

An Bord Pleanála



Inspector's Report

Appeal Ref. No:	PL27.245688
Proposed Development:	30 houses
Location:	Ballyguile Beg, Wicklow, County Wicklow.
Applicants:	Clouddale Ltd.
Planning Authority Reg. Ref:	15/595
Planning Authority:	Wicklow County Council
P.A. Decision:	Grant with Conditions
Appeal Type:	Third Party vs Grant
Appellants:	Marian Morrison and Others.
Observers:	None
Date of Site Inspection:	21 st January 2016
Inspector:	Hugh Mannion

1. SITE AND SURROUNDINGS

The site has a stated area of 2ha and is located on the south eastern edge of Wicklow Town, County Wicklow. The site is currently in rough pasture and is part of a larger landholding which was the subject of refusal for housing under appeal reference PL27.228972. The southern boundary adjoins the Ballyguile Road and is defined by a post and wire fence. The eastern boundary adjoins the Hillview housing estate and is defined by security fencing. The northern and western boundaries are undefined. The site is about 1.5kms from Wicklow town centre.

On the north western side of Ballyguile Road and opposite the application site is a linear housing development; Rosehill. The Ballyguile Road continues to the northeast towards the town centre and has footpaths on both sides commencing at the Hillview housing development adjoining the application site. To the south west Ballyguile Road is without footpaths and links the vicinity of the application site with the R761 and subsequently the M11.

2. PROPOSED DEVELOPMENT

The proposed development comprises the erection of thirty houses with roads and services at Ballyguile, Wicklow town, County Wicklow.

3. HISTORY

Under PL27.228972 permission was refused for 265 residential units (including apartments, duplexes and houses) and a crèche in the north eastern corner of this site because:

1. The development of the kind proposed would be premature pending the determination by the planning authority of a new east-west link road across the Ballyguile area and the acquisition and assessment of the necessary lands to carry out the proposed road improvements associated with the development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Development of the kind proposed would be premature by reference to the existing deficiencies in the provision of sewerage facilities and water supply (upgrading of the Wicklow Regional Water Supply) and the period within which this constraint may reasonably be expected to cease.

4. PLANNING AUTHORITY DECISION

The planning authority decided to grant permission subject to 27 conditions.

Initially the planning authority sought additional information in relation to;

1. A drawing should be submitted showing only the works proposed under the present application,
2. A statement of the area the subject of the application, the proposed density, details of the 15% pf public open space to be provided,
3. Sections through the site should be shown,
4. Application could include rear access to the six proposed terraced houses,
5. Details of any proposed attic spaces served by the proposed roof lights.

The applicant responded to the FI request as follows;

1. A revised site layout was submitted omitting reference to the other lands in the ownership of the applicant.
2. The site area 2ha. The density is 15 units/ha. The public open space is 4,105m² which is 15% of the site.
3. Two N/S sections through proposed houses 15 and 16 illustrate existing and proposed ground levels. The drawings demonstrate that these units will not overshadow the gardens of adjoining houses.
4. Due to topography 6 terraced houses cannot be provided with rear access.
5. House types F and J are provided with roof lights to light a first floor landing. The applicant submitted additional proposals for compliance with Part V.

The **Department of Arts, Heritage and the Gaeltacht** recommended a condition aimed at archaeological protection in the event of a grant.

Irish Water reported no objection.

5. GROUNDS OF APPEAL

The grounds of appeal may be summarised as follows;

- The proposed development will access an inadequate road network including Ballyguile Road and the Ballynerrin Road/Ballyguile Road junction.
- The area may flood.
- The proposal will have negative visual impacts.

6. APPLICANT'S RESPONSE TO THE GROUNDS OF APPEAL

The applicant did not respond to the appeal.

7. PLANNING AUTHORITY'S RESPONSE THE GROUNDS OF APPEAL

The planning authority did not respond to the appeal.

8. OBSERVATIONS

There are no observations on file.

9. PLANNING POLICY FRAMEWORK

The site is zoned Residential R3 "New Residential: to provide for new residential development at densities up to 20 units per ha". The site is part of a larger area, generally that covered by the application under PL27.228972 which is zoned 'strategic land bank'¹.

10. ASSESSMENT

10.01 This assessment will consider the development plan zoning and density provisions, traffic safety, flooding, visual impacts.

¹ It appears that the planning authority inaccurately states that the site is subject to two zonings.

10.02 Development Plan Zoning

10.03 The proposed development is on lands zoned 'new residential – to provide for residential development at densities up to 20 units per/ha' in the Wicklow Town – Rathnew Development Plan 2013-2019. Having compared the Development Plan zoning map and the site layout plan I am satisfied that the site is covered only by this zoning and not the second (strategic land bank) mentioned by the planning authority.

10.04 Having regard to the site's zoning and the proposed density of 20 units per/ha I conclude that the proposed development complies with the zoning objective for the site.

10.05 Traffic Safety

10.06 The grounds of appeal make the case that the wide road network and the Ballyguile Road/Ballynerrin Road junction close to the site are incapable of accommodating any additional traffic. In the previous case (PL27.228972 - history file attached) the Board refused permission for 265 residential units because the proposed development would be premature pending the determination of an east/west ling road in the vicinity of the application site.

10.07 The 50kph speed limit applies to the public road in the vicinity of the site. It is fair to say that Ballyguile Road is narrow and without footpaths for the portion of the road south west of the site to the junction with the R751 which links the town centre to the N/M11. However the application site is linked to the town centre by footpaths for that part of the Ballyguile Road going northeast from the site to the town centre. The site layout provides for sightlines at the junction of the proposed access road with Ballyguile Road in accordance with the DMURS.

10.08 The Wicklow Town Developemnt Plan 2007-2013 (see copy map 2 attached) provided for an amended road layout designated as AA7 in the area. However this amended layout has not been repeated in the 2013-2019 and there appears to be no specific objective to upgrade Ballyguile Road in section 9.4 'Roads' in the current Development Plan. I conclude therefore that the previously cited refusal reason based on prematurity of the road layout for the area does not apply in the present case.

10.09 Having regard to the foregoing and in particular the much reduced scale of the present application over that determined under PL27.228972 I conclude that the proposed development will not endanger public safety by reason of traffic hazard.

10.10 Flooding

10.11 The planning authority carried out a strategic flood risk assessment for the area of the Development Plan 2013-2019 and summarised its findings in Map 10.1 Flood Risk Assessment Zones. The application site is not within or close to any of these zones. The applicant's infrastructure report submitted with the application (see AECOM report on file) briefly deals with this issue and concludes that there is no flood risk associated with the proposed development.

10.12 Having regard to the strategic assessment carried out by the planning authority and the location of the application site on the slope of a hill averaging 89mOD I conclude that the application site is not prone to flooding. There is surface water sewerage in the area and the application provides for attenuation within the site see drawing 60344256_SHT_00_C0200. Therefore I conclude that the proposed development will not give rise to flooding elsewhere.

10.13 Visual Impacts.

10.14 The appeal makes the case that the proposed development will give rise to negative visual impacts.

10.15 The Wicklow County Development Plan includes a landscape characterisation study which (illustrated on Map 17.09) which identifies areas of "Mountain and Lakeshore – Area of Outstanding Natural Beauty", "Areas of Special Amenity", "Coastal areas of Outstanding Natural Beauty" and "Rural Area". The site is outside any of these designations and is in an area designated "urban area" to which no landscape conservation objectives apply. The Wicklow Town –Rathnew Development Plan sets out an objective (Objective VP1) to protect a number of views of special amenity value or special interest listed in table 11.9 and a number of prospects of special amenity value or special interest listed in table 11.10. The site is not within any of these protected views or prospects.

10.16 Nevertheless that appeal makes a reasonable point in relation to visibility since the site is on the northern slopes of a local highpoint (172mOD). However there is an adjoining housing estate (Hillview) more or less at the same elevation and the site is zoned for low density residential development. Having regard to these factors I do not recommend refusal for visual amenity impacts.

10.17 Residential Amenity

10.18 The development of this site for housing is made difficult by a rise in site levels from about 80mOD at the northern edge to about 100mOD on the southern boundary. The planning authority flagged this to the applicant in the request for further information and sought revisions to the layout to ensure rear access to the terraced houses. There are six of these houses (numbers 13, 10, 18, 21, 24 and 27) without rear access. The applicant replied that due to the topography of the site rear access is difficult and that these six units would have part of the refuse handling arrangements to the front of the house. Given the small number of houses affected in this way and the overall quality of the development I consider this arrangement acceptable.

10.19 The planning authority required a shadow analysis for houses 15 and 16 which would indicate if these houses should be redesigned in order to minimise the loss of direct sunlight into the rear gardens of the houses to the south. I propose draft condition number 2 as set out below to address this issue. Draft condition number 2 also requires amendments to house number 14.

10.20 The provision of private open space at the rear of each house is acceptable. The quantum of public open space is in excess of the required 15% of the overall site and is acceptable. It is not clear that adequate account has been taken of the advice in the Sustainable Urban Residential Development in Urban Areas (DOEHLG 2009) in that opportunities for creating links and permeability between the proposed development and the adjoining development at Hillview have not been taken up. I recommend draft condition 3 which will allow integration of the public open spaces of the proposed development with those of the adjoining development at Hillview.

10.21 Sewerage/Water

10.22 In the previous application refused on appeal by the Board the second refusal reason given referred to prematurity in respect of the provision of sewerage facilities and water supply (upgrading of the Wicklow Regional Water Supply) and the period within which this constraint may reasonably be expected to cease.

10.23 In relation to disposal of waste water the Town Development Plan states that the Wicklow town system had a 34,000 pe capacity in 2012 of which only 17,500pe was taken up and there is capacity in the system to meet the projected needs out to 2022. The application states that the development will drain by gravity to a 300mm local authority sewer on Ballyguile Road. The Irish Water

report on file states that there is capacity in the system and that no improvements are required.

10.24 In relation to water supply the Developemnt Plan states that there will be sufficient capacity in the town supply by 2013. The application states that there is a public water mains on Ballyguile Road. The Irish Water report on file states that there may be a lack of pressure in the system at this elevation but that the details submitted with the application are adequate and the issue of pressure may be solved by pumping. The decision to grant permission includes a condition requiring the details of potable water provision to be agreed with Irish Water.

10.25 Having regard to the foregoing I conclude that the proposed development is no longer premature pending the provision of sewerage or water supply.

10.26 Appropriate Assessment

10.27 Having regard to the nature and scale of the proposed development, the availability of public piped services and including surface water sewerage, to the emissions likely to arise from the proposed development, 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 other plans or projects on a European site.

11. RECOMMENDATION

Having regard to the foregoing I recommend a grant of permission for the reasons and considerations and subject to the conditions set out below.

Reasons and Considerations

Having regard to the zoning of the site for low density housing development, the adequacy of the road, sewerage and water supply infrastructure serving the site and subject to compliance with the conditions set out below it is considered that the proposed development will not give rise to traffic hazard, injury to visual or residential amenity and will otherwise accord with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars submitted on the 21st day of September 2015 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.

Reason: In the interest of clarity.

2. (a) Proposed houses numbers 15 and 16 shall be amended to minimise the loss of direct sunlight to the rear gardens of adjoining houses to the south.

(b) An additional first floor window shall be provided on the eastern gable end of house number 14.

Details of these amendments shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Proposals for the integration, where appropriate, of the public open spaces associated with this development with the public open spaces associated with the adjoining 'Hillview' housing development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential amenity.

4. 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.

Reason: In the interest of visual amenity.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interests of amenity and of traffic and pedestrian safety.

7. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

9. All screen walls shall be 2 metres in height above ground level, constructed in concrete block, and shall be capped, and rendered on both sides in a finish that matches the external finish of the dwellings.

Reason: In the interests of residential and visual amenity.

10. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme.

Reason: In the interests of urban legibility.

11. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

12. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

13. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

14. 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.

Reason: In the interests of public safety and residential amenity.

15. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

16. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion

and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

17. 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 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Hugh Mannion
Planning Inspector
15th February 2016