

An Bord Pleanála



Inspector's Report

Appeal Reference No: PL27.246493

Development: House, garage, entrance and demolition of ruin, Mount Usher, Ashford, County Wicklow.

Planning Application

Planning Authority: Wicklow County Council
Planning Authority Reg. Ref.: 16/127
Applicant: Rachel Liston/Robin Pearcy
Planning Authority Decision: Grant with conditions

Planning Appeal

Appellant(s): Konrad & Katherine Jay
Type of Appeal: Third Party
Observers: An Taisce
Date of Site Inspection: 22 July 2016

Inspector: Hugh Mannion

1.0 SITE LOCATION AND DESCRIPTION

The appeal site has a stated area of 0.438ha and comprises an irregular rectangle. The site is accessed over a vehicular gateway at the western corner of the site – the corner closest to Ashford village centre. The site is very overgrown with the densest growth in the south eastern sector of the site. There is a disused, roofless dwelling in the western sector of the site close to the site entrance. The roadside boundary along the R772 (former N11) is densely planted and there are no views into the site from the public road. Immediately inside the roadside fence there is a steep drop in site levels but quite quickly thereafter the site flattens out so that the great majority of the site is flat.

The road layout to the west (Ashford village) side has been amended to provide separate entrance and exit vehicular access to Mount Usher House and Gardens. The northern boundary of the appeal site is defined by a thick hedge including a line of a species of fir tree (some of which may be dead or dying). The adjoining element of the Mount Usher landholding is occupied by a large service area/small house/garden building and car parking area. The eastern site boundary adjoins the higher value amenity area of the Mount Usher gardens with planting and tree lined walks. About ½ the length of the boundary along the Mount Usher property is defined by hedging and planting and about ½ by a substantial rubble/mortar wall which exceeds 2m high and terminates at the southern corner of the site at the point where it meets the footpath along the R772.

2.0 PROPOSED DEVELOPMENT

The proposed development comprises the erection of a new house and garage, new vehicular entrance and access road, connection to services and demolition of derelict house on site at Mount Usher, Ashford, County Wicklow.

3.0 PLANNING HISTORY

Permission was refused the demolition of the house on site and erection of a new house under **PL27.244217** because;

The site is located in a visually sensitive location adjacent to Mount Usher House which is a protected structure and is listed in the National Inventory of Architectural Heritage as being of regional importance. Having regard to the significant scale, bulk, height, massing and design of the proposed dwelling, it is considered that the proposed development would constitute a visually intrusive element when viewed from Mount Usher House and Gardens, having a significant adverse visual impact at this location and would adversely affect the character and setting of the protected structure. The proposed development would therefore be contrary to Heritage Objective H3, as set out in the Ashford Town Plan, in relation to the protection of the demesne and setting of Mount Usher House, would seriously injure the amenities of this property, and would, therefore, be contrary to the proper planning and sustainable development of the area.

Permission was refused under **PL27.228280** for the erection of 11 house on this site because;

1. Having regard to the location of the site on the periphery of Ashford Village it is considered that the proposed terrace of eight houses, by reason of its monolithic form in close proximity to the adjoining road, would be unduly dominant in the landscape and would appear incongruous and out of character with the traditional pattern of development in the village. The proposed development would, therefore, be contrary to the proper planning and development of the area.
2. Having regard to the relationship of the site with the adjoining property of Mount Usher House (a protected structure) it is considered that the proposed three detached houses to the rear, by reason of excessive proximity, would give rise to significant overlooking of, and be visually obtrusive in views from, the Mount Usher Gardens and, thereby, would seriously detract from their amenity value and recreational use. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. Having regard to the restricted size of the balconies and the limited usability of the second floor level (roof terrace) private open spaces to serve the proposed terrace of eight houses it is considered that the proposed development would result in an inadequate level of residential amenity for future residents and would, therefore, be contrary to the proper planning and sustainable development of the area.

4. Having regard to the nature and extent of existing trees and shrubs in close proximity to the proposed 2 metre high stone wall (along the site boundary with the Mount Usher Gardens) it is considered that the associated excavation and construction works would be prejudicial to their protection and conservation. The proposed development would, therefore be contrary to the proper planning and sustainable of the area.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

The **planner's report** on file recommended a grant of permission as reflected in the Manager's Order.

Irish Water reported no objections subject to conditions.

The **Area Engineer's** office reported no objection on grounds of road safety or surface water disposal.

4.2 Planning Authority Decision

The planning authority granted permission subject to 12 conditions. None of these conditions materially altered the development as applied for.

5.0 GROUNDS OF APPEAL

The grounds of appeal may be summarised as follows;

- The site fronts onto the R772 band slopes down towards Mount Usher House and gardens. There is a derelict two storey house on the site.
- The proposed development is zoned existing residential in the Ashford LAP. The proposed house will overlook and be visually obtrusive when viewed from the protected structure of Mount Usher house and gardens. The house will require the removal of five trees which would otherwise have provided some screening. The landscaping proposed is inadequate.
- The proposed house is of an inappropriate scale, bulk, height, massing and design. The proposed house is 350m² in floor area and 10.55m high.

- The proposed development will give rise to unacceptable noise levels in the adjoining property.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority response

The planning authority did not comment of the grounds of appeal.

6.2 First party response

The applicant's submission may be summarised as follows;

- The site is zoned RE -Existing residential in the Wicklow County Development Plan with the objective 'to protect, provide and improve residential amenities of existing residential areas'.
- The proposed development is substantially smaller than that previously proposed under PL27.244217. It is a 4 bedroom, two storey house with a floor area of 285m² and 9.2m in height. The proposed development has been reduced from the previously proposed by a 20% reduction in size, 1.7m reduction in height, reduction in floor area from 350m² to 285m², increased set back from the boundary and relocation on site.
- The proposed development will not give rise to overlooking of the Mount Usher site.
- The application included a landscaping plan which will augment screening on site. There will be no adverse impact on the privacy of adjoining property.

6.3 Observations on grounds of appeal

The appellant was invited to comment of the applicant's response to the appeal. These comments may be summarised as;

- It would be preferable to locate the house closer to the road which would allow retention of 5 trees.
- The visitor paths in Mount Usher will be visible from the proposed development. And will give rise to unacceptable noise intrusion on the gardens.
- The proposed house (at 9.2m) remains too high.

6.4 Observations from An Taisce

An Taisce made an observation which may be summarised as follows;

- Mount Usher House should be a protected structure and listed in the NIAH. The proposed development should not be visible from Mount Usher House/gardens.
- There is an objective in the Ashford Town Plan to protect Mount Usher House/gardens and the proposal undermines this objective.

7.0 POLICY CONTEXT

Ashford Town Plan was adopted as variation 5(i) of the Wicklow County Council Development Plan 2010-2016 on the 6th of October 2014.

The site is zoned as 'existing residential.'

Policy ET2 'To facilitate and support the development of the tourism industry in Ashford and maximise the town's location as a gateway between the tourism assets within Co. Wicklow and the east coast of Ireland.'

Policy H3 'To maintain and protect the demesne settings of Inchinappa House, Mount Usher House and Rosanna House, and to require all development proposals within or directly adjoining these demesnes to fully evaluate and address any impacts of the setting and character of these demesnes.'

Mount Usher House is a designated protected structure – 25-11.

8.0 ASSESSMENT

8.01 Background

The previous application for permission for a house on this site was refused by the Board under PL27.244217. The reason for refusal may be summarised as referring to the scale, bulk, height, massing and design of the proposed house and that it would constitute a visually intrusive element when viewed from Mount Usher House and Gardens.

8.02 Scale, Bulk, Height and Massing.

8.03 The previously proposed house under PL27.244217 had a front elevation about 20m long and a depth of about 15m (including a porch). The current application has a front elevation about 13m with an additional ground floor only element of 5m. The roof ridge height has been reduced from a previous 10.35m to the currently proposed 9.2m. The overall floor area (house and garage) has been reduced from 350m² to 285m² for the house and 48m² for the garage.

8.04 The site coverage is therefore about 7% which I consider acceptable. I conclude that the amendments incorporated into this application as against the previous one make it acceptable in terms of scale, bulk, height, massing.

8.05 The house design is relatively conventional and acceptable in planning terms.

8.06 The appeal makes the case that the proposed house would be better relocated on site closer to the N722 road and that this would prevent loss of trees. Having regard to the landscape plan submitted with the application (drawing number 029115_LP_01) and my site inspection I conclude that the proposed location of the house is preferable in terms of tree preservation. I accept the point made by the applicant that the location is acceptable and it may be noted that to move the house closer to the road would bring it unreasonably close to the escarpment which runs inside the boundary with the public road.

8.07 Impacts on Mount Usher House and Gardens.

8.08 The previous refusal on appeal referenced the impact of the proposed development on Mount Usher House and Gardens which are protected

structures and in relation to which there is an objective in the plan that developments in the area should have regard to the impacts on the house and gardens.

8.09 There is significant screening along the site boundary between the application site and the lands of Mount Usher House and Gardens and for about ½ of that boundary there is a rubble and mortar wall about 2m high. There are a large number of specimen trees in the grounds of Mount Usher House a gardens and the Vartry River separates the house from the gardens and walking paths closer to the application site. The application documentation included a 'context plan' which gives a separation distance between the proposed house and Mount Usher House at 100m.

8.10 As part of my site inspection I walked into Mount Usher House and Gardens, followed the site boundary from the northern corner to the eastern corner and down to the southern corner. There is a fall in site levels from the site boundary towards the Vartry River. I consider that the submitted 'context plan' is correct in its estimation of the separation distance between the proposed house and Mount Usher House. The separation distance from the rear wall of the proposed house to the eastern site boundary has been increased to minimum of 21m as against 13.9m in the application under PL27.244217.

8.11 The appeal makes a further point that the proposed development will give rise to a level of noise such as to disturb the amenity of the walking paths within Mount Usher gardens. Having regard to the nature of the proposed use - a domestic dwelling – I conclude that noise disturbance will not seriously injure the amenity of the garden walks.

8.12 The site is zoned for residential development and there is a house (albeit a derelict one) on site; therefore the existing use of the site is residential. It is necessary in the present case as required by the Town Development Plan to balance the reasonable expectation of residential development on the site with the protection of the amenity of adjoining property and in particular that of Mount Usher House and gardens.

8.13 Having regard to the relatively large area of the application site, the amendments included in the present application over the application the subject of appeal PL27.244217, the increased separation distances from the boundary with Mount Usher Gardens and the separation distance between the proposed house and Mount Usher House I conclude that the proposed

development will not seriously injure the amenity or depreciate the value of adjoining property and in particular of Mount Usher House and Gardens.

8.14 Traffic Safety.

8.15 The application proposes the creation of a new entrance onto the R772 at the southern corner of the site. The speed limit at this location of 60kph. There are other individual access points in the vicinity and a junction further south to the housing development at Ballinalea. The planning authority's engineering advice raised no objections in relation to traffic safety.

8.16 I conclude that the proposed development should not be refused permission on the grounds of traffic safety.

8.17 Piped Services

8.18 Public water supply and sewerage services are available to the proposed development.

8.19 Appropriate Assessment

8.20 Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

8.21 Conditions

8.22 The planning authority has imposed an occupancy condition restricting occupancy of the new house in the first instance to persons employed in or living in the county. This condition appears to arise from an objective (UD6) in the County Development plan in relation to housing in level 5 settlements as identified in the settlement strategy in the Plan.

8.23 I consider that there is no planning requirement for such condition relating, as it does, to land zoned for residential development within a development boundary of an existing settlement. I recommend omitting the condition from the Board's order.

8.24 In relation to the planning authority's condition number 10(a) it appears that there is a typographical error in the date of receipt of the drawing from Hayes Higgins Partnership which was received by the planning authority on

the 8th February 2016. In any case I consider that this condition is already covered by the condition number 1 set out in the draft order below and need not be repeated.

9.0 CONCLUSIONS AND RECOMMENDATION

Having regard to the foregoing I recommend a grant of permission as set out below.

REASONS AND CONSIDERATIONS

The site is zoned for residential development in the Ashford Town Plan incorporated in the Wicklow County Development Plan 2010-2016. Having regard to the scale of the proposed development in the context of a relatively large site, to the screening available within the site and the separation distances of the proposed development from the site boundaries and subject to the conditions set out below it is considered that the proposed development would not injure the amenity of adjoining property or of property in the vicinity and would be in accordance with the zoning objective for the site set out in the County Development Plan and with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out 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 and the development shall be retained in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the attenuation and 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 and to ensure a proper standard of development.

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

Reason: In the interest of visual amenity.

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

Reason: In the interest of orderly development and the visual amenities of the area.

5. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of 2 metres from the trunk of the tree or the centre of the shrub, and to a distance of 2 metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

6. 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.

Hugh Mannion
Planning Inspector
29th July 2016.