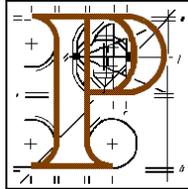


## An Bord Pleanála



## Inspector's Report

**Development:** Demolition of existing dwelling and proposed new dwelling, with garage and effluent treatment system at Milltown South, Rathnew, Co. Wicklow.

### Planning Application

Planning Authority: Wicklow County Council  
Planning Authority Reg. Ref.: 05/2830  
Applicant: Jennifer Vickers  
Type of Application: Permission  
Planning Authority Decision: Refusal

### Planning Appeal

Appellant: Jennifer Vickers  
Type of Appeal: 1<sup>st</sup> party against refusal  
Observers: None  
Date of Site Inspection: 22 February 2006

**Inspector:** Mike Thomson

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The site is located about 1.5km to the southwest of Rathnew and is reached by an unclassified road, single track in places, which runs southwards and uphill from a crossroads on the R752 Rathnew to Rathdrum Road. The northern section of this road has a group of traditional and more recent dwellings (as shown in the appellant's photographs), separated by a narrower stretch of south climbing road with undeveloped frontages towards the vicinity of the appeal site, known locally as Cuckoo Corner. Here, on flatter, higher ground, are grouped another mixture of traditional and more modern dwellings.
- 1.2 The proposed site is occupied by a derelict single storey dwelling of traditional style. To the south is a small recently built local authority cottage of traditional appearance. This is said to have been built on the plot of a semi-detached cottage which was the pair of the derelict cottage on the appeal site. The new dwelling was set further back from the road. Opposite is an originally traditional cottage which has been radically extended (not the appellant's photo C on her Map 1 which is another house in Cuckoo Corner) and nearby are various dwellings, mainly modern. The dwelling in the appellant's photograph B (Map 1) can be seen on the left of my panorama, with its extensive velux windows. There is a dwelling at the far west end of the appeal plot but open farmland to the north.

## **2.0 THE PROPOSED DEVELOPMENT**

- 2.1 The submitted amended plans show an L shaped single storey dwelling, with main elevation facing east to the road, set back over 26 metres, well behind the site of the derelict cottage which has a set back of about 5½ m from the road edge. The frontage of the proposed dwelling would be 16.12m wide, set close to the northern boundary of the site, allowing space for an access on the south to a set back pyramidal roofed double garage. The existing 'mature' boundaries to north, south and west are said to remain intact. A mechanical aeration system and percolation to EPA report submitted with the application is shown in the rear garden which slopes slightly downhill westwards. The roadside boundary is intended to be planted with beech hedging, apart from the intended entrance with its semi-circular wing walls and recessed entrance gate.
- 2.2 The finishes are intended to be of nap plaster walls, under a roof of flat concrete tiles. Wall corners are shown as quoined, materials unstated. Windows have a vertical emphasis. The garage would be in matching materials. No roof lights are indicated, except to the most westerly 'Sun Room' with its glazed double doors opening outwards. 4 bedrooms are proposed, with the dwelling having a gross floor area of 203 square metres.

### **3.0 PLANNING HISTORY**

The appellant says this was the first site to have a cottage, in the 1940s. However the O.S. 6 inch map, probably around 1914, suggests the cottages were earlier. The dwelling was lived in until the mid 1990s – a cousin was the last of the appellant’s family to live there. The appellant has acquired the site from the cousin. Her map No.3 includes all applications in the area since 1990. There is no planning history on the application site as such, and it is not clear from the appellant’s Map 3 if the applications shown were approved or not, whether they related to extensions to existing property, or to the construction of new houses.

### **4.0 THE PLANNING AUTHORITY’S REPORT AND DECISION**

- 4.1 The original report of June 2005 refers to the site as being within a “corridor” area in the Development Plan. A dormer bungalow was then proposed, set back 26m from the frontage. It was not considered a replacement dwelling as it was suburban in style and did not retain any character of the existing cottage. The building line would be broken by the 26m set-back. The local authority cottage to the south was designed to integrate with the surroundings. The proposal is not a replacement as the existing structure is derelict, so the scheme must comply in full with policy SS9 of the Development Plan, and the replacement dwelling should be located within the curtilage of the existing dwelling. (I assume this means the footprint of the derelict dwelling) The applicant has lived in Wicklow for the past 37 years and doesn’t qualify to build in this rural area under policy SS9.
- 4.2 The planning authority wrote that refusal was recommended – did the applicant wish a time extension? The answer was yes, and submissions were made regarding local connections. The applicant’s son was due to start at Rathnew National School in September 2005, her grandmother was born in Rathnew, her sister lives in Rathnew, her brother lives in Milltown South, and her husband works at Merrymeeting Rathnew. She is a married woman with two small children and is currently living with her parents in Wicklow. This situation is said not to be acceptable due to overcrowding and her parents being a retired couple.
- 4.3 Revised dwelling designs were submitted in August and September 2005, showing dormer windows replaced by velux type roof lights “in order to minimise the impact”. The application was readvertised.
- 4.4 The final planner’s report refers to the revised single storey submission at the same point as the earlier and with the same overall floorspace. This is still not a replacement dwelling as the existing unit is clearly derelict and has been abandoned – in such circumstances the applicant would have to qualify under SS9. However she is not local to the area and is not considered a permanent native resident. The scale of the dwelling would still be suburban and does not retain the character of the existing dwelling. The existing building line would also be broken by the 26m set-back. The report also refers to the

laneway being extremely narrow and the junction with the R752 being below standard.

4.5 Accordingly, by Order dated 28 October 2005, the Council decided to refuse permission for 3 reasons:

1. Corridor landscape zone where non-essential housing will be strictly controlled and restricted to cases where there is a bona-fide necessity to live in the rural area as opposed to existing settlements. The applicant doesn't come within the scope of the housing need criteria.
2. Suburban character and excessive scale, mass and bulk relative to the derelict dwelling and the dwelling to the south, which would result in visual obtrusion.
3. In conjunction with existing development and future houses for the local community the scheme would endanger public safety due to inadequate width of the laneway and its substandard junction with the R752.

## **5.0 GROUNDS OF APPEAL**

5.1 The locality is said to be an established residential area, with the appeal site having the first cottages in the 1940s. The building was lived in until the mid 1990s by the appellant's cousin. The existing building doesn't meet the Building Regulations. Wicklow Council gave itself permission (98/64) for a new dwelling to the south, set back further than the derelict cottage – references to the building line show a double standard. Previously dwellings in the area (Map No.3) were allowed without any references to the road traffic hazard.

5.2 As to visual intrusion, the plans were revised to provide a single storey dwelling – it is not a dormer dwelling as described in the refusal notice. Regarding the restrictions on rural housing, this is not a rural area – there are 17 dwellings within 300m, and the appellant is the third generation of the family in the area. Her brother lives down the road (03/8636). She will accept living there 10 years by planning agreement and is presently overcrowded. Under the Sustainable Rural Housing Guidelines, she is entitled to live here and be considered favourably. She also qualifies under SS9. Photographs are enclosed of surrounding dwellings, cross-referenced to Map 1, showing the more recent, varied types of dwellings built nearby. If no development is allowed on the site, the structure will collapse, becoming a local eyesore.

## **6.0 RESPONSE SUBMISSIONS**

None

## **7.0 THE DEVELOPMENT PLAN AND OTHER GUIDANCE**

- 7.1 The Development Plan is that for Wicklow County, 2004-2010. The site is not included within the definition of a village, large or small, and therefore falls to be considered under 4.2.4 – One-off rural housing in the countryside. The defined Large and Small villages allow for rural living in an environmentally sustainable manner. All applications for one-off housing development in rural areas will be subject to all normal planning considerations including traffic safety, sanitation, heritage, design and siting.
- 7.2 The Corridor Zone in the Plan has control criteria for residential development which include Special Case Acceptance Policy SS9, Section 47 Restrictive Occupation, compliance with “Wicklow Rural Residential Guidelines” and compliance with other normal planning criteria.
- 7.3 Policy SS9 says residential development will be considered in the countryside only when it is for the provision of a necessary dwelling in 15 circumstances. I have included a copy of the policy in the photo pocket to avoid unnecessary repetition. The key seems to be circumstance 1 which is a permanent native resident seeking to build a house for his/her own family and not as speculation. A permanent native resident shall be a person who was either born and reared in the family home in the immediate vicinity of the proposed site, or who resided in the immediate environs of the proposed site for at least 10 consecutive years prior to the application for planning permission. Circumstance 8 is renovation or conversion of existing dilapidated buildings of substance, in a scale, density and manner appropriate to the rural area and its scenic amenities. Any such developments shall be in accordance with the Wicklow Rural Residential Guidelines. The other circumstances relate to family connections, agricultural or similar occupations, return of emigrants, rural businesses and other matters which do not appear relevant to this case. The appellant does not indicate which particular circumstance she considers she complies with.
- 7.4 In the Sustainable Rural Housing Guidelines of April 2005, the site appears to fall within an Area under Strong Urban Influence, which runs down the east coast from Dundalk to the Wexford area. Appendix 3 says the key development plan objectives in such areas should be on the one hand to facilitate the housing requirements of the rural community as identified by the planning authority in the light of local conditions while on the other hand directing urban generated development to areas zoned for new housing development in cities, towns and villages in the area of the development plan.
- 7.5 In greater detail, 3.2.3 of the Guidelines says a key question for planning authorities, particularly those with extensive areas under major urban influence, is how to define rural generated housing needs. Where the planning authority area includes rural areas close to cities and towns that are under pressure for substantial urban generated development (as I take as being the case here, given the expected growth of the Wicklow-Rathnew Primary Development Centre – see Table 3.3 of the development plan), distinguishing between urban and rural housing requirements should continue.

- 7.6 The Guidelines go on to suggest that development plans should not be too prescriptive in specifying categories of rural generated housing needs, but on the other hand an overly vague approach should also be avoided. They then consider, as illustrative suggestions, two groups – persons who are an intrinsic part of the rural community, and persons working full time or part time in rural areas.
- 7.7 In the first group above, such persons will normally have spent substantial periods of their lives living in rural areas as members of the established rural community. In the second group, apart from agriculture and related rural activities, circumstances could encompass persons whose work is intrinsically linked to rural areas such as teachers in rural schools or other persons whose work predominately takes place within rural areas.
- 7.8 Having defined rural generated housing needs, the development plan should make very clear that subject to satisfying normal planning considerations relating to siting and design, the authority will look favourably upon an applicant's proposal for an individual house in a rural area where that applicant comes within the development plan definition of need.

## **8.0 ISSUES AND ASSESSMENT**

- 8.1 There seems to be one main issue in this case, which is whether or not the applicant is a 'permanent native resident' according to the Development Plan, or 'an intrinsic part of the rural community' according to the Sustainable Rural Housing Guidelines.
- 8.2 It is not clear whether the appellant's grandmother lived in the house presently derelict, but her cousin lived there. These links to the area do not seem to fall within the circumstances envisaged under policy SS9. The appellant's brother lives in the house near the railway line marked E on the submitted photographs and Map 1, but I have no information as to whether he qualified to build under some earlier version of SS9. I also have no information about the previous development plan, but as it was presumably formulated before the National Spatial Strategy of 2002, it may well have been less restrictive in its control of one-off housing in rural areas.
- 8.3 There is some form of family attachment to east-central County Wicklow but the evidence put forward by the appellant suggests it is mostly to the urban area of Rathnew itself and to Wicklow Town, which together are a Primary Development Centre in the Development Plan. The husband's place of work at Merrymeeting lies around midway between Rathnew and Wicklow Town, within the Primary Development Centre limits. I appreciate that a little community of 17 dwellings or so seems to have grown up since the 1940s or before, in the townlands of Milltown South, and nearby parts of Ballybeg and Ballymerrigan, but this to my mind is sporadic ribbon development in a largely unserved rural area. It does not even qualify for inclusion as a 'small village' in the Development Plan.

- 8.4 As to the Sustainable Rural Housing Guidelines, there is no indication that the appellant has spent substantial periods of her life living in a rural area as a member of an established rural community. It is not disputed that she has spent 37 years living in Wicklow Town. She does not have an occupation predominantly taking place in a rural area and neither does her husband. Enrolling her child in the National School at Rathnew may be an option open to any residents of the Wicklow/Rathnew built-up area. It does not in my view convey any entitlement to build a house in the surrounding rural area which may lie within any catchment area the school possesses.
- 8.5 The one other factor advanced is housing need. There may be cases, particularly in areas which are structurally weak, for permitting new houses on family owned farmland for family members who are currently living away in rented or overcrowded accommodation, and who are considered part of the established rural community. I do not consider that these factors apply in the case before me.

## **9.0 CONCLUSIONS**

- 9.1 I conclude on the main issue that under both the Development Plan and the Sustainable Rural Housing Guidelines (and I have to say that apart from the possibility of being considered over-prescriptive, the Wicklow 2004-2010 Development Plan seems to be in general accordance with the Sustainable Rural Housing Guidelines as regards Areas under Strong Urban Influence), the appellant and her family do not qualify as 'permanent native residents' under the Development Plan, nor as 'an intrinsic part of the rural community' under the Rural Housing Guidelines, and that permission should be refused on these grounds.
- 9.2 As regards the other matters advanced, the second scheme omitting the dormers is to be preferred but its scale is still excessive given the location, regardless of the brother's confection down the road. In the built environment of the two structures at the top west corner of Cuckoo Corner, I'm not particularly concerned about the building line, though for consistency, the proposed dwelling could have been sited closer to the road. As to possible traffic hazards, I am concerned about increased traffic using the single track section on the hill between Cuckoo Corner and the lower group of houses including the brother's house, but I found the junction with the R752 to give reasonable visibility in both directions. To the west, new fencing had been set back considerably behind what must have been the original south boundary of the R752, for reasons which were not apparent at the time of my visit, but seemed recent. To the east there seemed to be a 90m plus visibility splay for any emerging traffic. I'm not aware why traffic safety was not considered in previous planning applications but as with all the other matters advanced, they have insufficient weight to alter my conclusions on the main issue. I therefore recommend that permission be refused in accordance with the following reasons and considerations.

## **REASONS AND CONSIDERATIONS**

It is considered, given the policies of the Development Plan and the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 that the applicant has not demonstrated that she has a genuine need for a dwelling in this rural location. The proposed development would, therefore, be contrary to the reasonable policies of the Development Plan and to the Sustainable Rural Housing Guidelines which seek to protect rural areas under strong urban influence from housing development which is not required for permanent native residents or those who are an intrinsic part of the rural community. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Mike Thomson  
Inspector  
March 2006