



An
Bord
Pleanála

Inspector's Report

ABP-306148-19

Development	House, accessed from existing driveway on lands which provides access to the R117 (Enniskerry Road) and associated works.
Location	Kilcroney, Kilmacanogue, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	191034
Applicant(s)	James Ronan
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	James Ronan
Observer(s)	None
Date of Site Inspection	12 th March 2020
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The site forms part of a 24 hectare landholding in the ownership of the applicant's father. It is located approximately 1.5km to the east of Enniskerry and within a few hundred metres of the N11 (Bray South).
- 1.2. The site lies within a picturesque rural setting between Enniskerry and Bray in the Dargle Valley flanked to the south by the sugarloaf Mountain and other north-eastern peaks of the Wicklow Mountain Range. The proposed house is located c. 70m east of the Dargle River Valley pNHA. The site is located within an Area of Outstanding Natural Beauty.
- 1.3. The site itself is served by the existing route from Dargle Road. It is located within an existing paddock which is uphill from the main access road to these lands. A wood is located between the main access road and the site. A horse walker and a number of small sheds are located within the site. A sand arena and stables are located nearby.

2.0 Proposed Development

- 2.1. Permission is sought for a two storey, part three storey 5 bedroom dwelling over basement with a stated floor area of 703 square metres. The proposed development also includes the relocation of the existing horse walker on site and all site development works, a wastewater treatment system and landscaping.
- 2.2. Application accompanied by the following:
 - Screening Report for Appropriate Assessment
 - Ecological Impact Assessment
 - Legal Opinion from S.C. Eamon Galligan on Housing Need
 - Information regarding rural housing need
 - Letter of consent from applicant's father
 - Planning Report
 - Design Statement
 - Landscape and Visual Impact Report

- Tree Survey and Arboricultural Assessment Report
- Engineering Services Report and drawings
- Flood Risk Assessment

3.0 **Planning Authority Decision**

3.1. **Decision**

Permission refused for one reason only relating to rural housing policy.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- The planner notes the legal opinion and planning report and considers that no substantive additional information has been submitted which addresses the previous refusal reasons.
- It notes that there are existing properties at the family holding and the applicant has not justified or demonstrated the need to live in this rural area.
- The planner considered that the dwelling proposed is excessively large and that it does not appear as a typical domestic dwelling.
- It was considered that the proposed development would not have an impact on either the landscape or the visual amenities of the area.

3.2.2. Other Technical Reports

Environmental Health Officer: No objection subject to conditions.

Area Engineer: No objection from a roads perspective using existing access.

3.3. **Prescribed Bodies**

National Roads Office: The proposed development is located within the constraints study area for the N11/ M11 Junction 4 to Junction 14 Improvement Scheme. The

site is located off the R117 Enniskerry Road to the northwest of Junction 7 (Bray South). As these options are still under development at this time and given the developments proximity to the existing N11, any proposed development in this area is deemed premature.

Irish Water: No objection subject to conditions.

3.4. **Third Party Observations**

One third party observation was submitted which raised concerns in relation to the applicants plans to relocate his office to this location and visual impact of the proposed development.

4.0 **Planning History**

PA 92/8076

Planning permission granted by PA for demolition of Dargle Cottage and construction of a new dwelling.

PA 92/8713

Planning permission granted for 'Casino House' on grounds to south of Summer House subject to a condition requiring the permission granted for the redevelopment of Dargle Cottage (92/8076) not be implemented.

PA 93/620

Planning permission granted for conversion and alterations of Dargle Cottage to a guesthouse.

PA 96/4119

Planning permission for alterations to the design of the permitted alterations to Dargle Cottage (as permitted under 93/620).

4.5 **PA 03/8257/ ABP PL27.204514**

Permission was refused by the Board in 2004 following first party appeal against refusal for a 3-storey dwelling (673m²) located to west of 'Summer House', overlooking the river. The reasons for refusal were based, firstly, on the impact on

the character and setting of the PS The Summer House (due to proximity, height and mass), and secondly, rural housing policy and location of site in a designated AONB, where the policy is to restrict such development. The Board noted the prior existence of Dargle Cottage, which was separated from the proposed house by a river and to which there is a separate vehicular access, and was not satisfied that the proposal would represent a “replacement dwelling”. As such it was considered that the proposed development would materially contravene the settlement policy of the Development Plan.

PA 09/1007/ ABP PL27.236202

Planning permission refused by the Board in 2009 following a first party appeal against refusal for a four storey dwelling (808m²) located to south of ‘The Summer House’, (same location as 92/8713). The first reason for refusal was similar to that used in 204514, (impact on Summer House). The second reason was also similar to the settlement policy/AONB designation reason (204514), but also made reference to the Sustainable Rural Housing Guidelines and to the more recent CDP (2004), both of which had been adopted in the interim. The Board considered that the applicant had not demonstrated that he came within the scope of the rural generated housing need criteria for an additional dwelling within the landholding, and as such would contravene the rural housing policies for the area.

PA 16/1013/ ABP PL27.247666

Permission refused by the PA and by the Board on appeal for three reasons relating to rural housing policy, visual impact, and impact on a proposed Natural Heritage Area.

5.0 Policy Context

5.1. Development Plan

Wicklow County Development Plan 2016 - 2022

Chapter 3 sets out the Settlement Strategy for the county. There are 10 levels of settlement ranging from a single ‘Metropolitan Consolidation Town’ (Level 1 – Bray) through various levels of growth towns and smaller towns/villages to the rural area outside of designated settlements, ‘The Open Countryside’ (Level 10). The site is

located in Level 10 and is adjacent to the southern suburbs of Bray to the east and to the Level 5 Growth town of Enniskerry to the west. Rural Housing Occupancy Controls apply in Level 10 as set out in Chapter 4 of the Plan (Objective HD23). It is stated in respect of Level 10 that

Development within the rural area should be strictly limited to proposals where it is proven that there is a social or economic need to locate in the area. Protection of the environmental and ecological quality of the rural area is of paramount important and as such particular attention should be focused on ensuring that the scenic value, heritage value and/or environmental / ecological / conservation quality of the area is protected.

The Settlement Strategy Objectives include the following:-

SS4 – new housing development will be required to locate on designated housing land within the boundaries of settlements.

SS7 – seeks to strengthen the established structure of villages and smaller settlements to support local economics and to accommodate additional population in a sustainable manner.

Chapter 4 sets out the housing strategy and policies relating to residential development for the county, including the rural housing policy objectives.

HD23 – Residential development will be considered in the open countryside only when it is for those with a definable social or economic need to live in the open countryside.

16 no. criteria are set out which relate to the circumstances that will be considered.

The most relevant are considered to be Criteria 1, 2 and 3 the essence of which is:-

1. A permanent native resident seeking to build a house for his / her own family and not as speculation. A permanent native resident is defined as a person who has resided in a rural area in County Wicklow for at least 10 years

2. A son or daughter of a permanent native resident of a rural area, who can demonstrate a definable social or economic need to live in the area in which the proposal relates and not as speculation.

3. A son or daughter of a permanent native resident of a rural area, whose place of employment is outside of the immediate environs of the local rural area to which the

application relates and who can demonstrate a definable social or economic need to live in the area to which the proposal relates and not as speculation.

Chapter 7 sets out the Tourism and Recreation policies and Chapter 10 contains the Heritage policies including the Built Heritage and Natural Heritage/Landscape policies. The Goulding Pavilion within the site (the Summer House) is listed as a Protected Structure. The site is located within a designated Area of Outstanding Natural Beauty. A detailed description of the AONB is provided in Appendix 5 of the CDP. The Dargle River Valley which runs through the landholding is designated as a pNHA.

5.2. National Planning Framework – Project Ireland 2040, Department of Housing, Planning and Local Government (2018)

National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence i.e. commute catchment of cities and large towns and centres of employment.

5.3. Sustainable Rural Housing Development Guidelines (DoECLG 2005)

The site of the proposed development is located within an ‘Area Under Strong Urban Influence’. The guidelines require a distinction to be made between ‘Urban Generated’ and ‘Rural Generated’ housing need. Although not specifically defined, examples are given of the types of circumstances for which ‘Rural Generated Housing Need’ might apply. These include ‘persons who are an intrinsic part of the rural community’ and ‘persons working full time or part time in rural areas’.

The guidelines state, in respect of rural areas under Strong Urban Influence, that “the housing requirements of the rural community should be facilitated on the one hand, while on the other hand, directing urban generated housing development to areas zoned for new housing in cities, towns and villages”. It is further stated that “development driven by cities and larger towns should generally take place within their built up areas or in areas identified for new development through the planning process.”

5.4. **Natural Heritage Designations**

5.4.1. There are 14 no. European sites within 15km of the site.

- Dargle Valley pNHA
- Ballyman Glen cSAC
- Knocksink Wood cSAC

- Bray Head cSAC
- Glen of the Downs cSAC
- Wicklow Mountains cSAC
- Wicklow Mountains SPA
- Rockabill to Dalkey Islands cSAC
- The Murrough Wetlands cSAC
- Dalkey Islands SPA
- The Murrough SPA
- South Dublin Bay and River Tolka Estuary SPA
- South Dublin Bay cSAC
- Glenasmole Valley cSAC

5.5. **EIA Screening**

5.5.1. Having regard to the nature and scale of the development and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the existing/proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination stage, and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal can be summarised as follows:

- The applicant fully complies with Category 1 of Objective HD23 of the Development Plan.
- As set out within the Landscape and Visual Impact Assessment, the proposed development can be accommodated in the existing landscape.
- Opinion from Eamon Galligan attached to appeal which considers that Objective 19 of the NPF does not require the applicant to have both a social need and an economic need. The applicant has a need for a family home at this location. There are no other suitable properties on the landholding. ABP is not bound by its previous decisions. The applicant complies with both HD23 and NPF objective 19.
- Revised drawings have been submitted with the appeal which indicate the proposed location of the horse walker and indicate revised functions of rooms within the ground and first floor.
- Details submitted in relation to access road construction.

6.2. Planning Authority Response

- None.

6.3. Observations

- None.

7.0 Assessment

7.1. It is considered that the main issues arising from the appeal are as follows:

- Compliance with Rural Housing Policy
- Visual Impact
- Other Matters
- Appropriate Assessment

7.2. Compliance with Rural Housing Policy

7.2.1. The site is located in an 'Area under Strong Urban Influence' as identified by the 'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005. The National Planning Framework (Project Ireland 2040: Building Ireland's Future) states that it will be necessary for applicants to demonstrate 'a functional economic or social requirement for housing need' with National Policy Objective No. 19 stating that the provision of single housing in rural areas under urban influence is to be based on the core consideration of a demonstratable economic or social need to live in a rural area and the siting and design criteria for rural housing contained in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements whilst the Guidelines further state that the housing requirements of persons with roots or links in rural areas are to be facilitated and that planning policies should be tailored to local circumstances.

7.2.2. The current County Development Plan sets out criteria regarding housing in the Rural Area and notes that this will be strictly limited to proposals where it is proven that there is an economic or social need to locate in the area. Policy HD23 further notes that a permanent native resident shall be a person who has resided in a rural area in County Wicklow for at least 10 years.

7.2.3. I refer the Board to the numerous documents on file including letters from a local doctor, workers on the estate, priest, p21, drivers licence etc. On the basis of the information provided, I am generally satisfied that the applicant has resided at this location for the past 10 years.

- 7.2.4. I note from information on the file that the applicant currently works in Dublin but hopes to relocate his company to the area.
- 7.2.5. I note that Wicklow County Council has raised concerns that there may be other properties within the landholding available to the applicant. I noted on the site inspection that there were a number of other properties within the landholding - for example two apartments above the stable building, a two storey log cabin with electricity adjacent to the Dargle River, a lodge at the entrance, Goulding Pavilion and the family home - Dargle Cottage.
- 7.2.6. I note that the appeal response refers only to Goulding Summer House, Dargle Cottage (family home) and the lodge at the entrance. It is stated that the lodge at the entrance has been occupied by the horticulturist for the past 13 years and that Goulding Summer House is a protected structure which was not built for residential purposes. It is stated that the lodge is less than 90 square metres and is not available to the applicant.
- 7.2.7. From the information submitted on file together with the planning history, site inspection and appeal response, I am not satisfied that the applicant has demonstrated an economic or social need to live at this specific site in this rural area and that his housing needs could not be satisfactorily met in an established smaller town or other settlement proximate to the site.

7.3. **Visual Impact**

- 7.3.1. I note that the site is located within the Glencree/ Glencullen Area of Outstanding Natural Beauty as detailed in Figure 4.11. As part of the application, a Landscape and Visual Impact Assessment was submitted. The site location is removed from Goulding Summer House (protected structure) by c. 250m and from the Dargle River and there is a steep hill, access road and woodland separating Goulding Summer House from the site. As such, I do not consider that the proposed development would detract from the protected structure.
- 7.3.2. The proposed dwelling is located south of the Dargle River and has good screening by mature trees. I consider that the visual impact of the proposed development will be somewhat limited in a local context having regard to the choice of site and the

availability of natural screening, however the lands are somewhat elevated above both the access road and the 'Cookstown Cottages local road'. I refer the Board to the photomontages for both existing and proposed views from this location. I have concerns regarding the size, height, scale, bulk and mass of the proposed dwelling and the impact of same in an Area of Outstanding Natural Beauty and the precedent this would have for similar designs in the most sensitive and visually vulnerable areas of the County.

- 7.3.3. The Planning Authority considered that the design was excessively large (703 square metres) and that the design, scale, size, and layout proposed does not appear as a typical domestic dwelling.
- 7.3.4. The appeal response provides for 'corrected floor plans' for the Boards consideration and requests the Board to attach a condition to any grant of permission in accordance with the revised plans.
- 7.3.5. I am of the view that the revised plans provide for very minor changes only mainly in relation to the function/ name of rooms and do not address any concerns in relation to visual impact of a house of this scale and size in a sensitive vulnerable area.
- 7.3.6. Accordingly, whilst the visual impact of the proposed development could be held to be somewhat limited, I consider that the proposed dwelling by reason of its scale, height, bulk and mass would be detrimental to the visual amenity and rural character of the surrounding scenic landscape.

7.4. Traffic Safety

- 7.4.1. It is an objective of the Wicklow County Council Development Plan to upgrade the N11/M11 between the County boundary and Ashford including road capacity and safety improvements to the main carriageway and all necessary improvements to associated junctions.
- 7.4.2. A report from the NRO advises that the 'site is located within the constraints study area for the N11/ M11 Junction 4 to Junction 14 Improvement Scheme. The site is located off the R117 Enniskerry Road to the northwest of Junction 7 (Bray South) and within the bounds of two developing route options (Blue and Yellow options). As

these options are still under development at this time and given the developments proximity to the existing N11, any proposed development is deemed premature.’

- 7.4.3. As such, it is considered that the proposed development would be premature pending the determination of the road layout for the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

7.5. Other Matters

- 7.5.1. I note that the Planning Authority report considered that the relocation of the horse walker and the access road had not been fully addressed.
- 7.5.2. The appeal response provides details in relation to the relocation of the horse walker and construction details in relation to the access road.
- 7.5.3. I consider that these matters can be satisfactorily addressed by condition should the Board be minded to grant permission for the proposed development.

7.6. Appropriate Assessment

- 7.6.1. Having regard to the nature and scale of the proposed development and the absence of any hydrological links between the site and any Natura 2000 sites, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with any plans or projects on a European site.

8.0 Recommendation

- 8.1. It is recommended that permission be refused for the reasons set out below:

9.0 Reasons and Considerations

1. The site of the proposed development is located within ‘Areas Under Strong Urban Influence’ as set out in the ‘Sustainable Rural Housing Guidelines for Planning Authorities’ issued by the Department of the Environment, Heritage and Local

Government in April, 2005 and in an area where housing is restricted to persons demonstrating social and economic local need in accordance with the Wicklow County Development Plan 2016-2022. Furthermore, the subject site is located in a rural area that is under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to facilitate the provision of single housing in the countryside based on the core consideration of demonstratable economic or social need to live in a rural area. Having regard to the proximity of existing settlements to the subject site and having regard to the documentation submitted with the planning application and appeal, the Board is not satisfied that the applicant has a demonstratable economic or social need to live in this rural area. It is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location. The proposed development would be contrary to Ministerial Guidelines and to the over-arching national policy, notwithstanding the provisions of the current Wicklow County development plan, and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The site is located within an Area of Outstanding Natural Beauty, a landscape classification that is designated as having a very high vulnerability in the Wicklow County Development Plan 2016-2022. The Board considered that the proposed development would appear visually dominant by reason of its scale, height, bulk, mass and overall size. Furthermore, it was considered that the proposed development would further diminish the rural character and scenic quality of the area and would seriously injure the visual amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. Having regard to the Wicklow County Council Development Plan, 2016-2022 and to the objective to upgrade the N11/M11 between the County boundary and Ashford including road capacity and safety improvements to the main carriageway and all necessary improvements to associated junctions and the location of the site within the constraints study area for the N11/M11 Junction 4 to Junction 14 Improvement Scheme, it is considered that the proposed development would be premature pending the

determination of the road layout for the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Emer Doyle
Planning Inspector

16th March 2020