
An Bord Pleanála



Inspector's Report

Development: House at Knockroe, Delgany, Co. Wicklow

Planning Application

Planning Authority : Wicklow County Council

Planning Authority Register Reference : 16/120

Type of Planning Application : Permission

Applicants : Luke, Liam & Katie Tighe

Planning Authority Decision : Grant subject to conditions

Planning Appeal

Appellant : David Tempany

Type of Appeal : 3rd Party v. Grant

Observers : None

Inspector : Pauline Fitzpatrick

Date of Site Inspection : 31/05/16

Appendices

1. Photographs
2. Extracts from the Greystones/Delgany & Kilcoole Local Area Plan 2013

1. SITE LOCATION AND DESCRIPTION

The site, which has a stated area of 0.2 hectares, is accessed from a lane off the R761 in the townland of Knockroe in Delgany, c. 1.5 km to the south-east of Delgany village centre and c. 3km to the south of Greystones town centre. The lane provides access to a mix of semi-detached and detached dwellings of varying designs and ages. The site, itself, originally formed part of the rear garden area of a semi-detached dwelling fronting onto the lane. The site is set back from same with a driveway and turning circle developed to serve it and the two dormer dwellings which have been recently constructed fronting onto the regional road.

The lands slope down from south to north. One of the dormer dwellings that fronts onto the regional road backs onto the site to the west with the boundary delineated by a block wall. An unsurfaced cul-de-sac lane providing access to a number of dwellings bounds the site to the north. The site is higher than the lane with the boundary delineated by a line of mature trees. The lands to the east constitute part of the rear garden area of the semi-detached dwelling to south.

The site is owned by Wicklow County Council.

2. PROPOSED DEVELOPMENT

The application was lodged with the Planning Authority (PA) on the **05/02/16** with further unsolicited information received **16/03/16** following the receipt on an objection by the PA.

The proposal is for a 4 bedroom dormer dwelling with a stated floor area of 204 sq.m. The dwelling is to have a north-south orientation and is to back onto the lane to the north. It is to have a ridge height of 7.07 metres with a render external finish. The mature trees are to be removed from the rear (north) boundary and replaced with a timber post and rail fencing backed with a 2 metre high hedge. The eastern site boundary is to be delineated by a block wall.

Connection to public services is proposed.

Note: An objection to the proposal received by the PA has been forwarded to the Board for its information. The issues raised are comparable to those cited in the grounds of appeal summarised in section 5 below.

3. TECHNICAL REPORTS

Irish Water in a report dated **29/02/16** has no objection subject to conditions.

The **Assistant Planner's** report dated **16/03/16** (countersigned) notes that a number of infill and backland dwellings have been granted permission in the vicinity (refs. 14/1433 & 14/1834) creating a precedent for similar forms of development on these zoned lands. The principle of the development is acceptable. It is considered that in the interests of security that the northern (rear) boundary should comprise a 2 metre high solid timber screen fence. The boundary on the northern side of the laneway to the north comprises a comprehensive screen of mature vegetation and it is not considered that the proposal would give rise to overlooking of the property to the north of the lane. Connection to the foul sewer on the R761 is via the neighbouring site to the west for which consent has been provided. Connection via the lane to the north is not proposed. A grant of permission subject to 12 conditions is recommended.

4. PLANNING AUTHORITY'S DECISION

The PA decided to grant permission for the above described development subject to 12 conditions stipulating general planning and engineering requirements. Of note:

Condition 4: Occupancy clause for a minimum of 1 year.

Condition 7: 2 metre high solid timber fence screen with hedging and trees to be erected along the northern boundary.

Condition 11: Dwelling not to be occupied until communal driveway and footpath have been completed to District Engineer's satisfaction.

5. GROUNDS OF APPEAL

The submission by Conroy, Crow, Kelly Architects and Urban Designers on behalf of the 3rd Party against the PA's notification of decision to grant permission can be summarised as follows:

- The appellant is concerned that the common boundary along the lane would be removed and replaced with an unsuitable fence at a location without his consent as happened in the case of planning reference 14/1433. He is concerned that the PA's condition defining the fence and planting will not be complied with. The fence should be 2.4 metres high to overcome the difference in ground levels of the subject site and the appellant's property. A

revised condition stipulating the consent of the appellant to be secured is recommended.

- The proposal will give rise to overlooking of the appellant's property. The dwelling should either be relocated or the 1st floor windows omitted, made obscure or raised to such a height so that they cannot be used for viewing purposes.

6. APPLICANT'S RESPONSE TO GROUNDS OF APPEAL

The response by Peare Consulting Engineers on behalf of the applicants can be summarised as follows:

- The existing line of trees along the northern boundary are located within the site owned by Wicklow County Council and are not in the appellant's ownership.
- The removal of the trees is so as to allow for the full utilisation of the site.
- The 2 metre fence backed with hedging as conditioned follows the appellant's objection to the application.
- The dwelling is to be positioned at the bottom of the sloping hill at the same level as the dormer dwelling on the adjoining site. The dwelling will only have roof windows at first floor level. In addition there is a laneway separating the appeal site from the appellant's property with a line of mature trees and bushes along the appellant's property line. No overlooking would arise.

7. PLANNING AUTHORITY'S RESPONSE TO APPEAL SUBMISSION

The PA requests that the Board does not revise condition 7 requiring the applicant to seek consent from a 3rd party in that it would make a private legal matter a planning compliance issue. Section 34 (13) of the Planning and Development Act, as amended, would apply. Condition 7 changes the type of boundary required. It does not change the location of the proposed fence and does not require any works outside of the redline site boundary.

8. OBSERVATIONS

None

9. RELEVANT PLANNING HISTORY

14/1433 – permission granted for demolition of dwelling and construction of two dwellings on a site to the west and south-west of the appeal site. I note that an occupancy clause was not attached by way of condition.

10. DEVELOPMENT PLAN PROVISIONS

10.1 Wicklow County Council Development Plan 2010-2016

Greystones/Delgany is identified as a Large Growth Town Level II.

Objective UD4: Settlement Levels 1, 2 and 3 shall be prioritised for growth and investment and shall absorb regional demand from inside and outside the County.

10.2 Greystones/Delgany & Kilcoole Local Area Plan 2013

Map A indicates the settlement boundaries of Greystones-Delgany and Kilcoole. All lands located outside of same are considered to be within the rural area.

The site is within the settlement boundary of Greystones/Delgany and is within an area zoned RE existing residential the objective for which is to protect, provide for and improve residential amenities of adjoining properties and areas while allowing for infill residential development that reflects the established character of the area in which it is located

11. ISSUES AND ASSESSMENT

I consider that the issues arising in the case can be assessed under the following headings:

1. Principle of Development
2. Boundary treatment
3. Amenities of Adjoining Property
4. AA- Screening

11.1 Principle of Development

The site is accessed via a recently constructed access from a cul-de-sac lane off the R761 which connects Greystones/Delgany and Kilcoole. It is within an area zoned RE in the current Greystones/Delgany & Kilcoole LAP, the objective for which is to protect, provide for and improve residential amenities of adjoining properties and

areas while allowing for infill residential development that reflects the established character of the area in which it is located. Taking into consideration the pattern of residential development in the vicinity and the two dwellings recently constructed to the west and south-west with which the proposal is to share an access, I consider that the principle of the proposal is acceptable.

The PA attached an occupancy clause by way of condition 2 in its decision to grant permission. As per Map A of the relevant LAP the site is within the settlement boundary as delineated for Greystones/Delgany which is designated as a Large Growth Town Level 2. It is separated from the Kilcoole settlement boundary by lands zoned green belt. I note that the County Development Plan does not stipulate an occupancy requirement for residential development within Greystones/Delgany as it does for other lower order settlements such as Kilcoole (designated Small Growth Town – Level 5) and that it is an objective (*UD4*) that such settlements be prioritised for growth and investment and shall absorb regional demand from inside and outside the County. The Board is advised that the PA did not attach a comparable condition to its grant of permission for the two dwellings immediately to the south-west of the appeal site under reference number 14/1433. In the interests of consistency and in accordance with the development plan provisions for the area I consider it appropriate that such a requirement be omitted in this instance.

11.2 Boundary Treatment

The appeal site is bounded by a private lane to the north along which there is a line of mature, coniferous trees. The appellant contends that his consent is required for the removal of the boundary and its replacement and recommends that the relevant condition should be modified accordingly to reflect same. In response the agent for the applicant contends that the line of trees is within the site (which is owned by the County Council).

The dwelling which has been developed to the south-west of the appeal site with frontage onto the R761 is side-on to the said lane with the boundary along its length delineated by a timber post fence backed with planting. The appellant is unhappy both with the fact that his consent was not sought and the type of fence erected.

In this instance the PA is requiring a 2 metre high solid timber fence to be backed with planting. In order to provide for a level of privacy and security to the rear of the proposed dwelling this is considered appropriate and should the Board concur, the applicant will be required to ensure compliance with same. I note that in view of the differential in levels between the site and the lane, in the region of 1.5 metres, this fence as viewed from the lane would have the benefit of additional height.

In terms of the agent for the appellant's recommendation regarding the rewording of the relevant condition as detailed above I would concur with the PA that such a measure is inappropriate in that it would make a private legal matter a planning compliance issue. As noted Section 34 (13) of the Planning and Development Act, 2000, as amended, states that a person shall not be entitled solely by reason of a permission to carry out any development. I recommend that the applicants be advised of same should the Board be disposed to a favourable decision.

11.3 Amenities of Adjoining Property.

The dwelling as proposed whilst providing for 1st floor accommodation incorporates roof lights both to the front and rear elevations, only. The dwelling is to be positioned 8.3 metres from the rear boundary and will be c. 11.5 metres from the southern (side) boundary of the appellant's property. Whilst the appellant's property is at a lower level than the appeal site I submit that in view of the separation distances, the intervening lane and the mature trees that line same which provide for a significant level of screening and the fact that the proposed roof lights would direct eye line skywards rather than toward the ground, I do not consider that the proposal would give rise to concerns regarding overlooking and consequent loss of privacy.

11.4 AA – Screening

Having regard to the location of the site on zoned and serviced lands and the nature and scale of 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.

12. CONCLUSIONS AND RECOMMENDATION

Having regard to the documentation on file, the grounds of appeal, the responses thereto, a site inspection and the assessment above, I recommend that permission for the above described development be granted for the following reasons and considerations:

REASONS AND CONSIDERATIONS

Having regard to the nature and scale of the proposed development, the pattern and character of development in the area, and to the existing residential zoning objective of the site as set out in the Greystones - Delgany and Kilcoole Local Area Plan 2013 - 2019, it is considered that, subject to compliance with conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity 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, 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. The northern (rear) site boundary shall be delineated by a solid timber panel fence, 2.0 metres in height. It shall be backed on its southern side with indigenous deciduous trees and hedging species.

Reason: In the interests of residential and visual amenity

3. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

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4. 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.

5. Prior to the occupation of the dwelling the shared driveway and turning area serving the proposed development shall be completed to the written agreement of the planning authority.

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

6. All utility cables associated with the proposed development, including electrical and communications cables, shall be located underground. Any existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

7. Site development and building works shall be carried out only between 0800 hours and 1900 hours from Mondays to Fridays inclusive, between 0800 hours and 1400 hours on Saturdays and not at all on Sundays, Bank or Public Holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

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8. 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.

Pauline Fitzpatrick
Inspectorate

June, 2016