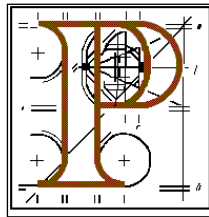


An Bord Pleanála



Inspector's Report

Development: Construction of 30 No. dwellings along with all associated site development works and drainage works, the installation of an underground stormwater attenuation tank, new vehicular entrance off Ballyguile Road providing for sufficient traffic sight lines and the erection of 1 No. site development works/ health and safety sign (2.4M x 3M) at Ballyguile Road, Ballynerrin Upper, Wicklow.

Planning Application

Planning Authority: Wicklow County Council

Planning Authority Reg. Ref.: 14/1451

Applicant: Bristlewood Properties Ltd.

Type of Application: Permission

Planning Authority Decision: Grant Permission

Planning Appeal

Appellant(s):
1. Denis and Maureen Doyle
2. Frances and Con Hogan

Type of Appeal: 3rd Party

Observers: None

Date of Site Inspection: 10th December 2015

Inspector:

Emer Doyle

1.0 SITE DESCRIPTION (see photographs and location map)

The subject site (with a stated area of 2.8745 ha) is located 2km south of Wicklow town. The appeal site is irregular in shape and is bounded by Ballyguile Road to the east and Marlton Road to the west. The northwestern corner of the site is located adjacent to the junction of the Marlton Road/Ballynerrin Road. A section of land 'to be transferred to Wicklow County Council is located to the north of the proposed access from Ballyguile Road.

The site is characterised by a steeply sloping nature with lands falling from a level of c.100.00 on Ballyguile Road to c. 76.00 on the Marlton Road.

There are low density detached dwellings, which are mainly very modest in terms of height and scale abutting the site to the north, south and east. Existing boundaries between the application site and these properties consist mainly of mature trees and hedgerow. The foundations of an old agricultural building are located to the east of the site.

A number of photographs of the site and its environs taken during the course of the site inspection are attached.

2.0 PROPOSAL:

Permission is sought for:

- The construction of 30 No. dwellings, comprised of the following:
- 8 No. House Type A, 4 bed semi-detached c. 174m²
- 8 No. House Type B, 4 bed semi-detached c. 174m²
- 6 No. House Type C, 4 bed semi-detached c. 174m²
- 2 No. House Type D, 4 bed detached c. 256m²
- 4 No. House Type E, 6 bed detached c. 376m²
- 2 No. House Type F, 6 bed detached c. 314m²

Application accompanied with:

- Energy Specification Report
- Preliminary Health and Safety Plan
- Drainage Report
- Transport Assessment Report
- Details of pre-planning discussions
- Letter referring to discussions with Council regarding transfer of land to comply with Part V.

Unsolicited Additional Information submitted dated the **17th day of July 2014** which included the following:

- Letter outlining access difficulties and statement that applicant was willing to restrict access during the construction phase to the Marlton Road should permission be received from the Council.
- Landscape Drawing No. 03 showing two possible access points to backlands in the open space or alternatively the driveway access to house No. 30.
- Letter states that foul sewer design can be amended to make provision for the residents to connect to the previously decommissioned sewer.
- Amendment of House No. 5 Type F showing a relocation of the roof windows to address the concerns raised by neighbouring dwellings.

Further Information Response dated the 23rd day of January 2015 included the following:

- Planning Report including design statement and assessment of proposal against Urban Design Criteria.
- Details of land swap with Wicklow County Council.
- Landscaping plan.
- Footpath and Drainage Construction Details.
- Site Sections.
- Garages to houses 1-5.

- Complete change of site layout plan including revisions to public open space and introduction of two new clusters (Roads 3 and 4).
- Replacement of 2 No. F units and 2 No. D units with 4 No. semi-detached A and B units.
- New access from Ballynerrin Road. Drawings 85 and 90 show all road markings and footpath layouts.
- Proposals for the open embankment adjacent to the Marlton Road.
- Details of Finished Floor Levels of Existing Houses.
- Range of visualisation material of the proposed development.
- Proposals to provide a connection to the proposed foul sewer from adjoining lands.
- Details of boundary treatment and retaining walls.
- Statement that Applicant is happy to enter into an agreement with the local authority in relation to Part V.
- Drawing showing septic tanks and percolation areas in the vicinity of the site.

The Clarification of Further Information Response dated the 12th day of June 2015 included the following:

- Letter of consent from Wicklow County Council regarding the inclusion of the Council's lands in application.
- Omission of gabion walls and reduction in height of raised embankment.
- Alterations to House Designs
- Reduction in Finished Floor Levels.
- Additional details of boundary treatments.
- Removal of pedestrian gate from the existing properties on the Ballyguile Road to the east of units 13, 19, and 25.
- Provision of details including levels of pedestrian access to Marlton Road.

The Clarification of Further Information Response dated the 29th day of July 2015 provide for the following:

- Revisions to house designs including reductions to height of houses.
- Removal of crib wall from the eastern boundary of the site and amendment of drainage layout in this location.

3.0 PLANNING HISTORY

12/6575

Extension of appropriate period of 06/5648 - expires on the 23rd of January 2017.

10/2503

Permission for extension to boundaries of 09/88, to include the installation of a water reservoir, revisions to site layout of sites 4 -13 inclusive, erection of 2 No. site development health and safety signs, the amendment of the wording of condition No. 8 09/88 to reflect that of ABP permission Condition No. 4 PL27.221314. Split decision - permission granted for revisions to layout and erection of site development/ health and safety signs. Permission refused for installation of water reservoir and amendment of wording of condition No. 8.

09/1186

Permission granted for revisions to housing development as granted under 06/5648 and ABP Ref. No. 27.221314 incorporating revisions to sites No. 3 to 7 inclusive (5 No. 5 bed units) and sites No. 8 – 22 inclusive as granted to incorporate 32 No. dwellings (25 No. 3 bed units and 7 No. 2 bed units) in lieu of the houses granted under 06/5648 and ABP Ref. No. 27.221314 together

with the removal of houses as granted on sites No. 23 and 24 all together with associated site works.

09/88

Permission granted for 35 No. dwellings together with associated site works including a road linking Marlton Road with Ballyguile Road.

06/5648/ ABP Ref. No. 27.221314

Permission granted by Planning Authority for 40 No. dwellings. On appeal to the Board, permission was granted for 23 No. dwellings.

4.0 PLANNING AUTHORITY'S DECISION

4.1 Technical Reports

Planners' Report

The planners' report noted that 8 No. submissions were received. It considered that the principle of development was acceptable but expressed concern through a number of reports regarding the visual impact of the proposed development from the Marlton Road due to the combination of the height of the dwellings and the difference in levels between the application site and the Marlton Road. A report from the Planner dated July 2015 notes that the report from Irish Water regarding a sewer running through the rear gardens of 2-5 and states that 'following discussion with a Senior Engineer in Planning, it was considered that taking account of the fact that it only serves a small number of units and there would be a public access to this sewer in the north western corner of the site, the location of this sewer is considered acceptable.' This report also notes that Roads Design indicated the design of the access ramp is acceptable notwithstanding the concerns of the Area Engineer. A report dated August 2015 states that the planner discussed the

submission with the Engineer in Irish Water. 'He indicated no objections to the development subject to the foul sewer in the south western corner of the site being retained from EXF23 (which is an area of public open space) and connecting to manhole EXF21 in order to allow adjacent properties to connect to same at a future date. This could be dealt with by condition.'

Roads Section

The first report requested Further Information in relation to footpath and drainage. The second report requested further information in relation to footpath and drainage required to complete footpaths. The third report had a number of specific design comments.

Fire Officer

No objection subject to conditions.

Environmental Health Officer

This report requested Further Information regarding existing effluent treatment systems on adjoining sites. A second report had no objection to the proposal.

Housing Section

This report required Further Information.

Irish Water

The first report required Further Information. A second report considered that (1) the sewer gradients were too steep, (2) no details on house connections and (3) existing storm and foul sewers to be segregated to public space, cannot traverse lands that will become private and recommended refusal.

Sanitary Services

The first report recommended further information in relation to the redesign of the foul sewer to provide for future connections. The second report considered that the layout was unacceptable as it will place sewers within the curtilage of private houses. A third report recommended refusal.

Area Engineer

The first report stated that sightlines as required were achievable as shown and required that the Traffic Assessment Report was referred to the Roads Section.

A second report noted the details submitted to the Further Information Request. A third report from the Area Engineer dated the 17th of June 2015 considered that the footpath to Marlton Road would not allow use by child buggies or cyclists.

4.2 Planning Authority Decision

Permission was granted by Wicklow County subject to 33 No. conditions.

Condition 8: The ridge height of units 13 to 30 shall be increased from 8 metres to 8.5 metres. Prior to commencement of development the developer shall submit, for the written agreement of the Planning Authority revised plans indicating the ridge height of units 13 to 30 increased to 8.5 metres.

Condition 9: The roof on units 5 to 12 shall be a gabled roof. Prior to commencement of development the developer shall submit, for the written agreement of the Planning Authority, replacing the hipped/half-hipped roofs serving these properties with a gabled roof.

Condition 10: All first and second floor landing windows in the development shall be in obscure glazing.

Condition 23: The temporary access for construction as detailed on the site layout plan (drawing No. 03D) received on 29th of July 2015 shall be omitted.

Condition 28: The existing foul sewer in the south western corner of the site at point EXF23, which is an area of public open space, shall be kept live and connected to EXF21 as detailed on drawing No. 0200 received on 29th July 2015. Prior to commencement of development, details of same shall be submitted for the written agreement of the Planning Authority, unless otherwise agreed as part of a written agreement with Irish Water.

All other conditions are of a standard nature.

5.0 APPEAL GROUNDS

5.1 A third party appeal has been lodged on behalf of Denis and Maureen Doyle. The grounds of appeal are summarised as follows:

- The proposed 9 metre high houses will be visually intrusive when viewed from their garden.
- Proposed House No. 5 will undermine their privacy.
- The proposed pedestrian access and footpath will impact on their residential amenity.
- Possible reduction in property values.
- It appears that the applicant has included a portion of their property including half their hedgerow without their consent.
- A proposed footpath is located on the appellants property and they have no knowledge and have not given consent for same.
- It is considered that the proposed development does not respond to its surroundings in a satisfactory manner and is not satisfactorily connected as required by the Urban Design Manual.

- If the Board is minded to grant permission, a condition should be included to reduce houses Nos. 4, 5, and 6 to standard two storey houses with no accommodation in the roof/third floor area.

5.2 A third party appeal has been lodged by Frances and Con Hogan. The grounds of appeal can be summarised as follows:

- Concern regarding traffic safety.

6.0 RESPONSES

6.1 A response to the third party appeals has been received on behalf of Bristlewood Properties Ltd. which can be summarised as follows:

- Access is from the Ballyguile Road and is at the safest point possible.
- The proposed footpaths are considered to be a 'planning gain' for the community.
- The layout of dwellings, internal roads, turning areas, entrances to dwellings and car parking within the scheme have all been designed to comply with local authority requirements and government requirements.
- It is considered that the proposed development will have no adverse impact on the existing road network given the small nature of the proposal.
- The design and layout had full regard to the residential amenities of adjoining houses.
- There are no overlooking or overshadowing issues and the development will have no adverse impact on the scale and character of adjoining dwellings.
- The density is lower than previously approved developments on the site.

6.2 Observations

None.

7.0 NATIONAL & REGIONAL PLANNING POLICY

- Sustainable Residential Development in Urban Areas.
- Urban Design Manual - A Best Practice Guide.

8.0 LOCAL PLANNING POLICY

The current statutory Development Plan for the area is the Wicklow Town-Rathnew Development Plan 2013 – 2019.

- There are two land use zonings on the site as follows: R4- New Residential: 'To provide for new residential development at densities up to 10 units per hectare' and RE – Existing Residential – 'To protect and preserve existing residential uses and provide for infill residential development.'
- Section 2.2 deals with Core Strategy.
- Chapter 3 deals with Residential Development.
- H4 The development of zoned lands shall be phased to ensure lands closest to the centre (or to existing transport and/or community infrastructure) is developed prior to more outlying lands, unless exceptional circumstances apply.

9.0 ASSESSMENT

I have read through the file documentation, the relevant provisions of the Development Plan and have carried out a site inspection. In my judgement the principle factors for consideration in this appeal relate to:

- Principle of the Proposed Development
- Design and Layout
- Impact on Residential Amenity
- Traffic Safety
- Other Matters

Principle of the Proposed Development

The current statutory Development Plan for the area is the Wicklow Town-Rathnew Development Plan 2013 – 2019.

There are two land use zonings on the site as follows: R4- New Residential: 'To provide for new residential development at densities up to 10 units per hectare' and RE – Existing Residential – 'To protect and preserve existing residential uses and provide for infill residential development.'

The proposed development would provide 30 No. dwellings on a site of 2.8 hectares and as such the density proposed is acceptable at this location.

I note that the application site has not been included in the lands identified for significant development in Phases 1 and 2 in accordance with the Core Strategy Map 2.1 of the Development Plan. The planner's report states the following:

'Whilst it is acknowledged that the site is located on the edge of the settlement and there are other lands available for development closer to the town centre, consideration must be given to the fact that there are existing permissions for a residential development on these lands, one of which does not expire until January 2017. In theory these permissions could commence at any point up until their expiration even if the application currently being assessed was refused. Taking this into account the principle of development on these lands is considered acceptable in terms of the phasing arrangements for the build out of the settlement.'

I note that there is presently only one existing permission on the site 12/6575 which is an extension of the appropriate period 06/5648 and expires in January 2017. At the time of the planner's report there was also a second permission for 35 No. dwellings which expired in August 2015 (10/2503). Having regard to the planning history of the site, I consider that there is some merit in the planner's approach. However, this decision was based on the Wicklow County Development Plan 2004 - 2010 and the Wicklow Environs Local Area Plan 2001. This site is located close to the edge of the plan boundary and is removed from the lands designated for significant development in Phases 1 and 2.

On balance, having regard to the existing permission on the site and the residential zoning of the site, I am satisfied that the principle of residential development is acceptable at this location.

Design and Layout

This site presents significant challenges having regard to its location at the edge of the town in close proximity to a rural area and the steeply sloping nature of the site. The site falls from a level of c. 100.00 on the Ballyguile Road to c. 76.00 on the Marlton Road.

During the course of the application, there were a number of substantial changes to the design and layout of the scheme including the rearrangement of the layout to provide for clusters of houses in different areas, changes to the open space and orientation of houses, reduction in the heights and finished floor levels, changes to the design and types of houses to reduce the overall scale and mass, redesign of the embankment and removal of the embankment wall along the Marlton Road together with the submission of detailed landscaping proposals.

Notwithstanding these changes, I consider that the proposed layout is substandard and is not in accordance with the design and layout guidelines set out in the Sustainable Residential Development in Urban Areas or the

Urban Design Manual. Whilst I acknowledge that the revisions to the scheme have certainly improved from that originally proposed, I consider that the proposal fails to provide for an adequate urban design approach to the Marlton Road frontage and would have an adverse visual impact at this location by virtue of the height, scale, bulk and visual dominance of the development when viewed from the surrounding area. I consider that the house types proposed are entirely incompatible with the semi-rural area and the proposed development would fail to contribute positively to the character and setting of the subject site. I consider that the public open space is of poor quality having regard to the level changes which will make it difficult to use and that only 10 of the 30 houses overlook this space. I note that conditions Nos. 8 and 9 attempt to improve the visual impact of the proposed dwellings, however I consider that these conditions will do very little in terms of overall improvement of the scheme. I note that a pedestrian footpath to Marlton Road is proposed and levels of same are indicated in Drawing 103 submitted to the Planning Authority dated the 12th of June 2015. The report from the Area Engineer dated the 17th of June 2015 states that the proposed footpath to the Marlton Road will not allow use by child buggies or cyclists. I share the concerns raised in this regard and question how connectivity to the town of Wicklow from the site can be achieved for all elements of the future occupiers of the scheme. The Urban Design Manual- a Best Practice Guide, sets as a key design criterion that development should evolve naturally in response to its surroundings. In my view, the developer appears to rely excessively on the existing permission and use the design approach previously granted on the site without taking the unique site context and the topography into account and create a development that responds to the surrounding neighbourhood and the topography of the site. As such, I consider that the proposed development has been subjected to an inadequate site analysis which has resulted in a poor design concept that is unimaginative in its form, scale and layout and fails to respect the form and character of the surrounding area.

Impact on Residential Amenity

The grounds of appeal submitted on behalf of Denis and Maureen Doyle express concern that proposed house Nos. 4, 5, and 6 are excessive in height and will be visually intrusive when viewed from their home. It is stated that any measure of relief in terms of visual intrusion, afforded by the proposed hipped gabled roof is negated by Condition 9 of the Planning Authority. It is considered that house No. 5 will overlook their home and undermine their sense of privacy and the amenity value of their private open space. It is also considered that the pedestrian access point in the north western corner of the site will exacerbate the impact of the proposed development on their residential amenity in terms of general activity, noise and disturbance, car doors banging etc. Overall it is considered that there will be a reduction in the value of their home.

House Types A and A2 on plots 5 and 6 are c. 9.6m in height whilst House Type D on plot 4 is c. 9.9m in height. I consider that the concerns raised are valid and that the proposed house types are excessively dominant and do not take into account the context of the site which is located in a semi-rural area and where a large number of the surrounding houses are either single storey or dormer in design. Condition 9 of the Planning Authority decision required that the roofs on units 5 to 12 have a gabled roof. In the Response to Further Clarification dated the 29th of July 2015, the applicant had designed a dutch hip end roof for dwellings 5-12. Should the Board be minded to grant permission, I consider that a gabled roof would be a more appropriate form for the area in accordance with condition 9.

With regard to the issue of overlooking, I am satisfied that the proposed development will not give rise to levels of overlooking which would materially impact on their amenity having regard to the separation distance between the properties and the design and layout of House Type A2 on plot 5.

I consider that the development of a pedestrian linkage in the north western corner of the site would be beneficial to future occupiers of the proposed scheme and provide connectivity to the town of Wicklow although I do have concerns about the usability of this linkage. I do not consider that the

provision of this linkage at this location would unduly impact upon the residential amenity of the Doyle family.

Traffic Safety

Serious concern has been expressed in the appeal by Con and Frances Hogan that the road network in the area is deficient in terms of carriage width and junction capacity.

The first party states that all roads in the scheme have been designed to comply with the local authority requirements and government guidance and that the proposal including road layout does not inhibit the future development of the adjoining residentially zoned lands.

A Traffic Assessment submitted with the application indicates that the maximum number of trips generated by the proposed development will occur in the AM peak hour and the maximum number of units anticipated to use the proposed site access junction is 14. PICADY analysis was carried out for both the opening year and future design year 'with' and 'without' development traffic with a maximum RFC value of 0.253 reported from traffic exiting the proposed development turning right which is well below the RFC capacity level of 0.85.

Drawing No. 90 submitted with to the Planning Authority dated the 23rd of January 2015, indicates additional footpaths and road widening to be provided as part of the planning application. These proposals provide for a 5 metre wide road together with a 1.5 metre wide footpath on the western side of the Ballyguile Road and a 1.5 metre wide footpath on the western side of the Ballynerrin Road connecting into the existing footpath on the Marlton Road. These proposals will significantly improve safety for road users on the Ballyguile and Ballynerrin Roads in my view.

Having regard to the Traffic Assessment submitted with the application, the scale of the proposed development, and the road and footpath improvements proposed, I am satisfied that the vehicular movements generated by the proposed development would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic movements in the area. Accordingly, I am satisfied that the proposed development would not result in the creation of a traffic hazard.

Other Issues

Validity of application

An extract from the proposed site plan (03D) dated the 5th of June 2014 is attached to the appeal submitted on behalf of the Doyle family, showing what appears to be encroachment of the site outline onto the property of the Doyle family and the location of the proposed footpath onto their property within the site boundary outlined in red.

Given the information submitted it is my opinion, that the applicant has sufficient interest in the appeal site / lands in order to make the planning application, regard is had to Section 34(13) of the Planning and Development Act 2000, as amended. I highlight that it is not the role of An Bord Pleanála to adjudicate on civil property matters and a person is not entitled solely by reason of a permission to carry out any development.

Appropriate Assessment

Having regard to the nature and scale of the development and proximity to the nearest Natura 2000 site, I am satisfied that the proposed development either individually or in combination with other plans and projects would not be likely

to have a significant effect on any designated Natura 2000 site and should not be subject to appropriate assessment.

10. RECOMMENDATION

I have read the submissions on file, visited the site, considered the provisions of the Development Plan and taken into account all other relevant matters. I recommend that planning permission be Refused based on the following reason:

1. The 'Urban Design Manual - a Best Practice Guide' issued by the Department of the Environment, Heritage and Local Government (2009), sets as a key design criterion that development should evolve naturally in response to its surroundings. It is considered that the proposed development has been subjected to an inadequate site analysis, resulting in a poor design concept that is deficient in terms of the overall quality. It is considered that the house designs proposed are inappropriate in terms of height, bulk, scale and design and would be unduly dominant and have an adverse visual impact from the Marlton Road at this location. It is considered that the proposed development would inadequately reflect the character and setting of the site in this semi-rural area, would fail to contribute positively to the character and identity of Wicklow town and would, therefore be contrary to the proper planning and sustainable development of the area.

Emer Doyle

Inspector

4th January 2016