that it has been demonstrated that there is sufficient rentals available in the area, nor that the use of the dwelling as a short term let achieves tourist specific objectives. I consider the appellants submission regarding justification for the proposed use and demonstration that there is a sufficient supply of rental properties available for longer-term rental in the area not to meet the threshold of the requirements of the policy.
- 7.2.5. The use of the dwelling for short-term let has material planning implications on the dwellings in the immediate area. The housing estate is a quiet mature residential

area comprising single family homes. The use of the subject dwelling by multiple people, bringing significant traffic, creating waste generation and possible noise impacts is significantly different from the planning implications of a single family home – be that long term rental or owner occupied.

7.2.6. I note the ‘vision’ of the County Development Plan for secondary development areas as stated in Volume 2 of the plan, which is to provide for the sustainable development of a mix of uses including residential, employment, community and recreational uses that provide for the needs of the existing settlement and that allows for the future growth of the settlement. One of the objectives for achieving that vision is ‘to protect existing residential amenity and to provide for infill residential development at a density and design that reflects the established character of the area in which it is located’. It is considered that the proposed use of the dwelling for short-term let does not protect the residential amenity of the immediate area and is contrary to the Planning Authority’s vision for the town of Avoca.

7.2.7. With regard to policy CPO 4.9, the subject dwelling is not in a town or village centre and is not vacant, derelict or under utilised. Objective CPO9.1 refers to employment creation. The appellant submits that three locals are employed to run the short-term let. The skills referred to by the appellant are as applicable and available to holiday homes and owner occupiers as short-term lets and would not be negatively impacted by a refusal of permission.

7.2.8. The appellant submits that the proposed development complies with Objective CPO11.10, CPO11.11 CPO 11.12 and CPO 11.13 which seeks to facilitate a variety of quality accommodation types throughout the Country. This objective does not negate the requirements of objective CPO6.33 which specifically refers to short-term lets in rent pressure zones, such as is proposed in the subject appeal.

7.3. **Precedent**

7.3.1. The appellant submits that the Planning Authority has approved short-lets in rent pressure zones. The Wicklow County Development plan was adopted on the 12th September 2022, *after* the decisions were made under 22/1162, 22/668 and 22/1345, the examples provided by the appellant. The 2016-2022 County Development Plan did not have a policy on short term lets or rent pressure zones.

- 7.3.2. The appellant submits that 11 no. short term lets were approved in 2023 but no details are provided to support this claim. It is not clear if these refer to planning permissions or consents under the Residential Tenancies (Amendment) Act 2019. It is considered that insufficient evidence has been submitted that provides a precedent to which the subject appeal should take account.

8.0 AA Screening

- 8.1.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.1.2. The subject site is located in an urban area, within the town of Avoca. Buckroney-Brittias Dunes and Fen SAC (000729) is 6.2km to the east.
- 8.1.3. No nature conservation concerns were raised in the planning appeal. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- Small scale and nature of the development
 - Location-distance from nearest European site and lack of connections
 - Taking into account the determination by the Planning Authority
- 8.1.4. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

- 9.1.1. I recommend permission be REFUSED for the following reason:
- 1 The proposed retention of a change of use from residential use to short-term letting use, is contrary to policy CPO6.33 of the Wicklow County Development Plan which seeks to protect existing housing stock from any proposal that would undermine the provision of housing in the County. The proposed material change of use of a dwelling in a rent pressure zone, would seriously injure the residential amenities of the adjoining residential area and would

thus be contrary to the vision and objectives of the County Development Plan for secondary zones in level 6 settlements. The subject development would 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.

Gillian Kane
Senior Planning Inspector

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-319505-24		
Proposed Development Summary	Retention of change of use from residential to short-term letting		
Development Address	11 Avoca Wood, Avoca, 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)			
	No		X

Inspector: _____ **Date:** _____

Form 2