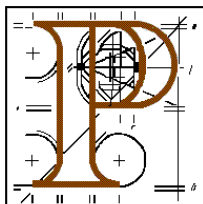


## An Bord Pleanála



## Inspector's Report

### Development:

Permission for dwelling, new entrance, on site effluent disposal system to current EPA standards together with integral building which is to be used solely by the applicant personally for bike repair and general maintenance purposes and for storing equipment associated with the adjacent bicycle rental business at Ballinastoe Woods, Roundwood, Co. Wicklow.

### Planning Application

Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	15/909
Applicant:	Niall Davis and Tarja Owens
Type of Application:	Permission
Planning Authority Decision:	Refuse permission

### Planning Appeal

Appellants:	Niall Davis and Tarja Owens
Type of Appeal:	First Party
Observer(s):	An Taisce
Date of Site Inspection:	4 <sup>th</sup> February 2016

**Inspector:** Emer Doyle

## **SITE LOCATION AND DESCRIPTION**

The appeal site is located in the townland of Ballinastoe approximately 4km to the north of the village of Roundwood, Co. Wicklow.

The site is currently in the ownership of Coillte and forms part of a large conifer wood that extends westward and northwards. It is planted commercial woodland made up of a wide line of Scots Pine along the road frontage, a line of Larch along the boundary with the adjoining dwelling to the south and the main woodland block is made up of Sitka Spruce. The site is at the base of the forest with levels rising from the front of the site towards the rear and forestry lands rising significantly behind the site.

Ballinastoe Golf Club is located on lands to the north east and Ballinstoe Biking Trail is located on lands approximately 280m to the north of the site.

There is a significant amount of scattered one off dwellings in the vicinity of the site. The site is located approximately 2.5km from Carriggower Bog SAC and 1km from Wicklow Mountains SPA and Wicklow Mountains SAC.

## **PROPOSED DEVELOPMENT**

It is proposed to erect a single storey dwelling with a partial internal courtyard. The stated floor area is 222m<sup>2</sup>. The ridge height is 5.6m. External finishes include a slate roof and combination of pigmented render and natural stone together with hardwood windows. A bike workshop together with a shower and toilet area and bike wash area are proposed. It is stated in the site and newspaper notices that this 'integral building' is to be used solely by the applicant personally for bike repair and general maintenance purposes and for storing equipment associated with the adjacent bicycle rental business. Water supply is proposed from a private well and it is proposed to install a waste water treatment system and polishing filter.

## **TECHNICAL REPORTS**

### **Planner**

The planner's report stated that the applicant's business can be remotely managed and expressed concerns in relation to adequacy of sightlines and visual impact.

### **Environmental Health Officer**

No objection subject to conditions.

### **Area Engineer**

No objection - refers to a previous report on PA Ref. 14/1970.

## **PLANNING AUTHORITY'S DECISION**

Permission was refused for three reasons relating to rural housing policy, visual impact, and traffic safety.

## **APPEAL GROUNDS**

A first party appeal against the Council's decision was submitted by the applicant. The grounds of appeal can be summarised as follows:

- The applicants own and manage a bike hire business at Ballinastoe Mountain Trail which due to the nature of the business cannot be managed remotely and the applicants therefore need a house in close proximity to their business and therefore comply with RH14.
- It is the intention of the applicant to preserve the existing tree cover on the land.
- It is not considered that the low profile bungalow proposed would form an incongruous feature within an area of special amenity.
- Adequate sightlines are available at this location and a letter is attached from Coilte the adjoining landowners to the northeast to trim the vegetation on their lands.

## **RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL**

### **Planning Authority Response**

None.

### **Observations**

An observation has been submitted from An Taisce which can be summarised as follows:

- We recommend that refusal be upheld on the 3 No. grounds stated.
- The proposal would exacerbate ribbon development. The onus is on the applicant to justify a necessary dwelling. The appropriate location for a bike rental business company is in the centre of Roundwood.

## **PLANNING HISTORY**

### **PA Ref. 14/1970**

Application for dwelling on this site withdrawn.

## **DEVELOPMENT PLAN**

Section 6.3.2 of the Plan relates to Houses in the Open Countryside. Objective RH14 sets out the categories and circumstances relating to residential development in the countryside. One-off housing development in rural areas will be subject to all normal planning considerations including traffic safety, sanitation, heritage, design and siting. However, Objective RH14 will be supreme except where the proposed development would be a likely traffic hazard or public health hazard. A copy of Objective RH14 is appended to this Report.

Objective LA1: All developments and activities shall have regard to the landscape classification hierarchy.

Objective LA2 requires that any application for permission in the AONB or CLA zone shall be accompanied by a Visual Impact Assessment.

Site is designated as being a Mountain and Lakeshore Area of Outstanding Natural Beauty.

## **SUSTAINABLE RURAL HOUSING GUIDELINES**

The site is located in a rural area 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.

## **ASSESSMENT**

The principle issues for consideration in this appeal are as follows:

- Compliance with rural housing policy
- Visual Impact
- Adequacy of Sightlines

### Compliance with rural housing policy

Section 6.3 of the operative Development Plan sets out the general rural development objectives to be considered when assessing an application for a dwelling in a rural area. It has been established that the subject site is located within a rural area, designated as being

a Mountain and Lakeshore Area of Outstanding Natural Beauty within the operative County Development Plan. Objective RH1 states that urban generated development, including housing, shall not be permitted in the rural areas of the County, other than in rural settlements that have been deemed suitable to absorb an element of urban generated housing development. In this instance, the area surrounding the subject site has not been designated as such. One of the main issues of this appeal relates to whether the proposed development is considered necessary and whether the need for same can be demonstrated and justified. The applicants claim that they comply with items 7 and 15 of Objective RH14 in terms of their ownership, management and employment in a local tourist business. The business 'Bike Training Ireland Ltd' is located at the Ballinastoe Bike Trail in close proximity to the site.

The information submitted in the appeal states that this is an important tourism business in the area and its use is appropriate to a rural area. It is stated that *'the appellants moved to Ballinastoe prior to their business starting, so as to ascertain its potential and the fact that they remain in the area reflects the fact that the use cannot succeed without their constant presence for safety, security, medical and operational reasons. The use operates from early morning to late night, when cyclists utilise powerful helmet mounted 2000 lumen light bulbs and since the applicants must work long hours and split-shifts, they need to live beside this site to ensure that the level of commercial activity and thus their income does not suffer. Whilst the appellants spend most of their time on-site during the summer season, they are equally required to service tourists and day-trippers who call randomly at other times of the year and their instant availability is clearly needed to ensure that all customer's needs can be accommodated. The administration of business of this nature involves a range of practical, legal, administrative tasks and the applicants must live near this site in order to simultaneously engage in business development, promotional activities, supervision of staff and maintenance of forest trails, whilst also engaging in office work in their homeplace and providing immediate assistance to employees and sporting participants alike, should any accidents or mishaps occur. These activities cannot be undertaken remotely and indeed as Mr. Davis is a designated mountain ranger, he must also be available immediately to deal with difficulties which may unexpectedly arise.'*

The Planning Authority has taken the view that 'this activity is capable of remote management and does not require a full time residential occupation.' Having regard to the nature of the business and the information submitted with the application and appeal, I am satisfied that the use is tourist use linked to the rural area and the appellants comply with the provisions of Objective RH14. As such, I consider that the appellants need for a dwelling in this area has been justified and that the proposal as submitted is in compliance with the rural housing policy for development of housing in such areas.

#### Visual impact

The site is located in an area designated on Map 17.09 of the Development Plan as a 'Mountain and Lakeshore Area of Outstanding Natural Beauty.' Section 17.9.1 of the Plan describes these areas as the 'most vulnerable and sensitive, and which are considered to be of greatest scenic value.' It is close to an Area of Special Amenity.

Whilst the site is on a popular tourist trial route to the border between an Area of Special Amenity and a Mountain and Lakeshore Area of Outstanding Natural Beauty, in my view, the site itself is not of any particular scenic value and the proposed development would not interfere with any scenic views. The site is located within a commercial Coillte Forest and it is proposed to remove approximately 60 trees to facilitate the proposed dwelling. An Arboricultural Impact Assessment submitted with the application states that this will leave a belt of Larch trees along the southern boundary with the adjoining property and a wide belt mainly of Scots Pine along the road frontage. Tree protection measures and recommendations for new planting are outlined in the report. I am satisfied that the Larch trees along the southern boundary with the adjoining property and the Scots pine of the road frontage together with new planting will adequately screen the proposed development.

The design proposed is a modest low profile bungalow with a slate roof and combination of pigmented render and natural stone external finish. Hardwood windows are proposed. A bike workshop together with a shower and toilet area and bike wash area are proposed. It is stated in the site and newspaper notices that this 'integral building' is to be used solely by the applicant personally for bike repair and general maintenance purposes and for storing equipment associated with the adjacent bicycle rental business. Having regard to the size of this area, its stated use, and the internal link to the main dwelling, I am satisfied that the use is suitable for a rural area and is directly connected with the rural resource activity in the applicant's ownership at this location. I am of the view that the scale, proportions, style, design and finishes of the dwelling will not detract from the visual amenities of the area.

#### Adequacy of Sightlines

The site is located on a local county road which is a busy tourist route. The third reason for refusal relates to inadequate sightlines. There is an engineering report from an engineer employed by the applicant's on file which states that sightlines are measured from a point 2.4m from the edge of the public road to points 90m in both directions to the metal edge of the road. The sightline does cross some very low roadside ditch which does not in any way hinder the sightline. The appeal shows photographs of the sightlines in both directions and refers to a internal report from a Senior Executive Engineer on the previous application on the site which states that 'sightlines as shown are acceptable'. This file was subsequently withdrawn however the report for same was submitted by the applicants with the application documentation. The report from the Senior Executive Engineer on the current file refers to this previous report and has no objections or further comments to add. I have assessed the sightlines on the ground and noted that the section of the road at this location is relatively straight. There is a low stone wall in the ownership of the adjoining house to the south west which is not of sufficient height to interfere with the sightline. Lands to the north east are in the ownership of Coillte and a letter from Coillte is attached to the appeal allowing the applicants to trim the vegetation at this location. Having regard to the above, I am satisfied that there are adequate sightlines available at this location and that the proposed development will not result in a traffic hazard.

### Appropriate Assessment

The site lies approximately 1 km downhill from the Wicklow Mountains SAC and SPA and approximately 2.5km from Carriggower Bog Special Area of Conservation.

Having regard to the scale of development proposed and compliance with EPA Code of Practice and the lack of hydrological link / pathway between the site and the Natura 200 sites it is not considered that a NIS is required in this instance.

It is considered that the proposed development would not give rise to any significant adverse direct, indirect or secondary impacts on the integrity of any nearby Natura 2000 sites having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

### **RECOMMENDATION**

Based on the above assessment, I recommend that permission be granted for the existing development for the reasons and considerations set out below:

### **REASONS AND CONSIDERATIONS**

Having regard to the rural housing policy considerations as set out in the current Wicklow County Council Development plan, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance 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 the further particulars submitted to An Bord Pleanála on the 13<sup>th</sup> day of November 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) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. The applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

**Reason:** To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. 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.

**Reason:** In the interest of public health.

4. (a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Wastewater Treatment Manual – Treatment Systems for Single Houses" – Environmental Protection Agency, 2009.



(b) Treated effluent from the septic tank system shall be discharged to a raised percolation area which shall be provided in accordance with the standards set out in “Wastewater Treatment Manual – Treatment Systems for Single Houses” – Environmental Protection Agency 2009.

(c) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the raised percolation area is constructed in accordance with the standards set out in the EPA document.

(d) The applicant shall enter into an annual maintenance agreement with the system supplier.

**Reason:** In the interest of public health.

5. Surface water from the site shall not be permitted to drain onto the adjoining public road.

**Reason:** In the interest of traffic safety.

6. The existing native roadside hedge and mature trees shall be retained, except where removal is required for adequate sight visibility lines at the proposed entrance and in the first planting season following occupation of the house, the site shall be planted in accordance with a planting scheme which shall have been submitted to and agreed with the planning authority before the development is commenced.

**Reason:** In the interest of visual amenity.

7. The external finishes of the proposed development shall be nap plastered, dry dash or natural stone, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of visual amenity.

8. The roof shall be of a blue/black, black, dark brown or dark grey colour.

**Reason:** In the interest of visual amenity.

9. All service cables associated with the proposed development (such as electrical, television and telephone) shall be run underground within the site.

**Reason:** In the interest of the visual amenities of the area.

10. During construction the developer shall provide adequate off carriageway parking facilities, for all traffic associated with the proposed development, incl. delivery and service vehicles / trucks. There shall be no parking along the public road.

**Reason:** In the interest of traffic safety.

11. 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.

---

Emer Doyle  
Planning Inspector  
1<sup>st</sup> March 2016