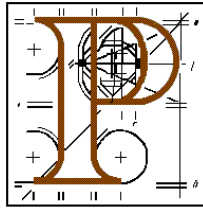


An Bord Pleanála



Inspector's Report

Development: Permission for house, garage, entrance, percolation area and ancillary development works

Site Address: Brockna, Kiltegan, County Wicklow

Planning Application

Planning Authority: Wicklow County Council

Planning Authority Reg. Ref.: 15/1248

Applicant: Marie Clare Neary and Dylan Cullen

Type of Application: Permission

Planning Authority Decision: Refuse Permission

Planning Appeal

Appellant: Marie Clare Neary and Dylan Cullen

Type of Appeal: First Party v Refusal

Observers: None

Date of Site Inspection: 11th May 2016

Inspector: **Joanna Kelly**

Appendices:

Appendix 1 Site Location Map

Appendix 2 Photographs and Site key Plan

1.0 INTRODUCTION

This report pertains to an appeal by the first party against the decision of Wicklow County Council to refuse permission for a dwelling.

2.0 SITE DESCRIPTION

The appeal site, with a stated site area of 0.43ha is located in the townland of Brocna approx. 2.6km north-west of Kiltegan (large village) and approx. 1km east of Talbotstown (identified as a rural cluster in the current development plan). The appeal site, an irregular rectangular shape, is currently part of a larger agricultural field with hedgerow to the site frontage. There is an existing lane to the east of the site which appears to serve a dwelling.

Talbotstown is located to the west of the appeal site and has a 60kph speed zone contains a church, primary school and GAA grounds. There is a notable concentration of housing on the approach roads to the settlement and is clearly under pressure for one-off housing. Ribbon development is a characteristic of the area.

The appeal site commands views to the north-east of Keadeen Mountain. The appeal site is identified as being in the “rural area” of the Landscape Character Assessment.

3.0 DESCRIPTION OF PROPOSED DEVELOPMENT

The applicant is seeking permission for a two-storey dwelling with a proposed floor area of 255sq.m. The overall height is approx. 8.1m. The proposed garage has a floor area of approx. 30sq.m.

4.0 TECHNICAL REPORTS

4.1 Planning report

The planning report recommended a refusal of planning permission on the basis of rural housing need, and extension of suburban sprawl into a rural area. It was set out that the applicant is not considered ‘rural’ and therefore does not come within the provisions of Objective RH14.

Prescribed Bodies

Irish Water

No objection subject to conditions

5.0 PLANNING AUTHORITYS DECISION

The Planning Authority refused permission for the following reasons:

1. The proposed development would **not represent a necessary dwelling in this Landscape designated Rural Area** contrary to the provisions of Section 6.3.2 of the County Development Plan 2010-2016. These provisions are required to maintain scenic amenities, recreational utility, existing character, and to preserve views of special amenity value and special interest and to conserve the attractiveness of the county for the development of tourism and tourist related employment.

The Council's settlement strategy is to encourage further growth of existing settlements and **to restrict rural housing development to cases where there is a bona fide necessity to live in the rural area** instead of in existing settlements. It is considered that **the applicant does not come within the scope of the housing need criteria as set out under Objective RH14 of the County Development Plan**. The proliferation of non-essential housing in rural landscape areas erodes the landscape value of these areas and seriously detracts from views of special amenity area.

2. Having regard to the location of the site in the rural area outside of the development boundary of the rural cluster of Talbotstown, **in an area as is evident under severe pressure for development**, it is considered that to allow this development would when taken in conjunction with existing development in an area **result in the extension of suburban sprawl into a rural area**, would set a precedent for similar haphazard development and would be **contrary to County Development Plan Strategy which seeks to control the sprawling of existing settlements** and to avoid negative impacts upon the natural environment, therefore to allow this development would be inconsistent with the maintenance of the areas rural character, and would be contrary to the proper planning and sustainable development of the area.

6.0 APPEAL GROUNDS

The first party appeal grounds are lengthy and are summarised as follows:

- It is set out that reasons no. 1 and 2 are in effect a single reason which relates to the entitlement to construct a house on the lands having regard to the provisions of the County Development Plan and this is clear from the summary of the planning report.

- The reasons for refusal relate to the nature of the landscape as a rural area, which refers to the site being a rural area outside of the development boundary of a rural cluster at Talbotstown and refers to the concerns in respect of suburban sprawl into a rural area and the need to maintain the character of a rural area.
- The critical question is whether the applicant and the particular development proposed fall within the Wicklow County Development Plan provisions to permit a dwelling house.
- If the Board considers that the applicant falls within the provisions of the Plan, then there is no reason identified in the Council's decision which could justify refusal for planning permission.
- There is no dispute that the applicant has lived all of his life in Deerpark, a single dwelling built by his father. When constructed it was approximately 2 miles from the centre of Baltinglass and was, at the time, located in an un-serviced rural area.
- The applicant sets out he is in urgent need of a house to accommodate himself and his family and have been given a site from his father's landholding.
- It is submitted that the applicant falls into many of the categories under RH14.
- The character of the area where the applicant grew up was clearly rural with no services available.
- It is set out that it is clear from the refusal reasons that this was the key issue and in the conclusion the planning officer points out that "the applicant would not qualify in respect of Objective RH14 as he is considered a native of Baltinglass town". This is a surprising conclusion as earlier in the report it accepts that the development plan made special provision for those rural areas which, during the lifetime of the residents, has been incorporated into an urban area. The site of his father's house in which the applicant grew up, while a rural area, it is now argued, lost that status when it was incorporated into Baltinglass in the Baltinglass Town Plan which was adopted in 2008.
- The development plan makes specific provision for this type of circumstances. The site at Deerpark was to be applied a rural area and that a site two miles from the centre of Baltinglass could to be considered a rural area.

- Reference is made to a handwritten note inserted to support the approach of the planning authority that references this part of Baltinglass being included in the sewage scheme in the late 70s. However, it is noted that piped water was only provided in the early 2000 and sewage in 1995/6.
- It is set out that the applicant has lived for the past 40 odd years and continues to do so, on the landholding upon which the house is proposed to be constructed. The land is currently used for agriculture and his grandparents have lived in the immediate vicinity of the site.
- It is submitted that the applicant falls within the category of persons who has lived all his life in the immediate area, whom has an urgent housing need and is proposing a house on a total landholding of 45 acres which could not be considered suburban nor could it be considered urban sprawl.
- There is no technical reason why this site cannot accommodate the development.
- It is requested that the decision of the Planning Authority is reversed.

7.0 RESPONSES

None noted

8.0 PLANNING HISTORY

File ref. No. 15/453 Permission refused for a two storey dwelling on site for reasons of local need and serious traffic hazard.

9.0 PLANNING POLICY

9.1 Sustainable Rural Housing Guidelines for Planning Authorities

Section 3.2.1 deals with Rural Area Types and suggested policies. The appeal site is located in an area identified as “under strong urban influence”. It is noted that the “stronger area” category straddles the area in question. Section 3.2.3 deals with rural generated housing and makes reference to “persons who are an intrinsic part of the rural community” and “persons working full-time or part-time in rural areas”.

Section 3.3.3 of these Guidelines specifically deals with siting and design.

Wicklow County Development Plan 2010-2016

Chapter 6 of the Development Plan deals with rural housing. The stated strategic objective is

“To support appropriate and sustainable development in rural areas and to direct new development into existing rural settlements, while recognising the social and economic needs of those living outside of settlements.”

RH1 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 development.

RH2 To strengthen the established structure of villages and smaller settlements both to support local economies and to accommodate additional population in a way that supports the viability of local infrastructure, businesses and services, such as schools and water services.

RH3 To ensure that key assets in rural areas such as water quality and the natural and cultural heritage are protected to support quality of life and economic vitality.

RH4 To accommodate necessary rural development, including rural housing, where the need for same can be demonstrated and justified, subject to the highest standards of siting and design.

RH14 Residential development will be considered in the countryside only when it is for the provision of a necessary dwelling in the following circumstances:

1. A permanent native resident seeking to build a house for his/her own family and not as speculation. A permanent native resident shall be a person who was either born and reared in the family home in the immediate vicinity of the proposed site (including permanent native residents of levels 8 and 9 i.e. small villages and rural clusters), or resided in the immediate environs of the proposed site for at least 10 consecutive years prior to the application for planning permission.
2. A son or daughter, or niece/nephew considered to merit the same position as a son/daughter within the law (i.e. when the uncle/aunt has no children of his/her own), of a permanent native resident of a rural area, who can demonstrate a definable social or economic need to live in the area in which the proposal relates and not as speculation.
3. A son or daughter, or niece/nephew considered to merit the same position as a son/daughter within the law (i.e. when the uncle/aunt has no children of his/her own), of a permanent native resident of a rural area, whose place of employment is outside of the immediate environs of the local rural area to which the application relates and who can demonstrate a definable social or economic need to live in the area to which the proposal relates and not as speculation.

4. Replacing a farm dwelling for the needs of a farming family, not as speculation. If suitable the old dwelling may be let for short term tourist letting and this shall be tied to the existing owner of the new farm dwelling were it is considered appropriate and subject to the proper planning and development of the area.
5. A person whose principle occupation is in agriculture and who owns and farms substantial lands in the immediate vicinity of the site.
6. An immediate family member (i.e. son or daughter) of a person described in 5, who is occupied in agriculture in the immediate vicinity.
7. A person whose principle occupation is in a rural resource based activity (i.e.: agriculture, forestry, mariculture, agri-tourism etc.) and who can demonstrate a need to live in the immediate vicinity of this activity.
8. Renovation or conversion of existing dilapidated buildings of substance, in a scale, density and manner appropriate to the rural area and its scenic amenities. Any such developments shall be in accordance with the Rural Design Standards set out in Section 6.4).
9. A close relative who has inherited, either as a gift or on death, an agricultural holding or site for his/her own purposes and not for speculation and who can demonstrate a definable social and or economic need to live in the area to which the proposal relates.
10. The son or daughter of a landowner who has inherited a site for the purpose of building a one off rural house and where the land has been in family ownership as at 11th October 2004 for at least 10 years prior to the application for planning permission and not as speculation.
11. An emigrant, returning to their local area, seeking to build a house for his/her own use not as speculation.
12. Persons whose work is intrinsically linked to the rural area and who can prove a definable social and economic need to live in the rural area and who has resided in the immediate area for at least 10 consecutive years prior to the application.
13. A permanent native resident who has to dispose of their dwelling, following divorce or a legal separation.
14. Permanent native residents of moderate and small growth towns, seeking to build a house in their native town or village within the 50kmph / 30 mph speed limit on the non-national radial roads, for their own use and not as speculation as of 11th October 2004.
15. A person whose business requires them to reside in the rural area and who can demonstrate the adequacy of the business proposals and the capacity of the business to support them full time.
16. Permanent native residents of the rural area who require a new purpose built specially adapted house due to a verified medical condition and who can show that their existing home cannot be adapted to meet their particular needs

Consideration for rural housing will also be given to those persons who were permanent native residents of a rural area but due to the expansion of an adjacent town / village, the family homeplace is now located within the development

boundary of the town / village. A person whose lands have been zoned or designated as development lands in the extension of the development boundary shall not benefit from such consideration in this regard.

10.0 ASSESSMENT

Having examined the file, relevant history files, considered local and national policies, inspected the site and immediate environs, assessed the proposal and all of the submissions on file, I consider the key issues to be:

- Compliance with rural housing policies
- Proposed House Design
- Appropriate Assessment

10.1.0 Compliance with rural housing policies

There is a requirement as per national and local planning policies that an applicant is required to demonstrate a genuine rural housing need. The applicant has set out that he has lived all of his life at Deerpark just outside Baltinglass. It is argued that when the family home was constructed it was approx. 2 miles from the centre of Baltinglass. The applicant is now married with a child and sets out that he is urgently in need of a house. He has been given a site on the family landholding. The applicant claims to fall into many of the categories of RH14 but relies primarily on the provision contained in that section which provides that *“consideration for rural housing will be given to those persons who were permanent residents of a rural area but due to the expansion of an adjacent town/village, the family home is now located within the development boundary of the town or village”*.

With regard to the provisions of national policy, I consider that the applicant has failed to demonstrate a genuine “rural housing need” at the location of the appeal site. I consider that the proposal is one which could be considered as “urban generated”. Whilst it is set out that his father owns the 45 acre landholding in which he proposes to build a house, the applicant has not advanced any link to agriculture or other type of rural enterprise that would generate a housing need. The area in which the appeal site is to be located is quite evidently under pressure for one off housing and is categorised as being under strong urban influence. Having regard to all of the documentation and information on file, I do not consider that the argument presented by the applicant that he has a rural generated house at this location can be sustained.

10.2.0 Proposed siting and House Design

National and local policies seek to ensure appropriate siting and design of proposed rural dwellings. The appeal site is located approx. 1km east of the Church in Talbotstown, identified as a rural cluster in the current development plan. The County Development Plan, volume 2, provides details of the boundary of rural clusters and the appeal site is located approx. 500m east of this boundary. There is evidence of ribbon development west of the appeal site location. The proposed development will exacerbate the concentration of one-off housing at this location and contribute to ribbon development on an approach road to an identified settlement.

The proposed house, a two storey dwelling with a floor area of c. 255sq.m. is considered excessive in scale and will appear prominent in this location notwithstanding the presence of trees/hedges. The appeal site is at a higher level than the public road although the levels on the site layout plan do not reflect this. The FFL and site levels indicated would appear to have been set using a different benchmark to that used for the public road levels. The existing boundary to the east consists primarily of brambles and would offer little screening in the winter months. Keadeen Mountain is located east of the site and as such the dwelling would appear from prominent on the landscape at certain locations due to the scale of the dwelling and lack of adequate screening at this location. It is also considered that in order to achieve sightlines from the proposed entrance that the existing hedgerow to the site frontage would have to be removed.

Policy RH4 provides *“to accommodate necessary rural development, including rural housing, where the need for same can be demonstrated and justified, subject to the highest standards of siting and design.”* I do not consider the proposed development constitutes necessary rural development, and I am of the opinion that the house design is suburban and of a scale that is excessive for the site in which it is to be located. A more innovative house design reflective of standards advanced by this policy should be encouraged.

10.3.0 Appropriate Assessment

The appeal site is approximately 2.7km north and 4.2km east of the Slaney River Barrow and River Nore SAC (Site Code: 002162). The qualifying interests include Desmoulin's whorl snail, freshwater pearl mussel, white-clayed crayfish, sea lamprey and otter. The Wicklow Mountains SAC (Site Code 002122) is also located approx. 8km north east of the appeal site.

The Planning Authority does not appear to have carried out a screening for Appropriate Assessment as there is no evidence of such on file. In any event, having regard to the nature and scale of the development and the relative distance of the site from the SAC site and the absence of a direct hydrological link to the SAC, I am satisfied that the proposed development would not be likely to have any significant effect either individually or in combination with other plans or projects on the European site.

11.0 CONCLUSION

The appeal site is located on an approach road to Talbotstown, a rural cluster as identified in the settlement strategy. The proposal would exacerbate the existing concentration of suburban dwellings at this location, exacerbating ribbon development and giving rise to further uneconomic demand for services outside any settlement centre. The applicant has failed to demonstrate a "rural generated housing need" at this location.

12.0 RECOMMENDATION

Having regard to the foregoing, I recommend that permission be **refused** for this development for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

1. Taken in conjunction with existing and permitted development in the area, the proposed development would exacerbate the excessive density of development on the local road outside the boundaries of Talbotstown, a rural cluster as identified in the Wicklow Development Plan 2010-2016. It is an objective of the planning authority, as expressed in the current Development Plan for the area, to channel housing into "rural settlements". This objective is considered reasonable. It is considered that the proposed development would constitute urban generated housing, would contravene the objective of the planning authority and would lead to demands for the uneconomic provision of further public services and facilities in an area where these are not proposed. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Joanna Kelly
Inspectorate
30th May 2016