

# An Bord Pleanála



## Inspector's Report

**Appeal Reference No:** PL27.246525

**Development:** House and DWWTS at Blainroe Upper, Wicklow, County Wicklow.

### Planning Application

Planning Authority: Wicklow County Council

Planning Authority Reg. Ref.: 15/1063

Applicant: Ronan & Priscilla Hurley

Planning Authority Decision: Refuse

### Planning Appeal

Appellant(s): Ronan & Priscilla Hurley

Type of Appeal: Applicant vs Refusal

Observers:

Date of Site Inspection: 8<sup>th</sup> August 2016

**Inspector:** Hugh Mannion

## **1.0 SITE LOCATION AND DESCRIPTION**

The site has a stated area of 0.390ha and is located about 3kms due south of Wicklow town centre. The site is on the eastern side of a local level road which evidences pressure for housing development which is not obviously connected with the predominantly agricultural land use in the area. The road just south of the site offers extensive views over the Irish Sea and there are a number of houses between the road and the sea but below the road level. There are no footpaths, cycle paths, pedestrian lights or public lighting in the vicinity of the site.

The site itself is part of a larger field which has relatively recently been planted with spruce trees. The site has a slope up from the public road to the west and there is a drainage ditch along the site boundary with the public road. The public road boundary is augmented with native species, noticeably willow.

## **2.0 PROPOSED DEVELOPMENT**

The proposed development comprises the erection of a single storey house with a gym/playroom attached by a car port to the rear. The proposal will drain to a domestic wastewater treatment system and potable water will be sourced from a domestic well.

## **3.0 PLANNING HISTORY**

Under application reference 15/376 permission was refused to Ronan Hurley on this site for the same development for the same reasons as in this case.

Under application 12/6467 permission was refused on the adjoining site to the north of this application site for a bungalow.

Under PL27.242206 (13/8292) permission was granted by the Board to Raymond Hurley for a house to the north of the application under application 12/6467.

## **4.0 PLANNING AUTHORITY DECISION**

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

The planner's report recommended refusal for the reasons set out in the manager's order.

The Environmental Health Office reported no objections in relation to compliance with the EPA COP.

The Area Engineer reported no objection subject to piping the roadside drain and ensuring no surface water entering the public road.

### **4.2 Planning Authority Decision**

The planning authority refused permission as follows;

1. The slope of the site, elevation over the road, inappropriate house design, lack of screening, and visibility from road would adversely impact on the rural character of the area.
2. Having regard to the existing houses and planning permissions granted along this road and the location of the site outside this cluster and the proposal would give rise to urban sprawl and ribbon development.
3. The surrounding landscape is designed as access corridor in the County Development Plan and the applicant does not meet housing need criteria set out in the plan for such areas.

## **5.0 GROUNDS OF APPEAL**

The grounds of appeal may be summarised as follows;

- The proposed house is a farm house. It will be positioned on the site to minimise its impact on the landscape. Spruce trees are already planted that will offer screening in 4/5 years' time. A minimal amount of road side hedge will be lost to provide an entrance.

- The site is the last available site on family lands. Permission has been received previously on these lands.
- The applicant (Ronan Hurley) meets the criteria for receipt of planning permission for rural housing set out in the County Development Plan.

## **6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL**

### **6.1 Planning Authority response**

The planning authority did not comment on the appeal.

### **6.2 Observations on grounds of appeal**

There are no observations on the appeal.

## **7.0 POLICY CONTEXT**

The Wicklow County Development Plan 2011 to 2016 sets out its rural housing policy as;

### **Objective 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

## **8.0 ASSESSMENT**

### **Refusal 1**

The site is located in an Access Corridor Area Vulnerability: Medium. These landscapes are described in the Plan as being the main access corridor areas of Wicklow. These areas are under the influence of the main routes in the County (the M11 and the N81) and the towns along these routes. This site is within the Eastern Corridor in the area influenced by the M11 road.

The site is elevated over the adjoining public road and this difference in elevation increases further into the site. The highest point of the proposed roof ridge is about 6m off the finished floor level. Although the drawings are somewhat opaque the construction of the house will require cut and fill within the site. The result will be that the highest point of the roof will be about 10m above the level of the adjoining road. Relying on the cross sections submitted (see drawing number 14-124-P05.3) it appears that the access road will require a cut of a maximum of 4.2m into the site and a minimum of around 3m.

The County Development Plan (in chapter 6) advises that developments should be:

- Nestled into the landscape and not located on a ridge line or elevated position on a site.
- New houses should be located sympathetically within their surroundings;

- Make use of local contours, avoid skylines where development interrupts the flow of the landform. Avoid open field or exposed locations that prevent the development being integrated within its surroundings;
- The type of landscape should be identified e.g. hilly, coastal, flat, inland, to determine the final location of the house;
- It is important to respect the existing landscape zones;
- Houses should be set back from the road and be staggered from surrounding dwellings to appear closer to traditional development;
- Avoid sites directly along the main roads where this would result in problems of public safety;
- Houses should complement local traditional building styles within close proximity including ridge orientation and pitch of roofs, door and porch styles and the use of materials where appropriate.

The appeal makes the case that the visibility of the house in the site and wider area will be limited by the tree cover on site, that the proposed house has been sensitively sited and is a farm house.

There is a great variation in farm house design in the rural countryside but some characteristics may be identified; single or two storey houses addressing the public road, an easily readable number of bays, a limited palette of materials and a limited number and forms of openings.

The proposed house is of unique design. The roof has several materials, the walls are alternately plaster rendered and stone faced. There are several shapes and sizes to openings. Coupled with the absence of any case that the proposed house is related to an agricultural landuse I do not agree with the grounds of appeal that it is a farmhouse. Furthermore there is some intermittent screening along the site frontage but when viewed from the south along the public road the site is elevated and exposed and I consider this would remain the case even if some tree growth occurred.

Notwithstanding the points made in the appeal that the proposal has been sited sensitively in the site and that trees will grow around it and provide screening in the future I conclude that the site has not been chosen to reflect the advice set out in Chapter 6 of the County Development Plan in relation to appropriate locations for housing in the countryside.

I recommend permission be refused along the lines of the planning authority's reason number 1.

## **Reason 2**

It appears that the applicant's family owns the land on the west of the public road in this area. The cluster of houses to which the planning authority refers comprises two houses to the north in relation to which there is no specific information available. There is then a third house granted permission under 92/7866 and occupied by one of the applicants' parents. There is then a fourth house granted by the Board under PL27.242206 to Raymond Hurley (the present applicant's brother). There is a "site" which was subject to application 16/13 (listed as withdrawn on the planning authority's website) in the name of Barry and Ellen Hurley. Then last on this side of the road is the present application site. There are four houses on the opposite side of the road from the application site and several more houses on a local road running west from the road serving this site.

The site is located in an area designated as being under strong urban influence in the Sustainable Rural Housing Guidelines (DOEHLG 2005). Appendix 4 of the Guidelines recommends against ribbon development. The guidelines state that ribbon development may comprise 5 or more houses on a 250m of road frontage. The guidelines make the further point that factors such as the type or rural area, and the circumstances of the applicant, the degree to which the proposal might be infill and the degree which the proposal might extend ribbon development can be considered by planning authorities when assessing planning applications.

In the previous case recently considered by the Board the Board considered that the applicant (Raymond Hurley) met the 'local need' criteria for rural housing because he was involved in a Christmas tree business on the overall landholding of which that site and this formed part. In the present cases the application documents state that applicants are a nurse and a medical sales manager.

It appears to me that the Guidelines provide a number of circumstances which cumulatively would point to a refusal of planning permission for rural housing; a lack of local housing need, a contribution to ribbon development and the coalescing of ribbon development. Having regard to these factors I agree with the planning authority that the proposed development would extend ribbon development and would erode the rural scenic qualities of the area.



### **Reason 3.**

The planning authority has had regard to the Sustainable Rural Housing Guidelines for Planning Authorities in that it has adopted a policy in relation to those persons whom it considers should be facilitated in applications for rural housing. The site is located in an area designated as under strong urban influence in the Sustainable Rural Housing Guidelines. Such areas are described as being close to or within commuting distance of large cities or towns, evidencing considerable pressure for development and where there is pressure on local infrastructure such as the local road network.

The road serving the site is unsuitable for additional traffic related to housing on unserviced lands due to being narrow, single carriageway and without a median line. There is no public lighting, footpaths or cyclepaths. There is no public water or public sewerage serving the site. This is an area where both the Sustainable Rural Housing Guidelines and the County Development Plan, particularly objective RH14, envisage that new housing would be limited to those who have demonstrated a genuine need to live in the area. Notwithstanding the applicant's relationship with the landowner it has not been demonstrated that the applicants have a genuine need to live in the area.

I conclude that the planning authority's third reason for refusal is reasonable.

## **9.0 CONCLUSIONS AND RECOMMENDATION**

Having regard to the foregoing I recommend refusal for the reasons set out below.

## REASONS AND CONSIDERATIONS

1. It is an objective of the planning authority, as expressed in the current Wicklow County Development Plan, to channel housing into serviced centres and to restrict development in rural areas to serve the needs of those engaged in agriculture and in other rural activities. This objective is considered reasonable. It is considered that the applicant does not come within the scope of the housing need criteria in the Development Plan. Taken in conjunction with existing and permitted development in the area, the proposed development would give rise to an excessive density of development in a rural area lacking certain public services and community facilities and served by a poor road network. The proposed development would contravene materially 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.
  
2. The proposed development is located in an Access Corridor Area of medium vulnerability as designated in the Wicklow County Development Plan 2016-2022 on an elevated and exposed site without substantial screening. The design, materials and fenestration are unsympathetic to this rural location. Therefore the proposed development would comprise a highly intrusive feature in the site and adversely impact on rural character of the area. The proposed development would therefore materially contravene an objective set out in the County Development Plan and be contrary to the proper planning and sustainable development of the area.

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Hugh Mannion  
Planning Inspector  
19<sup>th</sup> August 2016