



An
Coimisiún
Pleanála

Inspector's Report PL-500286-WW-25

Development	Single storey extension to link existing dwelling with existing self-contained independent living unit and all associated site works.
Location	06 Cherry Court, Delgany Wood, Delgany, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	2560716
Applicant(s)	Rory & Micheala O'Connor
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party Normal Planning Appeal
Appellant(s)	Rory & Micheala O'Connor
Observer(s)	No Observers.
Date of Site Inspection	16th of February 2026
Inspector	Elaine Sullivan

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1.0 Site Location and Description

- 1.1. The appeal site is the Cherry Court, housing estate in Delgany, Co. Wicklow. Cherry Court forms part of an established residential area to the southwest of Greystones and is approximately 0.6km from the village core. The estate is to the north of Church Road (R762) and to the west of Kindlestown Lower Road (R761). The surrounding area is characterised by medium density housing.
- 1.2. The appeal site is a large corner site at the end of a cul-de-sac. It has a stated area of 0.07ha and consists of a pitched roof two-storey semi-detached house with single-storey extension to the side and rear. The front of the house is northeast facing with brick and render finishes and black roof tiles. There is a paved area to the front with wide vehicular entrance. A single storey extension has been constructed to the side of the house and has its own entrance and doorbell. The rear of the house is secured with a large double gate. Although I did not gain entry to the rear of the house, I could see a single-storey, independent unit in place towards the back of the garden.

2.0 Proposed Development

- 2.1. Planning permission is sought for a new 8 sqm. single storey extension to link existing dwelling with existing self-contained independent living unit. The cessation of the use of the existing granny flat as an independent living unit and the amalgamation of this area into the existing family home. Minor elevational works are proposed to the front of the independent unit.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was refused by the PA for the following reason.

The proposed development would represent consolidation of un-authorised development on this site, having regard to the existing 'independent living unit' development on site, for which no permission exists. The provision of such a form of development unduly impacts on the amenities of the area, public

health, the amenities of adjoining properties, undermines the planning regulations and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The report of the Planning Officer (PO) notes that the development is acceptable in principle and contains a detailed planning history for the site.
- The planning history includes a decision to refuse permission for the retention of an existing granny flat to the rear of the dwelling, (PA Ref. 25/60306).
- Whilst the PO considers the development proposal to be acceptable in principle, they considered that the granting of permission for the link would consolidate unauthorised development and is not permissible.
- The PO also considered that the development was not in accordance with the standards for domestic extensions which is contained in Appendix 1 of the Wicklow County Development Plan.

3.2.2. Other Technical Reports

- No reports on file.

3.3. Prescribed Bodies

- No submissions received.

3.4. Third Party Observations

- No submissions received.

4.0 Planning History

PA Ref. 25-60306 – Planning permission refused in June 2025 for the construction of an 8sqm single storey extension to link existing dwelling with existing self-contained independent living unit. Permission was refused for the following reason,

The proposed development would represent consolidation of un-authorised development on this site, having regard to the existing 'independent living unit' development on site, for which no permission exists. The provision of such a form of development unduly impacts on the amenities of the area, public health, the amenities of adjoining properties, undermines the planning regulations and would be contrary to the proper planning and sustainable development of the area.

ABP-317841-23 (PA Ref. 23/60089) – Planning permission refused in September 2024 to retain a granny flat of 44sqm to the rear of a dwelling for the following reason,

Having regard to the Wicklow County Development Plan 2022-2028, it is considered that the development proposed for retention would not comply with Policy Objective 6.24 and the criteria set out in Appendix 1, as it would not be integral to the main house and would not represent exceptional circumstances as it is not a conversion of an existing detached garage/store. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

PA Ref. 20-809 – Planning permission granted in October 2020 for a single storey extension of 39 sqm to the side and rear of existing dwelling.

PA Ref. 19/1037 – Planning permission refused in November 2019 for a new 147 sqm two storey, three-bedroom, detached dwelling to side of existing dwelling, connection to all public services, all necessary ancillary works to facilitate the development. The development was refused for the following reason,

Having regard to the location and configuration of the site, the nature, scale and design of the proposed dwelling, and its position to the rear of the front building line of the existing dwelling, it is considered that the proposed

development would result in a cramped haphazard development that is out of character with the established pattern of development within the immediate vicinity. The proposed development would therefore be contrary to the objectives for this area as set out under the Greystones, Delgany and Kilcoole Local area Plan 2013 and would be contrary to proper planning and sustainable development.

The applicant sought to appeal this decision under **ABP-306062-19**, which was deemed to be invalid.

PA Ref. 19/636 - Planning permission granted in July 2019 for an extension comprising 30 sqm at ground floor and 30 sqm at first floor (60 sqm in total) to side and rear of existing dwelling, connection to all public services together with all necessary site and ancillary works to facilitate the development.

PA Ref. 19/215 – Planning permission refused in July 2019 to remove existing garden shed, and to construct a new 150 sqm two storey three-bedroom, detached dwelling to side of existing dwelling with a connection to all public services.

Permission was refused for the following reason,

Having regard to the configuration of the site, the nature, scale and design of the proposed dwelling and the pattern of development in the immediate vicinity it is considered that the proposed development would result in a haphazard development that is out of character with the established streetscape and pattern of development within the immediate vicinity. The proposed development would therefore be contrary to the objectives for this area as set out under the Greystones, Delgany and Kilcoole Local area Plan 2013 and would be contrary to proper planning and sustainable development.

PA Ref. 18/1418 – Planning permission refused in February 2019 for a detached single storey dwelling (removing existing shed) with connection to all services and associated site works. Permission was refused for the following reason,

Having regard to the configuration of the site, the nature, scale and design of the proposed dwelling, and its location on lands to the rear of the existing dwelling it is considered that the proposed development would result in a haphazard development that is out of character with the established pattern of development within the immediate vicinity. The proposed development would

therefore be contrary to the objectives for this area as set out under the Greystones, Delgany and Kilcoole Local area Plan 2013 and would be contrary to proper planning and sustainable development.

PA Ref. 16/396 - Planning permission was refused in June 2016 for an additional vehicular entrance from Cherry Lane.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan for the subject site is the **Wicklow County Development Plan 2022-2028**, (WCDP).
- 5.1.2. The site is also located in the settlement boundary for the **Greystones – Delgany & Kilcoole Local Planning Framework**, (LPF), which was approved by Council on the 9th of February 2026 and is integrated into the Development Plan under Variation No. 4.
- 5.1.3. In the LPF, the subject site is zoned objective ‘RE – Existing Residential’, which seeks, *‘To protect, provide and improve residential amenities of existing residential areas’* with the overall vision, *‘To provide for house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity. In existing residential areas, the areas of open space permitted, designated or dedicated solely to the use of the residents will normally be zoned ‘RE’ as they form an intrinsic part of the overall residential development; however new housing or other non-community related uses will not normally be permitted’*.
- 5.1.4. **Objective GDK19** of the LPF states that - In areas zoned ‘Existing Residential’ house improvements, alterations and extensions and appropriate infill residential development (including that which comprises the replacement of existing lower density development with higher density 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 of the Wicklow County Development Plan). 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.

Wicklow County Development Plan 2022-2028 (as varied)

5.1.5. The following extracts from the WCDP relate to aspects of the subject development but is not an exhaustive list of all relevant policies and objectives contained in the Development Plan.

5.1.6. Appendix 1 – Development & Design Standards

3.1.8 – House Extensions – extensions will generally be encouraged, and the following basic principles should be applied to proposals,

- 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,
- The new extension must not significantly increase overlooking possibilities,
- New extensions should not overshadow adjacent dwellings to the degree that a significant decrease in day or sunlight entering into the house comes about
- 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.

5.2. Natural Heritage Designations

5.2.1. The site is not located within a designated Natural Heritage Area (NHA).

5.2.2. The site is approximately 1.3km to the east of the Glen of the Downs proposed NHA (pNHA) (Ref. 000719) and approximately 3.75km to the south-east of the Great Sugar Loaf pNHA, (Ref. 001769).

The following designated European sites are in proximity to the appeal site.

- Glen of the Downs SAC (000719) – c. 1.3km southwest
- The Murrough SPA (004186) – c. 2.1km east
- Bray Head SAC (000714) – c. 2.6km north, northwest
- The Murrough Wetlands SAC (002249) – c. 3.4km southeast

5.3. EIA Screening

The proposed development is not a class of development set out in Schedule 5, Part 1 or Part 2 of the Planning and Development Regulation 2001, as amended, and therefore no preliminary examination is required.

6.0 The Appeal

6.1. Grounds of Appeal

- The applicant is of the opinion that the refusal of permission by the PA, is procedural in nature as the development would prejudice third parties through negative impacts on visual and/or residential amenity, public safety and public health. The development would not result in any ecological or environmental harm. To this end, the applicant notes the lack of third-party objections to the development.
- The applicant submits that the first item to consider is the unauthorised development on the site, which relates to the outbuilding in the garden, which is used as a family flat. It is put forward that subject proposal would not legitimise unauthorised development, which is statute barred (constructed approximately 16 years ago) and does not form part of the overall development. High Court decisions in *Murphy v An Bord Pleanála & Anor* and UK High Court Case, *Western Fish Products v Penwith District Council* are referenced to support the applicant's position.
- It is the applicant's opinion that there is no statutory obligation for a homeowner to seek retention permission for unauthorised but immune structures which stand on the application site.

- Furthermore, the applicant is of the opinion that the proposed development will entail the cessation of the unauthorised use of the outbuilding as a family flat as the extension will incorporate the outbuilding into the main house and become a single dwelling. The public notices clearly state that planning permission is sought for the *'cessation of the use of the granny flat as an independent unit and amalgamation of this area into the family home by way of the proposed link so as to become one single dwelling'*.
- The incorporation of the outbuilding into the principal dwelling would address the Commission's sole objection in appeal ref. ABP-317841-23, where it was considered that the retention of the outbuilding would not comply with Policy Objective 6.24 (which relates to family flats). (See Section 4.0 – Planning History for the full text of the refusal reason).
- The applicant argues that different planning controls apply to domestic development proposals depending on whether the application involves the provision of a family flat or the extension to an existing dwelling. The subject proposal is for an extension to development and as such is materially different from the previous appeal.
- To allay any fears that the structure may still be used as a de-facto family flat, the applicant notes that it would be open to the Commission to impose a condition that the development should only be occupied as part of the existing dwelling and that it shall not be used separately or as an ancillary unit of accommodation.
- The applicant considers that it would be wholly inappropriate for the Commission to deny consent on the basis that the subject structure might be used for purposes other than an extension to the existing house. Reference is made to the High Court judgement made in *Kelly v An Bord Pleanála* (Flood J, 19 November 1993) which the applicant claims, supports their position.

6.2. Planning Authority Response

- No further comments received.

6.3. Observations

- No observations received.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Unauthorised development
- Residential Amenity

7.2. Principle of Development

7.2.1. The subject site is in an established residential area and the RE zoning objective for the site allows for house improvements, alterations and extensions and appropriate infill residential development. Therefore, the principle of the development is acceptable, subject to assessment against the policies and objectives of the Wicklow County Development Plan (as amended), which includes the Greystones – Delgany & Kilcoole LPF.

7.2.2. I note that the planning permission has previously been granted to extend the existing house under **PA Ref. 20-809**, which permitted a single storey extension of 39 sqm to the side and rear of existing dwelling. This permission was implemented and the extension is in place.

7.3. Unauthorised Development

7.3.1. The sole reason for the PA's refusal relates to the unauthorised 'independent living unit' on the site. As the proposed extension would create a link between the unit and the main house the PA considered that this would represent a consolidation of unauthorised development. The grounds of appeal argue that the applicant is not

obliged to apply for retention of the unit under the current application and that permission is clearly sought for the cessation of the use of the existing granny flat as an independent living unit and the amalgamation of this area into the existing family home. Therefore, the proposed development would address the issue of unauthorised development on the site.

7.3.2. From the outset it is important to note that the Commission has no part to play in determining whether development is or is not unauthorised. This is a function of the PA under Part 8 of the Planning and Development Act 2000 (as amended).

However, the application details and planning history clearly indicate that a single storey structure in the garden of the house is in use as an independent unit without authorisation through the planning process. It is also stated in the application and appeal that the structure has been in place for more than seven years (c. 16 years) and as such, is statute barred from enforcement proceedings. Planning history for the site contains no reference to any enforcement action taken for any development on the site.

7.3.3. The wording of the public notices clearly states that the proposed development would involve the ‘cessation of the use of the existing granny flat as an independent living unit and the amalgamation of this area into the existing family home...’ I am satisfied that the wording of the development proposal would regularise the use of the unit through the planning system. However, it is unclear as to whether the structure itself has planning permission. The grounds of appeal state that the structure was originally an outbuilding that has been in place for c. 16 years. Planning history for the unit (**ABP-317841-23, PA Ref. 23/60089**) states that the unit was originally a garage which was extended to provide accommodation for a family member. The report of the PO did not specify whether the structure itself or the use of the structure, (or both), constituted unauthorised development, which leaves some ambiguity as to the planning status of the structure. As noted previously, it is not within the remit of the Commission to adjudicate on, or to investigate unauthorised development. Should the Commission be minded seeking further information regarding the status of the structure, it is within their remit. In the absence of any clear and definitive evidence on the matter, I will proceed to assess the development without prejudice and based on the application at hand which seeks the cessation of the existing unauthorised use through amalgamation with the main building.

7.3.4. I note that the wording of the public notices and the application documents do not specifically relate to the provision of a 'granny flat'. As such the requirements of Appendix 1, Section 3.1.9, which relates to 'Independent living units (Granny-flats), does not apply. Should the Commission disagree with this conclusion, I would draw their attention to the following elements of Section 3.1.9 which states that 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 which include,

- 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 shall not be sold or let as an independent living unit and the existing garden shall not be sub-divided.

7.4. Residential Amenity

7.4.1. As permission is sought for an extension to an existing dwelling and the amalgamation of an existing independent unit into the main dwelling, the proposal will be assessed against the provisions of Appendix 1, Section 3.1.8 of the development plan, which relates to house extensions. The basic principles contained in Section 3.1.8 relate to good design, i.e., the extension should be sensitive to the existing dwelling and shall not impact negatively on the residential amenity of adjoining or nearby properties.

7.4.2. The subject site has a long planning history which includes refusals for an infill house to the side of the existing house and approved permissions for extensions to the side. This has resulted in an unusual and haphazard layout on the site which has essentially and effectively split the site in two. On the southern side of the site the side extension is set back from the front elevation and extends past the rear wall of the house by approximately 6m. The independent living unit is directly to the rear of

the extension, and the proposed link would connect both structures. Double doors are shown on each side of the link which would provide access to the rear garden and the side garden.

- 7.4.3. I could not gain access to the rear garden of the house during my site visit. However, photographs on the report of the PO show that a fence and gate have been installed between the extension and the garden to the rear of the main house and a low wall encloses an area directly to the rear of the extension. The independent living unit opens onto the remaining area to the side of the property. Although I did not gain access to the site, I noted that there are separate doors and doorbells for the main house, the extension and the detached living unit.
- 7.4.4. In terms of the design of the extension, it is small in scale and as such would not adversely distort the scale or mass of the main house. I am also satisfied that the proposed works would not result in any negative impacts of the residential amenity of adjoining properties in terms of overlooking, overshadowing or loss of privacy. It is unlikely that the proposal will result in any changes to the current living arrangements on the site and as such the proposal would not result in any additional traffic or impacts on services. On this basis, I am satisfied that the proposal is acceptable.
- 7.4.5. The grounds of appeal suggest that the provision of a planning condition that restricts the occupation of the extension to use as part of the existing dwelling and that that it shall not be used separately or as an ancillary unit of accommodation, might be appropriate to allay any concerns regarding future subdivision of the site. I consider the application of a similarly worded condition to be appropriate in this instance should the Commission be minded to grant permission.

8.0 Appropriate Assessment

- 8.1. I have considered the proposed development in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended.
- 8.2. The subject site is not located within or adjacent to any European Site. The closest European Site, part of the Natura 2000 network, is Glen of the Downs SAC (Site Code: 000719), c. 1.3km southwest of the proposed development.

- 8.3. The proposed development is located within a residential area and comprises minor works to provide a small extension of c. 8 sqm.
- 8.4. Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site.

The reason for this conclusion is as follows:

- The small scale and residential nature of the development.
 - The location of the development in a serviced urban area, distance from European Sites and the urban nature of intervening habitats, and the absence of ecological pathways to any European Site.
- 8.5. I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

9.0 Recommendation

- 9.1. I recommend that planning permission is granted for the development.

10.0 Reasons and Considerations

- 10.1. Having regard to the nature of the proposed development for a single storey extension to link the existing dwelling with existing self-contained living unit and the cessation of the use of the independent living unit and amalgamation into the family home, in an area zoned '*RE – Existing Residential*', the objective of which is '*To protect, provide and improve residential amenities of existing residential areas*', it is considered that by virtue of the design, location and context, the proposed development would not seriously injure the amenities of the area or property in the vicinity, and would not be detrimental to the quality of the public realm. The proposed development would therefore be in accordance with the policies and objectives of the Wicklow County Development Plan 2022-2028 and with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 10th of September 2025, 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 existing dwelling, extensions and proposed extension shall be jointly occupied as one single housing unit and 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 extensions and structures on the site in the interests of residential amenity.</p>
3.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
4.	<p>The site development work and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material.</p> <p>Reason: In the interests of orderly development and to ensure that the adjoining roadways are kept in a clean and safe condition.</p>
5.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the</p>

<p>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>
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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.

Elaine Sullivan

18th of February 2026.

Appendix 1

Form 1 – EIA Pre-Screening

Case Reference	ABP-317841-23		
Proposed Development	Single storey extension and amalgamation of existing buildings.		
Development Address	6 Cherry Court, Delgany, Co. Wicklow		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>		Yes	X
		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) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		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	X		No EIAR or Preliminary Examination required
Yes			Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No	X		Preliminary Examination required
Yes			Screening Determination required

Inspector: _____ Date: _____