



An
Bord
Pleanála

Inspector's Report ABP-305685-19

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| Development | 2 houses allowing for future attic accommodation, existing front entrance modified to incorporate new entrances and associated site works. |
| Location | Knockrath, Church Lane, Greystones. |
| Planning Authority | Wicklow County Council |
| Planning Authority Reg. Ref. | 19/437 |
| Applicant | Marguerite Fairclough |
| Type of Application | Permission |
| Planning Authority Decision | Grant with conditions. |
| Type of Appeal | Third Party |
| Appellant(s) | Avril & Andy O'Hara |
| Date of Site Inspection | 11 th December 2019 |
| Inspector | Paul O'Brien |

1.0 Site Location and Description

- 1.1. The subject site with a stated area of 0.152 hectares is located to the northern side of Church Lane to the west of central Greystones. Church Lane extends from Kindlestown Lower Road to the west and Church Road to the east and the subject site is located almost midway along the road. The lane is relatively narrow with a footpath on its length but generally only on the one side of the carriageway. In the vicinity of the subject site, the footpath is located to the southern side of the carriageway. Traffic calming in the form of ramps are provided along Church Lane and public lighting is also in place.
- 1.2. The subject site comprises an undeveloped area of land that is at a much lower level than the public road; with a drop of between 4m to 5 m within 16 m of the roadside edge. The site is overgrown and there are a number of mature trees in the within and surrounding the site. The roadside edge consists of a wall/ mounded area with a timber post and wire mesh fence. A decorative gateway and fencing provides access to an existing driveway to Knockrath, a large detached two-storey house. Access to the subject site will be through these gates and via a new access to the subject site from the western side of the existing driveway to Knockrath.
- 1.3. Church Lane consists of a mix of housing types from individual detached units on large sites to more recent large housing developments such as Oaklands to the west of the subject site and Hillside to the south. Infill development is also evident such as the sites to the west of the subject site providing for detached houses on individual lands. A footpath provided to serve these units terminates to the west of the boundary with the subject site. An access passageway is indicated on the submitted plans to be to the western/ north western side of the site. Other than a heavily overgrown gateway, this passageway was not easily visible on the day of the site visit.

2.0 Proposed Development

- 2.1. The proposed development consists of:
 - Two detached houses with provision for future attic accommodation, a dormer is proposed to serve this attic space.

- House no.1 to have a given floor area of 217 sq m and provide for three bedrooms.
- House no. 2 to have a given floor area of 178 sq m and provide for three bedrooms.
- Modification of existing driveway entrance to provide access to the proposed houses.
- Associated site works. The ground level to be filled to the 49.00 contour to provide for suitable ground level for this development.

Further information was received on 27th of August 2019, however no significant alterations to the layout were proposed. The indicative floor plan of the attic space was provided for both proposed houses and additional rooflights were proposed in the rear/ northern roof plane of each house. The attic floor plan indicates a bedroom and bathroom for both houses and additional storage for house no.1.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission following the receipt of further information, subject to conditions. The conditions are generally standard with specific conditions relating to the provision of a construction management plan and that all mature trees other than those identified for removal, be retained/ protected during the construction phase. Details of suitable protective measures are included in the condition.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Report reflects the decision to grant permission subject to conditions. Further information which included a detailed assessment of the proposed ground works, a floor plan of the attic space, tree planting compensation for loss of existing trees and measures to prevent subsidence, were sought by the Planning Authority and the applicant responded satisfactorily to this request.

3.2.2. Other Technical Reports

Senior Engineer – Roads: No observations.

Municipal District Engineer: No objection subject to the setting back of the roadside boundary and providing for a 2 m wide concrete footpath along the roadside edge.

3.2.3. Prescribed Bodies:

Irish Water: No objection subject to recommended conditions.

3.2.4. Objections/ Observations:

A letter of objection was received from Avril & Andy O'Hara, 31 Oaklands (located to the north of the site), the appellants, to the original application and on receipt of the further information response. Issues raised are similar to those in the grounds of appeal and in summary they include:

- Concern regarding the removal of trees with particular reference to an Ash tree that was not proposed for removal as per an Arborist report under P.A. Ref. 10/2161.
- Austrian Pines within the site are protected and all remaining trees on site should be protected.
- Site is liable to flood and therefore makes it a habitat for frogs, frogspawn, dragon-flies and damsel flies.
- Loss of trees/ hedgerows would impact on birds and other wildlife in the area.
- Concern about potential subsidence from this development as the site was a sandpit and is a wet habitat.
- Impact on residential amenity in terms of loss of privacy and negative visual impact.
- The proposed development would give rise to additional traffic in the area and the lane is already busy.

The following additional comments were made following the receipt of further information:

- Concern about accuracy of submitted documentation including site plan.
- Potential removal of trees/ vegetation not in the applicant's ownership.

- Wish to reiterate concern about the loss of habitats etc.

4.0 Planning History

P.A. Ref. 10/2162 refers to a May 2011 decision to grant permission for a detached bungalow over basement and ancillary site works on the western half of this site.

P.A. Ref. 19/396 refers to a September 2019 decision by Wicklow County Council to grant permission for 8 houses and associated site works to the east of the subject site and to the east/ north of Knockrath at Sillan Lodge. This decision was subsequently appealed with no decision to date.

5.0 Policy and Context

5.1. Development Plan

5.1.1. Greystones – Delgany and Kilcoole is designated a Level 3 – Large Growth Towns II within the Wicklow Development Plan Hierarchy as per the **Wicklow County Development Plan 2016 – 2022**.

5.1.2. Under the **Greystones – Delgany and Kilcoole Local Area Plan (LAP) 2013 – 2019**, the subject site is zoned RE – Existing Residential and which seeks *‘To protect, provide for and improve residential amenities of adjoining properties and areas while allowing for infill residential development that reflects the established character of the area in which it is located’*.

Church Lane is an ‘Indicative Greenway’ as per Map B – Heritage Map.

Objective T10 (also Map B – Heritage Map) refers to Protected Trees, *‘Greystones, Church Lane; mature conifers in large private gardens’*.

Also relevant is *‘HER4: To protect and retain trees which contribute to the biodiversity value and the character and amenity of the area. This objective applies to the list of trees indicated in Appendix B and Map B’*.

5.2. National Guidance

- 'Project Ireland 2040 - National Planning Framework' includes Chapter, No. 6, entitled 'People Homes and Communities' and which includes 12 objectives, the following are considered relevant to this proposed development:
 - National Policy Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.
 - National Policy Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
 - National Policy Objective 35 seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

- *Design Manual for Urban Roads and Streets (DMURS)*.

5.3. Natural Heritage Designations

None.

5.4. EIA Screening

Having regard to the nature of the proposed development comprising a residential development of 2 detached houses in an established urban area and where infrastructural services are available, 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.

6.0 The Appeal

6.1. Grounds of Appeal

The decision of the Planning Authority has been appealed by the occupants of no. 31 Oaklands, Greystones and which is located to the north/ north west of the subject site. The following issues have been raised in the appeal:

- Refer to issues raised in submissions to Wicklow County Council dated 20th May 2019 and 12th September 2019. In summary these include impact to trees/ vegetation, impact to wildlife, negative impact on residential amenity in terms of loss of privacy and visual impact, additional traffic in the area and concern about accuracy of submitted documentation.
- Specific issues raised in the appeal refer to the removal of listed trees on this site and in particular Ash Tree No. 927.
- The failure of Wicklow County Council to respond to concerns regarding impact on wildlife as protected under the Wildlife Act 1976.

The appellants requested an oral hearing and this was rejected as sufficient information was available on file to undertake a full assessment of the proposed development.

6.2. Applicant Response

The applicant through their agent Declan Collins – of DCA Architects & Project Managers, have submitted a response to the appeal and the following points are made:

- The applicant owns Knockrath and wishes to downsize to one of the proposed houses and a member of her family will live in the other house.
- A number of trees were proposed for removal under P.A. Ref. 10/2162 for a detached house and was subsequently granted permission.
- Tree No. 927 – Ash tree was included in the subject application for removal as it is of a poor quality (Category C tree) and blocks available westerly light to the

proposed two sites. It is set back from the roadway and does not have a significant impact on the overall setting.

- A Landscape Plan – A05 F.I has been submitted and a replacement Ash tree is proposed.
- It is noted that the PA Case Officer reported that ‘No evidence has been submitted to suggest that this site is a habitat for protected species’. The applicant has engaged Sean Meehan a qualified Ecologist and who has prepared an ecological & habitat survey. In conclusion this survey has found that the removal of trees/ vegetation will have a temporary, low level impact on ecology. None of the trees were identified as being of moderate/ high bat roost potential, no bird nests were found, and no mammal burrows were located on the subject site. Sufficient trees are available on the ground of Knockrath to provide for adequate habitat for wildlife. A number of mitigation measures have been suggested in the event that permission is recommended.
- General comments made refer to the site having never shown signs of flooding and even during a period of significant rainfall the site was dry. The applicant is satisfied that the submitted plans are accurate.

6.3. Planning Authority Response

- None received.

7.0 Assessment

7.1. The main issues that arise for consideration in relation to this appeal can be addressed under the following heading:

- Design and Impact on the Character of the Area
- Impact on Residential Amenity
- Traffic and Access
- Other Issues
- Appropriate Assessment Screening

7.2. Design and Impact on the Character of the Area

- 7.2.1. The proposed development will provide for two detached houses on this residentially zoned site within the urban area of Greystones. It was evident from the site visit that Church Lane has and continues to experience infill development as the detached houses on large sites allow for such development. Access in this case is from an existing driveway/ entrance that serve Knockrath, a large detached house with significant attendant grounds.
- 7.2.2. The differences in ground levels between the road and the site were noted on the day of the site visit and were commented on by the Planning Authority in their planning report. In response to a further information request, the applicant has clarified that the contour levels will be filled up to the 49.00 contour. Gabion baskets will be installed to provide for suitable earth retention on site. All necessary site/ earth works will be undertaken within the red line boundary of the site.
- 7.2.3. From the submitted plans it is evident that a number of mature trees will be removed to facilitate the development. The tree located to the western most part of the site, number 927 is noted as a particular concern to the appellants. This tree and several of the others on site are heavily covered in ivy. I note the report prepared by Sean Meehan regarding the ecology on site and the 2009 arborist report prepared by 'The Tree File – Consulting Arborists' grades tree number 927 as C2 with a detailed report raising concern about mechanical integrity, disease, damage and extensive ivy growth. Whilst the loss of trees is not desirable, this particular specimen appears to be in poor condition and its life span in the short to medium term cannot be guaranteed.
- 7.2.4. The proposed mitigation measures suggested by Mr Meehan will ensure that biodiversity/ ecology is protected, and replacement trees are proposed to be planted on site. From the submitted information and site visit, I do not consider that the subject site is significantly important in terms of ecology and biodiversity. Whilst it may be important to the appellants, it has been demonstrated by the applicant that the site does not offer any unique features in this regard.
- 7.2.5. Both houses are provided with adequate private amenity space and the general layout is acceptable with a slight projection forward from the existing building line to the west, however this is acceptable on a lane with no strongly defined building line.

7.2.6. The design of the proposed houses and external finishes are considered to be acceptable in this location. There is no single design type or finish that defines Church Lane and the proposed houses will integrate with the existing character of the area.

7.3. Impact on Residential Amenity

7.3.1. The proposed houses will provide for suitable floors areas including bedrooms, habitable rooms and storage provision. As already mentioned, both houses will be provided with suitable private amenity space.

7.3.2. Overlooking leading to a loss of privacy is not foreseen and similarly overshadowing resulting in a loss of daylight/ sunlight is not foreseen. The subject site areas are generous and suitable separation distances are provided to the western and northern boundaries. Drawing A06 provides cross sections through the site and indicates that even with the levelling of the site contours, the ground floor levels of the houses will be between 1 m and 2 m below the adjoining ground level. Overbearing does not arise.

7.4. Traffic and Access

7.4.1. The PA Case Officer reported no objection regarding the driveway to house no.2 passing the front of house no. 1. This is an unusual layout and may pose legal issues in the future regarding the need for a right of way/ ownership of land. I note the applicant's comments regarding the proposed occupation of these houses for themselves/ family use, however such a situation can change in the future. This issue can be addressed by way of condition in the event that permission is recommended. It is considered that suitable fencing/ boundary treatment may be required to delineate the private areas from the right of way.

7.4.2. I note that traffic was raised as an issue by the appellants. The existing access to Knockrath is acceptable with good sightlines along Church Lane in both directions. From the site visit it was evident that road speeds were low due to the nature of the road and the provision of traffic calming ramps. The proposed development will not generate a significant additional volume of traffic.

7.4.3. The comments of the PA Case Officer regarding the provision of a footpath along the front of the site are noted. Whilst the provision of a continuous footpath would be desirable, to do so would require the removal of the front of the site including trees

and mature vegetation and this would have a significant negative impact on the established visual character of the area. The existing footpath on the southern side of the road is of a good quality.

7.5. Other Issues

- 7.5.1. Issues regarding the accuracy of submitted documentation has been raised. The applicant in their response to the appeal considers that all submitted details are accurate and this is accepted. The access passageway on the western side of the site is indicated to be outside of the applicant ownership.
- 7.5.2. Water supply and foul drainage is available to serve this site. The provision of suitable surface water drainage can be achieved on site.

7.6. Appropriate Assessment Screening

- 7.6.1. Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on an European site.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to the following conditions and reasons.

9.0 Reasons and Considerations

- 9.1. Having regard to the nature, extent and design of the proposed development and the provisions of the Wicklow County Development Plan 2016 - 2022 and the Greystones – Delgany and Kilcoole Local Area Plan (LAP) 2013 – 2019, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

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| 1. | <p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 18th of April 2019 and as modified by further information received on the 27th of August 2019 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 site layout plan at 1:200 which clearly indicates the location and type of site boundary shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This shall clearly delineate the areas of private amenity space allocated to each house and also indicate the area of the vehicular/ pedestrian access to house no.2 passing to the front of house no. 1.</p> <p>Reason: In the interest of clarity.</p> |
| 3. | <p>The mitigation measures outlined in the Ecological Assessment report prepared by Seán Meehan dated 11th November 2019 and received by An Bord Pleanála on the 14th of November 2019 shall be carried out in full by the developer.</p> <p>Reason: In the interest of protection of ecology.</p> |
| 4. | <p>The landscaping scheme shown on drawing no. A05, as submitted to the planning authority on the 27th of August 2019 shall be carried out within the first planting season following substantial completion of external construction works.</p> |

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| | <p>In addition to the proposals in the submitted scheme, the following shall be carried out:</p> <p>a) All existing trees on site other than those identified for removal (Drawing no. A05) shall be retained and protected by means of a 1 m high fence during construction work. This fence shall be erected just outside the crown spread of the tree and maintained during the construction period. The ground level within this protected area shall not be raised or lowered.</p> <p>b) No structures, material storage or cabling shall be located within this protected area during the construction phase.</p> <p>c) All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p> |
| 5. | <p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, or dark grey in colour only.</p> <p>Reason: In the interest of visual amenity.</p> |
| 6. | <p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p> |
| 7. | <p>The applicant or developer shall enter into water and/ or wastewater connection agreement(s) with Irish Water, prior to commencement of development.</p> |

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| | Reason: In the interest of public health. |
| 8. | <p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between the hours of 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 amenities of property in the vicinity.</p> |
| 9. | <p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area.</p> |
| 10. | <p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p> |
| 11. | <p>All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.</p> <p>Reason: In the interest of orderly development and the visual amenities of the area.</p> |
| 12. | <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</p> |

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.

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.

Paul O'Brien
Planning Inspector

18th December 2019