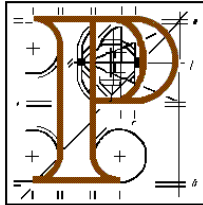


An Bord Pleanála



Inspector's Report

PL27.245870

DEVELOPMENT:-

Single storey dwellinghouse, on site wastewater treatment system, recessed entrance, site works at Granamore, Valleymount, County Wicklow.

PLANNING APPLICATION

Planning Authority: Wicklow County Council
Planning Authority Reg. No.: 15/580
Applicant: Eimear Kavanagh
Application Type: Permission
Planning Authority Decision: Grant Permission

APPEAL

Appellant: Denis Halpin
Type of Appeal: Third v. Grant
Observer: None

DATE OF SITE INSPECTION 10th March 2016

INSPECTOR: Mairead Kenny

SITE LOCATION AND DESCRIPTION

The site is located in an upland area in county Wicklow. The site is close to the regional road which connects Hollywood and Glendalough villages and the nearest settlement is called Granabeg. The site is of stated area of 0.302 hectares and is taken from a family land holding of 39.4 hectares. The site is on the southern edge of the holding which contains two other houses. One house is the place of residence of the applicant's parents and is a modest single storey dwellinghouse constructed possibly in the middle of the last century. The other house which is described as the Grandparents' home place is an older cottage and is located between the main farm buildings.

The edge of the farm holding is marked by a tributary of a river which is stated to feed the Pollaphuca Reservoir. That watercourse is at a significant distance below the majority of the land holding and is contained in a wide river valley. The holding is also traversed by an electricity power line which runs to the rear of the site. There are designated buffer zones between any development and the power line as well as the stream.

To the south of the farm holding is the place of residence of the appellant. A hedgerow marks the roadside edge of the site and part of a field separates the site from third party lands. At the time of inspection the trial and percolation test holes were open. There was no water in evidence and the soil contained a reasonably high gravel component.

Photographs of the site and surrounding area which were taken by me at the time of my inspection are attached.

DESCRIPTION OF PROPOSAL

Permission is sought for the development of a single storey dwellinghouse, wastewater treatment unit and soil polishing filter. During consideration of the application by the Planning Authority a revised house design was requested and the response received on 22nd October 2015. The front façade is to be clad with natural stone or plaster and the roof to be finished in blue / black tile or slate. The form of the building is simple and of low profile.

PLANNING HISTORY

There is no recent planning history on site or in the vicinity of the site.

PLANNING POLICY CONTEXT

Under the provisions of the Sustainable Rural Housing Guidelines this site is in the area under Strong Urban Influence. As such the overarching policy is to facilitate the housing requirements of the rural community as identified by the planning authority in the light of local conditions while on the other hand directing urban generated development to areas zoned for new housing development in cities, towns and villages in the area.

The Wicklow County Development Plan 2010-2016 identifies the site as being located in an area of outstanding natural beauty and within Prospect 23 which extends along the R756 from Laragh to Slievecorragh.

The area is designated as 'Level 10' in the plan – these are rural areas outside of any settlement. Policy RH14 refers in relation to rural housing policy in such areas.

SELECTED REPORTS SUBMITTED TO PLANNING AUTHORITY

The report of **Dublin City Council Water Services** indicates no objection subject to annual maintenance contract and certification by professional.

The reports of the **Planner** dated 10th November 2015 and 17th July 2015 indicate that the revised house design is acceptable, that the applicant complies with the housing policy, that the site is 200m from the recorded monument, the wastewater treatment system is in excess of 100m from feeder streams and that the proposal does not constitute ribbon development.

The report of the **Environmental Health Officer** dated 14th July 2015 indicates no objections to the submitted proposals.

DECISION OF PLANNING AUTHORITY

The Planning Authority decided to grant permission subject to conditions including:

- development to be in accordance with plans and particulars including submissions received on 22nd October, 2015.
- restriction on occupancy in accordance with Objective RH14 for a seven year period.
- when laid the floor slab to be certified as being in accordance with finished floor levels submitted on 22nd October, 2015.
- Conditions regarding entrance, surface water, road site boundary, other matters.
- Compliance with EPA Code of Practice and certification that in accordance with this condition to be submitted to Planning Authority.
- External finishes to include local stone or painted nap plaster in white/off-white colour.
- Planting/vegetation at site boundary be retained and reinforced.

GROUNDINGS OF APPEAL

The main points of the third party appeal include:

- Government policy is to cluster housing in sensitive areas, which is the preferred method over ribbon development.

- “Proven need” is defined as those in need of new housing in particular first-time home owners.
- Sited in an area of outstanding natural beauty and part of the Wicklow National Park.
- The Wicklow Mountains are designated European sites.
- Wicklow National Park Management Plan aims to maintain the landscape aesthetic and other qualities.
- Proposed development will impact on the region being clearly visible from the R756, the main tourist route between east and west Wicklow and which landscape is of international standing.
- The site is of archaeological importance.
- Sustainable Rural Housing Guidelines and Wicklow County Development Plan favour cluster housing.
- Grandparent’s house is rented and this would be the preferred location which would have little or no visual impact and be close to recently built agricultural structures.
- The road is very narrow and development of a new entrance is objected to.
- Development will increase traffic on this busy road the primary route for St. Kevin’s Way.
- Test soak holes is at my boundary fence where there is dry sandy soil but the land to the east is wet.
- Road surface is higher than the site which facilitates the west area.
- Another entrance will increase the wet area and will direct surface water to my property.
- There is no run-off presently and a system of pipes is needed to carry away excess surface water.
- The site is between two rivers feeding Blessington Lake, the King and Douglas River.
- Layout does not reflect the character of the area.
- Development infringes on my privacy.
- No objection to proposed house if located beside adjoining family home.

RESPONSE TO APPEAL

The Planning Authority has not responded to the appeal.

The main points of the **first party response** include:

- Grant of permission should be upheld as it is consistent with planning policy and supported by 33 letters of support from neighbours.
- Applicant is intrinsic member of community and building on farmland.
- Site is in an area of outstanding natural beauty but not in the Wicklow Mountain National Park and not subject to the EU law on special protection areas.
- Does not create visual intrusion as the house is well designed and of low profile (5.66 metre ridge height) and lower than road levels by 150 millimetres.
- Not ribbon development as defined by five houses over a 250 metre road frontage.
- Will not overlook appellant's property which is higher.
- Already uses the road so there is no additional traffic.
- St. Kevin's Way is a permissive recreational asset and Circular Letter P5/2015 refers.
- There are 2 no. 220 volt ESB lines between the site and the Ringfort.
- Wastewater treatment plant accepted by competent authority and report from hydrologist required.
- The cluster policy is framed in the context of multiple houses generally for family members.
- Clustering cannot be accommodated by one house and the appellant does not understand the policy.
- Proposed site is preferred as has least impact on landscape and meets minimum separation distances from ESB lines and watercourse buffer.
- Site has low contour level and mature native screening.
- Design represents Irish vernacular architecture.
- Appellant would not appear to object to a different site.
- Regarding Policy Sustainable Rural Housing Guidelines, Regional Planning Guidelines and Chapter 3 of the County Development Plan refer.

- Chapter 6 of the Wicklow County Development Plan and 17 refer in relation to design and landscape detail including listed views and prospects.
- The maps enclosed demonstrate that the site has no special relationship with views of special amenity value or special interest.
- The applicant is entitled to a positive presumption based on negligible landscape impact and compliance with development plan policy.

Enclosed letters of support (33 no.) which testify that the applicant has lived in the area all of her life.

ASSESSMENT

I consider that the main issues arising in this appeal relate to:

- rural housing policy
- suitability of selected house design and site.

Rural Housing Policy

I consider that the submissions made in connection with the application and the appeal demonstrate clearly that the applicant meets the criteria set out in the relevant policy RH14. The following are relevant:

- building on long established family farm holding
- born and raised in the family holding where she presently resides with her parents
- educated locally, resided in area all her life – letters of support
- neither the applicant nor her partner have owned a house.

The applicant is not locally employed but is engaged as a teacher in Stillorgan in south Dublin. In cases involving construction by an applicant who is the son or daughter of a landowner, place of employment is not a consideration in the development plan policy. I am satisfied that the applicant complies with national and local policy in terms of housing need.

There is one aspect of the appeal submission which in my opinion undermines the applicant's need for a house on the family holding and that relates to her grandparents' house. The appellant indicates that house is currently rented. The first party appeal does not respond to this claim. In the circumstances where there is apparently a house, which is in family ownership but not in family use I consider that the applicant's case for an additional house is weakened. I draw this conclusion in the context of the restrictive approach to residential development in this area and the designation of the area as an AONB and one which is under Strong Urban Influence. I would also refer to the narrow road network and the listed view, none of which in

themselves would warrant a refusal of permission but both of which justify an approach which strictly regulates new applications for rural housing.

I consider that the existence of another house on the holding in the circumstances where the applicant has not refuted the appellant's claim is a significant issue. Policy RH14 refers to 'necessary' development. An argument could be made that the subject development is not necessary where the holding contains a house which could be extended to meet the needs of the applicant. The Board could request the applicant to address this matter specifically and / or could also investigate the possibility of a legal agreement regulating the future use of the applicant's grandparent's house. However, I again refer the Board to the relevant policy RH14 and the absence of any reference to existing houses on a holding.

On balance notwithstanding the reservations outlined above, I am satisfied that the applicant can claim a housing need based on the criteria set out in the development plan. I therefore consider that the development is acceptable in principle.

Suitability of selected site

The site has ample road frontage but is constrained by reason of the presence of a power line and the feeder stream to Pollaphuca Reservoir. I refer to the comments in the appeal relating to the selected site.

I do not consider that the development would intrude on the amenities of the appellant's house, which is at a higher elevation. There is about 180m between the existing and proposed houses.

The development would not be defined as 'ribbon development'. Rather it is an isolated form of development. I do not consider that this is out of character with the rural area.

The revised house design together with its location on a flat upland site to the rear of a hedgerow minimises any visual impact. I do not consider that the development would significantly interfere with or detract from the listed view from the regional road. I also note that the provisions of RH14 clearly state that impacts on listed views would be subservient to housing need.

In relation to the proposals for wastewater treatment I consider that the site is suitable subject to conditions as recommended by the Planning Authority. I also note the favourable comments of the Water Services Section of Dublin City Council in relation to Pollaphuca Reservoir.

In conclusion I consider that the house design and selected site are acceptable in terms of impacts on soils and water and impacts on the visual and residential amenities of the area.

Appropriate Assessment

The nearby stream connects to Polluphaca Reservoir which is a SPA. The Wicklow Mountains are a SAC and SPA. Having regard to the nature and scale of the proposed development and its proximity to these European site, 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.

RECOMMENDATION

I recommend that the decision of the Planning Authority be upheld and that permission be granted for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having regard to the "Sustainable Rural Housing - Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in April, 2005 and to the provisions of policy RH14 of the Wicklow County Development Plan 2010-2016, to the local nature of the housing need, the design of the house and the suitability of the site for a wastewater treatment and soil polishing filter, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, would not be prejudicial to public health and would 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, 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. Prior to commencement of development, 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. The existing front boundary hedge shall be retained except to the extent that its removal is necessary to provide for the entrance to the site.

Reason: In the interest of visual amenity.

4. The roof colour of the proposed house shall be blue-black, black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.

Reason: In the interest of visual amenity.

5. The external walls shall be finished in natural stone or in render painted in neutral colours such as grey or off-white.

Reason: In the interest of visual amenity.

6. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

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

Reason: To ensure adequate servicing of the development, and to prevent pollution.

8. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.

(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.

(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.

(d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.

(e) 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 proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

9. The site shall be landscaped, using only indigenous deciduous trees and hedging species. This scheme shall include the following:

(a) the establishment of a hedgerow along all side and rear boundaries of the site and the reinforcement of existing hedgerow, and

(b) planting of trees at 5 metre intervals all boundaries of the site.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

10. 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, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Mairead Kenny
Senior Planning Inspector
16th March 2016