



An
Bord
Pleanála

Inspector's Report

ABP-320853-24

Development	Garden building comprising conservatory and storage.
Location	3 Abbeyfields, Wicklow Town, Co. Wicklow, A67 H963
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	2460209
Applicant(s)	James McCall.
Type of Application	Retention Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party.
Appellant(s)	James McCall.
Observer(s)	None.
Date of Site Inspection	31 st January 2025.
Inspector	Aiden O'Neill

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Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The proposed development site, c. 0.120ha in area, comprises an existing two-storey semi-detached dwelling with front garden and driveway and back garden, set back from the public road, Abbeyfields, in a mature, low density residential area, to the west of Wicklow Town Centre. Abbeyfields is a cul-de-sac, accessed off a mini roundabout from the R750.
- 1.2. The garden building to be retained is detached, and is located c. 6.5m to the west of the dwelling on site, in the elongated well-kept rear garden area.

2.0 Proposed Development

- 2.1. The proposed development consists of the retention of a single-storey garden building, c. 60.90m² in area, consisting of a conservatory and storage area. The gross floorspace of the existing buildings on site is stated to be 278.20m², to include the existing dwelling, as extended, and the rear garden building.
- 2.2. The FFL of the garden building to be retained is c. 100-101.75mOD, slightly higher than the existing dwelling (FFL c.100mOD).
- 2.3. The building is accessed via steps and includes a small area described as a wet room which actually functions as a small kitchen area, separate toilet and small garden store, and a separate conservatory. The conservatory can be accessed independently. The small kitchen/toilet/store is finished in rendered brickwork with slate roof and 2no. rooflights. The southern and south-western elevation of the conservatory is glazed over a low level wall, and has a fully glazed roof which steps up slightly above the roof of the wet room/toilet/store.
- 2.4. It is stated that the site avails of existing public services.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refused planning permission for the retention of a garden building comprising conservatory and storage on 22nd August, 2024 for the following 2no. reasons:

1. The proposed development would represent consolidation of unauthorised development on this site, having regard to the non-compliance of the development on this site with the terms and conditions of WTC PRR 90/1616, which consisted of permission for an extension to the dwelling and not the provision of a separate independent unit as is evident from details submitted. The provision of such a form of development unduly impacts on the amenities of the area, the amenities of adjoining properties, undermines the planning regulations and would be contrary to the proper planning and sustainable development of the area.
2. The need for a separate toilet, utility/ laundry room and wetroom in the proposed garden building, given its proximity to the main dwelling on site has not been adequately justified and would be seriously injurious to the amenities of the area. Such a development would establish an undesirable precedence for similar haphazard forms of residential development in the area, would be contrary to County Development Plan policy and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Executive Planner's report of 30th May, 2024 noted that the development has been in situ for a number of years. It is noted that the floor plans show a toilet. The building is considered acceptable subject to it being used for storage or as a hobby room but not for permanent human habitation or commercial activities. Should permission be granted, a condition will be applied in this regard. Conditional permission was recommended on the basis that the conservatory building does not impact

on the privacy and amenity of any adjoining dwellings and the design is considered appropriate to the area.

- The Senior Executive Planner commented that the structure has been given a separate Eircode, and also consists of a toilet and a wetroom, with the need of same is not apparent. In addition, it is evident fencing has been constructed such that the unit is separated from the overall dwelling on site. The units appears more like an independent unit on site as opposed to a structure ancillary to the main dwelling , and it is considered further information is required in respect to these issues.
- The planner recommended the following Further Information:
 1. Given the layout, separate eircode, and fencing, justification should be submitted to show that this unit is ancillary to the dwelling on site. In this regard any justification submission should also address / include the following:
 - (a) The need for a separate toilet and wetroom in this garden building given it is ancillary and proximate to the main dwelling on site.
 - (b) The provision of an Eircode for this unit, separate to the main dwelling house on site.
 - (c) Confirmation that this unit has never been rented/ occupied separately to the main dwelling or used for any commercial purposes.
 - (d) Clarification on the need for fencing around this structure, and location of all such fencing to be shown on the site layout.
 - (e) Full internal photographs of the unit
- In the response dated 6th August, 2024, the applicant's agent stated that:
 - The garden building was constructed for leisure purposes. It is a fully glazed conservatory with adjoining storage and toilet/wet room.
 - The toilet allows the family to remain in the garden. The provision of a sink and worktop facilitates potting and watering of indoor plants. It also provided a utility laundry for the granny flat known as St. Jude's.
 - Over the years, the building has been used for various purposes, e.g. home office, green house and utility room.

- The garden building does not have a separate Eircode.
- The Eircode A67 XD99 refers to St. Jude's (90/621616) and occupied by the applicant's mother for 26 years.
- Eircode A67 H963 refers to the main house, sometimes known as St. Mary's.
- The unit has never been rented or occupied separately. There has never been washing or cooking facilities. It is not suitable as a residential unit.
- The fencing was erected to provide a private space for St. Jude's.
- Internal photographs were provided.
- In her report dated 20th August, 2024, the Executive Planner commented as follows:
 - The provision of a toilet, wet room and utility/laundry in the garden building of the dwelling, given the proximity of the dwelling and location in an urban area, is not considered appropriate and should be provided as part of the main dwelling. The need for these facilities has not been properly justified. Should permission be granted, the removal of the toilet and laundry facilities from this building would be required.
 - The permission for St. Jude's was for an extension to the dwelling, not a granny flat. There is no permission for a granny flat, and it is therefore unauthorised. However, it is noted that the granny flat is no longer required. The applicant has not confirmed what the unit is used for now.
 - Having regard to the existing unauthorised development on the site, the granting of permission would result in the consolidation of unauthorised development.

The Executive Planner's report is the basis for the Planning Authority's decision to refuse planning permission.

3.2.2. Other Technical Reports

None on file.

3.3. Prescribed Bodies

None on file.

3.4. Third Party Observations

None on file.

4.0 Policy Context

4.1. Development Plan

The applicable Plan is the Wicklow County Development Plan 2022-2028. Wicklow Town – Rathnew is designated as a Level 2 Core Region Key Town.

The proposed development site is zoned 'RE - Existing Residential' in the Wicklow Town-Rathnew Development Plan 2013-2019.

Policy Objective CPO 6.21 in section 6.4 of the Plan states that 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.

There are no specific policies in relation to Section 1 in Appendix 1 Development and Design standards of Volume 3 of the Plan sets out the applicable policies in for House Extensions.

Proposed Variation No. 2 of the Wicklow County Development Plan 2022-2028 and the Wicklow Town – Rathnew LAP 2025 are currently under preparation.

4.2. Natural Heritage Designations

The Murrough SPA (Site Code: 004186) and Wicklow Town Sites pNHA (Site Code: 001929) are located c. 468m to the east.

4.3. EIA Screening

- 4.3.1. Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.

5.0 The Appeal

5.1. Grounds of Appeal

- Abbeyfields is the applicant's home for more than 30 years. The house was refurbished and later extended on foot of PRR 90/1616.
- The mother of the applicant's wife moved into the extended part of the house in 1996, which was her 'granny flat' called St. Jude's, and lived there independently until her death in 2022.
- The Eircode that applies to St. Jude's to proposed to be cancelled.
- The applicant is seeking to retire and are in the process of building a new single-storey dwelling at Friarshill permitted under 21/1255. After its completion, the dwelling at Abbeyfields will transfer to a family member and his family, for use as a single family residence with some internal remodelling.
- The applicant is a successful building contractor, and needed a home office, hence the construction of the garden building and conservatory, which has been in place for approximately 20 years and the has been no objection to it, or complaint.
- The single toilet and sink worktop are for use by the family while using the garden and for watering plants. It also provided utility/laundry facilities for the main house and St. Jude's. No planning objectives are affected or achieved through the removal of a sink and related plumbing.
- The conservatory/store is not a residential development and is totally unsuitable for that purpose.
- The reasons for refusal appear to be motivated by considerations which are not relevant to the application.
- The application is for the retention of the garden building only.

- No request for retention of St. Jude's was made or inferred.
- The implication that the conservatory is for residential/habitable use is wrong.
- A grant of permission is requested based on a condition that the garden building be used for private domestic use only ancillary to the use of the main building and not be used for human habitation.

5.2. **Applicant Response**

- N/A

5.3. **Planning Authority Response**

- None on file.

5.4. **Observations**

- None on file.

5.5. **Further Responses**

- None on file.

6.0 **Assessment**

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

6.2. The main issue is as follows:

- Nature of the garden building to be retained

6.3. Nature of the garden building to be retained

6.3.1 The proposed development consists of the retention of a single-storey garden building, c. 60.90m² in area, consisting of a conservatory and storage area.

- 6.3.2 The Planning Authority refused permission for 2no. reasons, including that the proposed development would represent consolidation of unauthorised development on the site, and that the need for a separate toilet, utility/ laundry room and wet room in the proposed garden building, given its proximity to the main dwelling on site, has not been adequately justified and would be seriously injurious to the amenities of the area.
- 6.3.3 The refusal of retention permission principally stems from the opinion that the garden building is in residential use.
- 6.3.4 While there is a small kitchen area with laundry facilities, sink, fridge, and a boiler, as well as a small toilet area, it is clear from the site inspection that the building is not in residential use, nor could it be used as such given the extent of glazing at least. On the day of the site inspection, the small internal store was evidently in use for the storage of garden equipment.
- 6.3.5 It would not be unusual for a garden shed/building to contain laundry facilities and a fridge.
- 6.3.6 The garden building is clearly incidental to the existing dwelling on site.
- 6.3.7 In addition, given its scale, and the size of the remaining garden area, the garden building does not reduce the available amenity space to below acceptable standards. The garden building would also not give rise to negative impacts on residential amenities in the vicinity.
- 6.3.8 The nature and extent of the metal fencing erected in the garden would not be considered to facilitate a separate residential unit.
- 6.3.9 While the application seeks retention the garden building, the Planning Authority also raised concerns that the extended section of the dwelling on site is in use as a granny flat which is not consistent with the permission for the extension. The Planning Authority is of the view that, in this context, the consolidation of unauthorised uses would be contrary to the proper planning and sustainable development of the area.
- 6.3.10 The applicant has clarified in the appeal that the extension is no longer in use as a granny flat, as the previous occupant – the applicant's mother-in-law – has passed.

6.3.11 On the day of the site visit, the applicant advised that the extended area of the house is used by a family member.

6.3.12 Notwithstanding the concerns raised by the Planning Authority, both the garden building and the dwelling (as extended) on the overall site can be conditioned to be jointly occupied as a single residential unit.

7.0 AA Screening

7.1 I have considered the garden building to be retained in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The Murrough SPA (Site Code: 004186) and Wicklow Town Sites pNHA (Site Code: 001929) are located c. 468m to the east.

The proposed development consists of the retention of a garden building comprising a conservatory and storage.

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:

- Nature of works e.g. small scale and nature of the development
- Location and distance from nearest European site and lack of connections
- Taking into account the Screening Report and Determination by Wicklow County Council.

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. I recommend that permission for the development be granted for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the nature and extent of the garden building to be retained, it is considered that, subject to compliance with the conditions set out below, the proposed development will not be seriously injurious to existing residential amenities. It is considered that the proposed development is in the interests of 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 the 12th April, 2024 and in response to the Request for Further Information on 6th August, 2024 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>(a) The garden building shall be restricted to use that is incidental to the occupation of the adjacent dwelling house, as specified in the lodged documentation, unless otherwise authorised by a prior grant of planning permission.</p> <p>(b) The existing dwelling house, as extended, and the garden building the subject of this grant of retention planning permission, shall be occupied as a single residential unit, and the garden building shall not be used, sold, let</p>

	<p>or other transferred or conveyed, save as part of the dwelling house, as extended.</p> <p>Reason: In the interests of orderly development.</p>
3.	<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>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>

Relevant Policies

Wicklow County Development Plan 2022-2028

Wicklow Town – Rathnew is designated as a Level 2 Core Region Key Town.

Policy Objective CPO 6.21 in section 6.4 of the Plan states that:

‘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). 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’.

There is no specific guidance in relation to garden buildings.

Section 1 in relation to House Extensions in Appendix 1 Development and Design standards of Volume 3 of the Plan sets out the following:

3.1.8 House extensions The construction of extensions to existing houses will be encouraged generally as it usually provides a less resource intensive method of expanding living space than building a new structure. Given the range of site layouts prevailing, it is not possible to set out a set of ‘rules’ that can be applied to all extensions, but the following basic principles shall be applied:

- The extension should be sensitive to the existing dwelling and should not adversely distort the scale or mass of the structure;
- The extension shall not provide for new overlooking of the private area of an adjacent residence where no such overlooking previously existed;
- In an existing developed area, where a degree of overlooking is already present, the new extension must not significantly increase overlooking possibilities. If for example a two storey dwelling already directly overlooks a neighbour’s rear garden, a third storey extension with the same view will normally be considered acceptable;
- New extensions should not overshadow adjacent dwellings to the degree that a significant decrease in day or sunlight entering into the house comes about. In this regard, extensions directly abutting property boundaries should be avoided;


- While the form, size and appearance of an extension should complement the area, unless the area has an established unique or valuable character worthy of preservation, a flexible approach will be taken to the assessment of alternative design concepts.

Wicklow Town Rathnew Development Plan 2013-2019

Chapter 13 explains that the purpose of the RE Existing Residential zoning objective is to protect and preserve existing residential uses and provide for infill residential development.

The objective seeks to protect, provide and improve residential amenities of existing properties and areas while allowing for infill residential development that reflects the established character of the area in which it is located and with minimal impact on the existing residential amenity.

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.



Aiden O'Neill
Planning Inspector

1st February, 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-320853-24		
Proposed Development Summary	Garden building comprising conservatory and storage.		
Development Address	3 Abbeyfields, Wicklow Town, Co. Wicklow, A67 H963		
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 √	Tick if relevant and proceed to Q2.
		No	Tick if relevant. 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)?			
Yes	Tick/or leave blank	State the Class here.	Proceed to Q3.
No √	Tick or leave blank		Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	Tick/or leave blank	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No	Tick/or leave blank		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	Tick/or leave blank	State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	Tick/or leave blank	Screening determination remains as above (Q1 to Q4)
Yes	Tick/or leave blank	Screening Determination required

Inspector: *Ad onell*

5th February, 2025

_____ Date: _____