



# **An Bord Pleanála**

## **Inspector's Report**

**PL27.246222**

**DEVELOPMENT:- Dwellinghouse, garage, private well, treatment system and all site works at Ballybrew, Enniskerry, Co. Wicklow**

### **PLANNING APPLICATION**

**Planning Authority: Wicklow County Council**

**Planning Authority Reg. No.: 15/1221**

**Applicant: Emma Kelly**

**Application Type: Permission**

**Planning Authority Decision: Refuse Permission**

### **APPEAL**

**Appellant: Emma Kelly**

**Type of Appeal: First v Refusal**

**Observers: Frank and Fiona O'Reilly**

**DATE OF SITE INSPECTION: 19<sup>th</sup> May 2016**

**INSPECTOR: Mairead Kenny**

## **1.0 SITE LOCATION AND DESCRIPTION**

The 0.4598 hectares site is located in an elevated rural area less than a kilometre from the small village of Glencullen. The topography in this area is dominated by the valley of the Glencullen River, which flows generally from north-west to south-east and which is crossed by Glencullen Bridge close to and north-west of the site. The highest peak in the area is to the south-west of the site, Prince William's Seat which is 555m at peak and which lies over 1 kilometre to the south-west of the site. The elevation in the general vicinity of the site is around 250m.

The site is accessed by way of a local road, which is narrow and poorly aligned and which appears to be lightly trafficked. It is located to the north of the local road and south of the river. The site is taken from a small family holding at this location, which includes the lands to the north-west up to Glencullen Bridge. The northern edge of the holding is wooded and falls sharply to the river below. The local road is positioned at 200mOD approximately at the entrance. The road rises steeply from the bridge. There is an entrance to a quarry opposite the south-eastern corner of the site – the quarry appears to be dis-used.

The site defined for the purpose of the application includes a long narrow section devoted to the proposed access road, which wraps around a single storey dwellinghouse 'Goodwood' and shares part of the driveway to that house. The main body of the site is east of 'Goodwood'. The entrance and right of way also appears to be the point of access to the pumphouse by the river. The existing road into 'Goodwood' has a flat area adjacent the public road and from that point falls steeply towards the house.

There is another dwellinghouse located at a higher position at the south-west of the site, 'Granite Lodge', which is independently access from the public road. This is a split level house, which is likely to have commanding views from first floor balconies. Its origins may date to an old cottage, now extended. Both house sites have some associated retaining walls. The site suitability test holes were open on site.

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

## **2.0 PROPOSED DEVELOPMENT**

Permission is sought to construct a dwellinghouse of stated area of 150 square metres, a detached garage, private well, wastewater treatment system and all other site works. It is also proposed to upgrade the existing access to

form a new vehicular entrance and access driveway and to undertake other works.

### **3.0 PLANNING HISTORY**

There is no recent history related to this site or immediate area. The applicant previously sought permission for a dwellinghouse in this area under Planning Reg. Ref. 13/8266/ PL27. 242637. Relevant details from this case include:

- site located about 500m away to the south-east
- the decision of the Board to refuse permission related to injury to visual amenities and traffic safety
- Inspector considered that need for a NIS could be screened out.

### **4.0 PLANNING AUTHORITY DECISION**

#### **4.1 Planning and technical reports**

The planner's report notes:

- details of previous refusal of permission
- planning policies
- existing entrance at angle with road is steep and sightlines and ability to manoeuvre is restricted
- Board previously accepted applicant's need for dwellinghouse under PL27.242637
- is acceptable from visual amenity perspective
- the concerns raised by third parties regarding drainage lead to a second inspection by the EHO and the original report of EHO which recommends conditions was reiterated – wastewater treatment proposals are acceptable
- details of access road and entrance discussed and recommendation of Municipal Engineer to refuse permission is appropriate
- details of surface water and how local road can be protected are not provided
- driveway essentially adjoins boundary of SAC – would not adversely affect the qualifying interests and AA not required.

**Municipal Engineer** recommends refusal due to traffic hazard and surface water.

**Principal Environmental Health Officer** recommends conditions.

## **4.2 Planning Authority Decision**

The Planning Authority decided to refuse permission for the reason summarised below:

- create serious traffic hazard by reason of sightlines, angle of entrance and excessive gradient
- having regard to the location and extent of driveway would be inappropriate development in a rural area which would open up additional lands for development and set a precedent for further undesirable patterns of development and be contrary to the amenities of this Agriculture / Greenbelt zone
- not demonstrated how surface water would continue to flow off public road – possible damage to roadway or de-stabilising of steep roadside area above proposed development.

## **5.0 GROUNDS OF APPEAL / OBSERVATIONS**

### **5.1 Grounds of Appeal**

The main points of the first party appeal are:

- this is the third attempt to obtain permission and the applicant, a local person with a young family is resident with her parents a few hundred metres to the south and relies on her family for support – the Inspector previously considered that applicant is permanent native resident
- in response to the Board's refusal of permission the applicant now proposes a less prominently located site
- in response to the reason for refusal related to traffic the use of the existing entrance avoids creation of a new one – the access is within 60kph zone and close to a 50 kph zone and the sightlines are typical to the area and will be maintained by cutting of vegetation
- further the width of the access at the point where it adjoins the public road allows two vehicles to pass and the angle and gradient do not present any serious hazard to users as attested by ongoing use by residents and the local authority

- access ways with non-standard geometry are quite normal in upland areas as achievement of standards is often not possible
- in response to the reason for refusal related to the driveway its configuration is dictated by the layout of the right of way and its position in relation to the site
- avoiding the creation of a new entrance can only be achieved by a long access route, which in any case would be required due to topography
- the matter of precedent is not relevant as this relates to a single house for the applicant who has demonstrated a housing need
- no pre-application consultations were facilitated by the Planning Authority
- in relation to the surface water drainage and in particular the interference with roadside drainage the only works proposed are those to keep the briers cut back and there will be no interference with existing drainage or with the roadside back
- the applicant has a pressing housing need and the access and driveway and surface water arrangements are acceptable.
- Drawings enclosed.

## **5.2 Observations**

The observation submitted by owner/occupier of Granite Lodge states that the development would create an undesirable urban environment and form a dense residential cluster. Enclosed letter of objection and photographs which refer to surface water drainage issues on the site.

## **6.0 RESPONSES**

### **6.1 Planning Authority response**

No response.

## **7.0 POLICY CONTEXT**

The provisions of the Wicklow County Development Plan 2010-2016 are in force – the new plan is likely to be adopted in October.

Relevant policies include:

- recognise the social and economic needs of people living outside existing rural settlements – in accordance with listed circumstances
- site is in an area of Outstanding Natural Beauty
- part of the applicant's holding is within Knocksink Wood SAC.

## **8.0 ASSESSMENT**

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

- the access road
- Appropriate Assessment
- other issues.

### **Access**

The first party submissions note that the speed limit adjoining the site is 60kph and that it drops to 50kph near Glencullen Bridge. The access is stated to enjoy good sightlines in each direction. The position of the nearby quarry entrance is noted and it is stated to be closed within the recent past and that it generated large volume of heavy goods vehicle traffic on the public road. It appears that the road is not heavily trafficked. The matters raised in the decision of the Planning Authority relate to:

- sightlines and angle of the entrance with respect to the public road
- excessive gradient of the driveway.

I consider that the entrance and the driveway are both seriously deficient and notwithstanding use by the local authority (which is likely to be very limited) and use by residents of a single house, it is not suitable to serve the proposed house.

The entrance sightlines are deficient particular to the north-west but also the south-east. The applicant has no control over the vegetation to the north-west but does propose setting back of a hedge to the south-east. The sightlines shown on the appeal submission are 65m in both directions. It is not demonstrated that such sightlines are achievable in my opinion and a full topographical survey would be required in view of the serious deficiency in horizontal and vertical alignment of the local road. I do not recommend that such a survey be requested and I note that the local authority engineer likewise gave no indication that it was likely that satisfactory sightlines are achievable.

The angle of the entrance is a further cause for concern. While the flat part of the driveway does in theory allow for passing of two vehicles, in practice I found that coming out of the driveway and making a right hand turn was possible only with reversing movements, which would militate against use of the area by two vehicles. Taking the right turn involves driving with virtually no sightlines and in my opinion is hazardous and unsuitable for the future needs of the applicant and her family and would pose a hazard to users of the public road.

The driveway is extremely steep and located in an upland area and as such may be difficult to access in periods of inclement weather. I consider that the excessive gradient of the driveway adds to the hazardous and unsuitable nature of arrangements to access the site.

I conclude that the access arrangements are seriously deficient and that development would constitute a traffic hazard. I do not agree that the existing use of the access makes it suitable for further traffic – the additional traffic would be in conflict with both vehicles on the public road and those using the entrance and the driveway serving the existing house.

### **Appropriate Assessment**

I attach an extract from the NPWS website which shows the extent of the designated area of Knocksink Wood Special Area of Conservation. The Board will note that part of the applicant's land holding appears to be within the SAC, including the lands where the access road would be located.

The generic conservation objectives relate to the protection of two priority habitats and are quoted below.

*'To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected:*

*7220 Petrifying springs with tufa formation (Cratoneurion)\**

*91E0 Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, *Alnion incanae*, *Salicion albae*)\*'.*

No ecological report has been submitted by the applicant. However, it is stated that the qualifying interests are not found within the site. The basis for this conclusion is not outlined and the applicant has not indicated that suitable expertise has been engaged to provide the basis for this conclusion. Neither has there been any consideration in the submissions of a number of matters including potential hydrogeological connections and construction phase impacts.

The requirements of the Habitats Directive set a very high standard of proof. I would be of the opinion there is inadequate information available to enable the Board to conclude that the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site and in particular specific site number 000725 Knocksink Wood SAC in view of the site's conservation objectives. As such I consider that the Board is precluded from further consideration of a grant of permission.

### **Other issues**

I agree with the Planning Authority that the applicant's compliance with development plan policy for rural houses was accepted under a previous appeal. I do not propose to re-visit this matter.

I agree with the submissions made in the application cover letter relating to the limited visibility of the site. I agree with the conclusion of the Planning Authority that the development is acceptable in terms of visual amenity. I do not consider that the proposal would create an undesirable urban environment and form a dense residential cluster as suggested by the observer.

Regarding reason 2 and the suggestion that a grant of permission would open up further lands for development, I agree with the applicant that each case would have to be considered on its merits. I do not recommend this reason to the Board.

Regarding surface water drainage I am not convinced that there is evidence to indicate that this is a significant concern. The matters identified by the observer appear to relate partly to localised ponding. The site suitability for wastewater treatment has been demonstrated using the standard tests undertaken by an approved site assessor.

Regarding potential impact on roadside drainage I note that it is clarified in the appeal submission that works adjacent the public road are restricted to vegetation maintenance and that there are no works proposed to the roadside bank. I consider that reason 3 of the decision of the Planning Authority is not sustainable.

## **9.0 CONCLUSIONS AND RECOMMENDATION**

It is considered that permission should be refused for the reasons and considerations hereunder.

Reason 1 below was not raised in the decision of the Planning Authority to refuse permission. The Board may consider that it constitutes a new issue, which should be put to the applicant prior to the issuing of a decision to refuse permission. However, the first party submissions address the matter of Appropriate Assessment, albeit in a manner which is not



satisfactory. I consider therefore that this would not reasonably be described as a new issue in this case.

## **REASONS AND CONSIDERATIONS**

1. The EU Habitats Directive (92/43/EEC) requires competent authorities to review planning applications and consents that have the potential to impact on European Sites. The site of the proposed development is partly within the designated area of Site 000725 Knocksink Wood Special Area of Conservation to which this requirement applies.

It is considered that there is inadequate information available to enable the Board to conclude that the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European Site and in particular specific site number 000725 Knocksink Wood SAC in view of the Site's conservation objectives.

In these circumstances, it is considered that the Board is precluded from giving further consideration to the granting of permission for the development the subject of the appeal.

2. The site is located along a minor road which is inadequate in terms of width and alignment and at a restricted entrance where sightlines are deficient, where turning of vehicles is impeded and the driveway gradient is excessive. The traffic generated by the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users.

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**Mairead Kenny**

**Senior Planning Inspector**

**30<sup>th</sup> May 2016**