



An
Bord
Pleanála

Inspector's Report

ABP 320694-24

Development	Conversion of part of ground floor to granny flat and associated site works.
Location	4 Ashford Oaks, Ballinalea, Ashford. Co Wicklow.
Planning Authority	Wicklow Co. Council.
Planning Authority Reg. Ref.	24268.
Applicant(s)	James Maguire
Type of Application	Permission.
Planning Authority Decision	To Refuse Permission.
Type of Appeal	First Party
Appellant(s)	James Maguire.
Observer(s)	None.
Date of Site Inspection	October 23 rd , 2024.
Inspector	Breda Gannon.

1.0 Site Location and Description

- 1.1. The site is located at No 4 Ashford Oaks, Ballinalea, Ashford. Co. Wicklow. It accommodates a large detached house within an existing cul-de -sac of 4 no. dwellings. Due to the significant difference in ground levels between the front and rear of the site, the house presents as two-storey with a basement to the front and three-storey to the rear. There is a substantial garden to the rear which is accessed by a ramped walkway. The garden is enclosed by fencing on both sides and by a hedgerow to the rear.
- 1.2. Ashford Oaks is located at the southeastern end of the town and is accessed via a narrow roadway, the gradient of which falls inwards towards the site. It is positioned on the eastern side of the L-1096 approximately 700m southwest of its junction with the R772. The main land use in the vicinity is residential in the form of ribbon development along the local road, with some housing estates including Grangelea immediately to the south.

2.0 Proposed Development

- 2.1. The proposal consists of the part conversion (42.02 sq.m) of the existing rear ground floor of the house to a granny flat. The accommodation would include a bedroom, bathroom and kitchen/living area.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for the development on the grounds that it would not accord with Objective CPO 6.24 of the county development plan for granny flat development as it is not for the use of an immediate family member and would constitute a second dwelling unit on the site which would result in haphazard development that is out of character with the established pattern of development, would give rise to increased parking on the adjoining estate and set a precedent for similar development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning officer's report states that as the unit is intended for use by a 'close elderly family friend' the proposed development would be contrary to Objective CPO 6.24 and the Development and Design Standards of the development plan.

3.2.2. Other Technical Reports

None.

3.3. Prescribed Bodies

Uisce Eireann: No objection subject to conditions.

3.4. Third Party Observations

Submissions were received from adjoining residents at No 1 and No 2 Ashford Oaks. The issues raised are as follows:

- The house is already subdivided, with three families currently renting space in it.
- Parking spaces are provided for only two cars but there are a total of 5 cars associated with the house which impacts on the turning area and visitor parking area.
- The proposed ground floor 'granny flat' is already occupied as 4A Ashford Oaks with a separate Eircode.
- Non-compliance with various conditions attached to Ref No 11/4286 and 97/6096.

4.0 Planning History

97/6096: Permission granted subject to conditions for four dwellings which included the subject site.

11/4286: Permission granted subject to conditions for revised location and floor levels to house No's 3 & 4, conversion of attic area to living accommodation and minor changes to elevations.

UD5784: Enforcement action regarding alleged unauthorised development (subdivision of property into 3 no. residential units) at No 3 and No 4 Ashford Oaks

19/1365 – A decision to refuse permission for the removal of window, enlarge a window, provide a balcony area and stairs at No 2 Ashford Oaks was not upheld and ABP granted permission subject to conditions (ABP 306851).

19/1366 –A decision to refuse permission for the removal of a window in the side elevation, enlarge existing window to form a new door for access to new rear first floor decking, new stairs from first floor decking for access to rear garden at No 1 Ashford Oaks was not upheld and ABP granted permission subject to conditions (ABP 306849).

5.0 Policy Context

5.1. Development Plan

The operative development plan is the **Wicklow County Development Plan 2022-2028**. The site is located within the settlement boundary of Ashford town and is zoned RE 'Existing Residential' with the following objective:

'To protect, provide and improve residential amenities of existing residential area'.

Relevant Objective CPO.24

'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 the Development and Design Standards (Appendix 1)'

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 integral 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 45 sq m and shall not have more than one bedroom. The unit shall not be sold or otherwise let as an independent living unit and the existing garden shall not be subdivided.*
- 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 for 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 living unit for another period.*

5.2. Natural Heritage Designations

There are no designated sites close to the site.

6.0 The Appeal

6.1. Grounds of Appeal

The following summarises the grounds of appeal:

- From a review of the planning officer's report, the only issue of non-compliance with CPO 6.24 was that the intended occupant of the grant flat would not be an immediate family member of persons living in the rest of the property.
- It is considered that the proposed layout, including an internal link between the main house and the granny flat is fully compliant with the development

plan. Having considered the provisions of the development plan and the Government's '*Housing for All: A New Housing Plan for Ireland*', the planning authority should have granted planning permission.

- Any concerns regarding additional car parking, unidentified impacts on amenities and precedent which isn't a planning consideration, should have been addressed by way of a temporary permission for a granny flat including a minimum age of the occupant.
- The focus of CPO 6.24 is too narrow and does not offer more choice by way of an increased supply of accommodation for all life stages, which is required by the RSES. If it did not have such a narrow focus, many other family scenarios would have the possibility of living in a granny flat living arrangement to allow elderly and physically impaired individuals the ability to live life in their communities.
- The development plan states that it will support and facilitate the provision of supported housing for older people (section 6.3 and CPO 6.32). What is being proposed is a version of supported housing albeit not one that is prevalent in Ashford. Nevertheless, it is one that responds directly to a housing need in Ashford for an older person. The proposal is compatible with CPO 6.32, despite the uniqueness of the proposal.
- Under the Government's '*Housing for All: A New Housing Plan for Ireland*' there is an obligation to increase housing options available to older persons which is what is being proposed in this case. The planning authority's rigid and narrow application of its granny flat policy objective is contrary to the advice in this document.
- There is no planning reason not to allow a granny flat type development as proposed with the older person not necessarily being a close family member of the occupants of the main house. To do so would force older persons into social isolation which would be contrary to the fifth principle in the Government's '*Housing options for our Ageing Population Statement*'.
- The proposed occupant is 74 years old and began sharing the house with close friends in 2022. Her mobility has decreased but her landlord is willing to adapt the house to suit her needs. The design of the house allows wheelchair

access on ground and first floor levels. If permission is refused she will be required to seek accommodation elsewhere.

- The appellant realises the uniqueness of the proposal but does not accept that the proper planning and sustainable development of the area is only adhered to by the occupant of the granny flat being a close family member. The planning authority has rigidly applied CPO 6.24 without consideration of other supporting policy in its development plan or national guidelines.
- The Board is reminded that the proposal is for a granny flat, so it can issue a decision to grant and condition occupancy of the proposed granny flat by a close family member, if it does not accept that argument for a non-close family member.

6.2. Planning Authority Response

6.3. None.

6.4. **Observations**

None.

7.0 **Assessment**

7.1. **Introduction**

Having examined all the application and appeal documentation on file and having regard to the 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 the planning authorities' reasons for refusal and I am satisfied that no other substantive issues arise.

I would point out to the Board that some of the issues raised in the submissions to the planning authority relate to matters concerning lack of compliance with conditions relating to the overall development of Ashford Oaks which are beyond the scope of this appeal.

The main issues, therefore, that arise for determination by the Board in this appeal are as follows:

- Compliance with the provisions of the development plan
- Appropriate Assessment

7.2. Compliance with the provisions of the development plan

- 7.2.1. While I accept that it is both national and local policy to promote compact growth and densification of existing built-up areas in town and cities in suitable locations through infill development and the development of brownfield sites, the objectives of the development plan regarding the provision of a granny flat are specific. Objective CPO 6.24 facilitates the provision of a granny flat subject to 5 no. requirements set out in Section 3.1.9 (Independent living units/Granny Flats) in Appendix 1 of the plan.
- 7.2.2. The appellant correctly states that the proposal complies with four of these requirements. The unit which would involve the conversion of part of the existing dwelling is an integral part of the house, does not exceed 45 sq.m and does not have more than one bedroom. It is also capable of being functionally re-integrated into the main house. However, the appellant who owns the house does not reside in it and the proposed occupant of the granny flat is not a close family member as required under the provisions of the development plan.

I would a point out to the Board that Wicklow Co. Council have instigated enforcement action (UD5784) against the applicant regarding the subdivision of both this house and the adjoining property at No 3 into three self-contained living units. During my inspection of the appeal site, I observed 3 no. electricity meters on the side (east) gable of the house which suggests that the house is already divided into separate units. There is an external door at basement level towards the front of the house to what appears to be separate accommodation.

The provisions of the development plan regarding self-contained living units/ granny flats are unambiguous. It is clearly stated that such development will be facilitated for use by a member of the immediate family, which is not open to interpretation as suggested in the appeal. The intentions of the applicant regarding occupancy are clearly stated and it is disingenuous of the applicant to suggest that the Board should condition its use for another purpose.

- 7.2.3. Whilst it is argued by the appellant that the requirements of the development plan are too restrictive, they exist to ensure that the amenities of residential areas are not

eroded. The established pattern of development in the area consists of single-family dwellings, supported by on-site parking. The subdivision of these houses into multiple units or lack of control on the occupancy of independent living units/granny flats would exert additional pressure on existing facilities including visitor parking which would erode the amenity currently enjoyed by residents.

- 7.2.4. The applicant refers to Government policy regarding housing of the elderly and independent and measures to prevent social isolation. There is also reference to Objective CPO.32 of the development regarding the provision of housing for older people. This relates to purpose built supported accommodation, the provision of nursing homes, retirement villages and residential care facilities to support older people, which cannot be construed as applicable to the subject proposal.
- 7.2.5. I would therefore recommend that the Board uphold the decision of the planning authority and refuse permission for the development on the grounds that it would be contrary to Objective CPO 6.24 and contravene the provisions of the development plan.

7.3. Appropriate Assessment Screening Determination

- 7.3.1. I have considered the proposed development comprising the part conversion of the ground floor of the house to a granny flat in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 7.3.2. The subject site is located c 5km to east of The Murrough Wetlands SAC (Site code 002249 and The Murrough SPA (Site code 004186) which consists of a coastal wetland complex north of Wicklow town.
- 7.3.3. The proposed development comprises the conversion of part of the ground floor of the existing house to a granny flat within the built up area of the town.
- 7.3.4. No nature conservation concerns were raised in the planning appeal.
- 7.3.5. 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:
- The nature of the development proposed being the part conversion of the ground floor of the existing house to a granny flat and its location within an urban area connected to existing public infrastructure.

- The distance from the nearest European sites and lack of connections.

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.

8.0 Recommendation

- 8.1. On the basis of the above assessment, I recommend that permission be refused for the proposed development for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. The proposed development contravenes Objective CPO 6.24 of the Wicklow County Development Plan 2022-2028 and the criteria set out in Section 3.1.9 of Appendix 1 of the development plan in respect of the provision of granny flat accommodation as it is not intended for use as a member of the immediate family. The proposed development would, therefore, contravene the provisions of the development plan and create a precedent for similar type developments in the future which would seriously impact on the residential amenities of the area and 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.

Breda Gannon
Planning Inspector

29th October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP 320694-24		
Proposed Development Summary	Conversion of part of ground floor of existing house to a granny flat and associated site works.		
Development Address	4 Ashford Oaks, Ballinalea, Ashford. 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
		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) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No		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)
No		N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____