

An Bord Pleanála



Inspector's Report

Appeal Ref. No:	PL27.246499
Proposed Development:	Replace 16,000 litre reservoir with a new 90,000 litre reservoir and erect 174m² polytunnel.
Location:	East Hill Farm, East Hill, Newtownmountkennedy, County Wicklow.
Applicants:	Alun Owens
Planning Authority Reg. Ref:	15/1341
Planning Authority:	Wicklow County Council
P.A. Decision:	Grant with conditions
Appeal Type:	Third Party vs Grant
Appellants:	(1) Anne & Robert Miller (2) Christopher Kavanagh (3) Marie Kavanagh
Observers:	
Date of Site Inspection:	26th July 2016
Inspector:	Hugh Mannion

1. SITE AND SURROUNDINGS

The site comprises a single field with a stated area of 1.56ha. The field is an irregular rectangular; the highest point within it is mid-way along the western boundary and the field slopes down towards the northeast and southeast from there. The site is accessed on its southern boundary from a recently surfaced narrow road which is located c. 1.5km from Newtownmountkennedy. There is a sign stating that this is a private road at its junction with the public road to the east of the site. The site is adjoined to the east by East Hill House, a large period house located within a complex of outbuildings. The site is surrounded to the north and west by agricultural fields. The field boundaries are characterised by mature hedgerow with a number large trees (including beech, ash, and bramble). The entrance has been laid out with a set back and a bank of material.

2. PROPOSED DEVELOPMENT

The proposed development comprises the replacement of an existing 16,000 litre water reservoir with a 90,000 litre water reservoir for use in conjunction with the land as an organic farm and the construction of one 174m² polytunnel and associated ancillary works at Easthill Farm, Easthill, Newtownmountkennedy, County Wicklow.

3. HISTORY

Under PL27.238428 and PL27.238429 permission was refused for two houses on the present site for two separate applicants on foot of third party appeals for the reasons as follows;

1. The site of the proposed development is located within an 'Area under Strong Urban Influence' as set out in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005. On the basis of the submissions made in connection with the planning application and the appeal, it is considered that the applicant does not come within the scope of the housing need criteria for a house at this location as set out in the said Guidelines. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The site of the proposed development is located in a landscape identified in the current Wicklow County Development Plan 2010-

2016 as an 'Area of Special Amenity', which is stated in the plan to have a high vulnerability and within the vicinity of which there are protected structures such as Atlidore Castle which have wide range views of the surrounding landscape. The proposed development would be located in an elevated position within this special landscape on a sloping site, with little established development in the vicinity. The proposed dwelling, on its own and when considered in combination with the proposed adjoining development of another dwelling within the same field would comprise an inappropriate scale of development on the site with a layout which would be contrary to orderly development and would result in a visually obtrusive development resulting in a serious deterioration of the landscape quality. The proposed development would, therefore, be contrary to the policies, as detailed in the development plan for the area, which seek to emphasise the need for sensitive development in rural area in the siting and design of one-off housing. The proposed development would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.

4. PLANNING AUTHORITY DECISION

The planning authority decided to grant permission subject to two conditions. Condition number 2 required the set of the site boundary from a point 2.4m from the roadside edge from 70m in both directions from the entrance in the interest of traffic safety.

The **Water and Environmental Services Section** reported (3rd February 2016) that additional information should be sought in relation to the level of vegetable processing on site, generation of waste, storage of chemicals on site, provision of potable water/WWT on site, and what the is the proposed use of the stored water.

The **Area Engineer** reported (6th January 2016) that the road had not been taken in charge and that there were no objections to the application.

The planning authority initially sought further information as follows;

- Proposed use for the stored water,
- Drawings/materials of construction,
- Appropriate disinfection of water supply,
- Type of vegetable processing, if any, to be carried out on site,

- Will there be potable water/toilet facilities on site.
- Provision of sight lines at site entrance.
- Details of waste proposed to be generated and chemicals used.

The applicant responded that;

- The water would be used for irrigation and not used for human consumption or food washing.
- Fruit/vegetables are not-pre washed.
- Well water is tested regularly. There are no toilet facilities on site.
- A drawing is submitted showing the provision of sightlines.
- Product waste is composted on site.

The **Water and Environment Services** commented that there were no records of the well/potable water source on the applicant's adjoining lands having been tested for quality. A manuscript note on file states that this well is outside the site of this application.

The planning authority granted permission on foot of the additional information. Condition number 2 required the setting back of the roadside boundary for 70m in both directions.

5. THIRD PARTY APPEAL

The grounds of appeal may be summarised as follows;

- The access road is steep with a series of bands. The proposal comprises commercial development which will endanger public safety by reason of traffic hazard. There is inadequate sightlines at the entrance. The County Development Plan seeks to restrict unsafe accesses to public roads.
- The proposed access is unauthorised. There is a history of refusal of permission on this landholding.
- The area is designated an area under strong urban influence and the site is outside the development boundary of any settlement.
- No environmental impact assessment of the proposed development has been carried out.

- No visual impact assessment of the proposed development has been carried out.

6. APPLICANT'S RESPONSE

The applicant responded to the appeals as follows:

- The application is for agricultural development which complies with Development Plan policy to continue farming in rural areas.
- The proposal is to increase the size of an underground reservoir from 4.4m wide by 1.9m long to 6m wide by 20m long. A 20m long polytunnel is also proposed.
- The planning authority has accepted that the proposal will not give rise to traffic hazard.
- The larger water reservoir will reduce the need for vehicular movements related to bringing water to the polytunnels. The reservoir collects rainwater.
- The structures are not visible from outside the site and will not impact on visual amenity.
- The appellants do not live adjoining the site but about 500m distant.

7. OBSERVATIONS

There are no observers on file.

8. PLANNING AUTHORITY RESPONSE

The planning authority did not comment on the appeal.

9. FURTHER SUBMISSIONS

There are no further submissions.

10. PLANNING POLICY FRAMEWORK

The Wicklow County Development Plan 2010 to 2016 is the relevant county development plan for the area¹.

The County Development Plan 2010 – 2016 states in relation to ‘Areas of Special Amenity’

This landscape area encompasses those areas, which, whilst not as vulnerable nor as sensitive as those areas in the AONB area, are still subject to pressure for development, which could result in a serious deterioration in the landscape quality. The sensitivity of these areas is made more pronounced by the fact that they act as an effective “gateway” to the more remote and wild upland areas and because the more ameliorative nature of the landform ensures that there is greater development pressure. It contains the North Mountain Lowlands, the South Mountain Lowlands, the Baltinglass Hills and the Southern Hills. The rolling undulating terrain of the hills around Baltinglass distinguishes the Baltinglass Hills category. Possibly the greatest vulnerability within this area is to the existence of important archaeological remains and monuments. This archaeological wealth must be protected for its heritage value as well as tourism potential.

The southern hill area differs significantly from the other mountainous sub-zones. It generally follows the 300m (1,000 ft) contour line and is in three distinct areas, namely

- the mountainous leg from Moylisha running north-west of Shillelagh, Tinahely and Aughrim,
- the Croghan Mountain area south of Aughrim and Woodenbridge
- the Kilgavan Gap and Hillbrook area.

11. ASSESSMENT

11.01 Introduction

11.02 The field the subject of this application is in agricultural use. There are two polytunnels close to the southern boundary just inside the entrance. There are a further two polytunnels close to the northern boundary. In between these is an area of tillage and at the highest point of the field is a rain water collection area comprising black polythene laid out

¹ The last date for receipt of public submissions in relation to the new plan is 26th August 2016.

on the ground which collects rain which drains into an existing underground reservoir.

11.03 The application proposes expanding this rainwater reservoir and erection of a further (5th) polytunnel – see the proposed site layout submitted with the application.

11.04 Visual impact

11.05 The site is within an ‘Area of Special Amenity’. These areas are considered not as vulnerable as Areas of Outstanding Natural Beauty. Having regard to the very substantial screening available from all four boundary hedges, the maximum height of the polytunnel at 2.7m, the established use of the site for agricultural activity and the rolling nature of the landscape in the vicinity of site I conclude that the polytunnel will not be visible in a manner as to undermine the objective of the Development Plan to protect the visual amenity of the area.

11.06 In relation to the increased underground reservoir I am satisfied that this will not be visible outside the application site.

11.07 Traffic Safety.

11.08 The junction of the access road with the public road is marked by a sign which states “private road no parking throughout” and there is a 50kms speed limit sign. The appeal makes the point that the proposed development will give rise to traffic hazard.

11.09 The planning authority imposed condition number 2 which required the setting back of the boundaries for a distance of 70m in both directions from a point 2.5m off the road edge. I note the area engineer reported in relation to this case that this road has not been taken in charge and that there were no objections on grounds of traffic safety. I identified three houses (including the applicant’s parents’ home at Easthill Farm) accessing this road between the site and the public road.

11.10 Having regard to the rural character of the road, to the modest scale of the proposed development (a single polytunnel and water storage), the limited capacity of the proposed development to give rise to material increases in vehicular traffic, and the desirability of maintaining hedgerows and thereby protecting the rural and sylvan character of the site and area I recommend amending condition number 2 as set out in the draft order below.

11.11 Impacts on Adjoining Wells.

11.12 The appeal makes the point that the proposal may impact on the ground water resource in the area. It may be noted in this regard that the application does not include the provision of a well.

11.13 Unauthorised Development

11.14 The appeal makes the point that unauthorised development has been carried out on site. In this regard I would note that unauthorised development is a matter for the planning authority and that the Board is constrained to determine the application on appeal to it.

11.15 Environmental Impact Assessment

11.16 The appeal makes the point that the application should be subject to EIA. The types of agricultural development which is subject to EIA is provided for in Class 1 of Part 2 of Schedule 5 to the Planning and Development Regulations 2001, as amended. It is arguable that the proposed development may fall into Class (1)(c) – water management projects for agriculture. However the threshold in this class is 1,000ha which exceeds the area of this application (1.56ha). I conclude therefore that this application should not be subject to mandatory EIA.

11.17 Furthermore having regard to the very modest scale of the proposed development and the provisions of Schedule 7 to the Planning and Development Regulations 2001, as amended, I conclude that the proposed development should not be subject to a sub-threshold EIA.

11. 18 Appropriate Assessment

11.19 Having regard to the material submitted with the application and, in particular the response to the request for further information, I am satisfied that the proposed development does not include any on-site processing of vegetables or the provision of sanitary facilities. I conclude that there are no emissions from the site which would give rise to a requirement for Appropriate Assessment 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. RECOMMENDATION

Having regard to the foregoing I recommend that permission be granted for the reasons and considerations, and subject to the conditions, set out hereunder:

Reasons and Considerations

Having regard to the agricultural character of the proposed development, its modest scale and location in a rural area it is considered that the proposed development, subject to compliance with the conditions set out below, would not be obtrusive in views within the area, would not have a material impact on traffic levels on the adjoining road network, and would accord with the provisions of the Wicklow County Development Plan 2010 to 2016 and 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 existing roadside boundary hedge shall be retained except to the extent that its removal is necessary to provide for the entrance to the site. Within 6 months of the date of this order the applicant shall submit for the written agreement of the planning authority plans and particulars for a revised entrance and gates to the proposed development. In default of agreement the matter shall be referred to An Bord Pleanála for determination.

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

Hugh Mannion
Planning Inspector
27th July 2016.