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Bord  
Pleanála

## Inspector's Report PL27.246977.

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<b>Development</b>	Retention of two-storey structure as constructed & retention of use of first floor for residential proposes for a period of 3 years
<b>Location</b>	Carrigeenshinnagh, Roundwood, Co. Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	Reg. Ref. 16/479
<b>Applicants</b>	Alan & Siobhan Campbell
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellants</b>	Alan & Siobhan Campbell
<b>Date of Site Inspection</b>	26/10/2016
<b>Inspector</b>	Siobhan Carroll

## 1.0 Site Location and Description

- 1.1. The site has a stated area of 0.5824 hectares and is located on an elevated slope at Carraigeenshinnagh. The site is accessed off the Lough Dan Road (L1059) and served by a steep private road which extends for circa 500m.
- 1.2. The site contains the subject two-storey structure. The ground floor south-eastern elevation features three double doors and it is in use as a garage. The first floor is accessed externally via a stairs and timber door. It is in residential use and the layout comprises a kitchen/living/dining room, a bedroom and a shower room and toilet. There is a walkway across the north-eastern elevation of the building which provides access to a grassed area.
- 1.3. To the south of the two-storey structure the dwelling granted under Reg. Ref. 14/1265 is currently being constructed.

## 2.0 Proposed Development

- 2.1. Retention of two-storey structure as constructed & retention of use of first floor for residential purposes for a period of 3 years.

## 3.0 Planning Authority Decision

- 3.1. Permission was refused for three reasons. The first reason refers to proposed development being contrary to Section 6.4.3 of the Development Plan. The second reason refers to the design and scale of the proposed development and the lack of information as to the future use of the upper floor. The third reason refers to the structure for retention representing a second dwelling on the site and that the proposal to drain two dwellings into a single effluent treatment system would be contrary to the Planning Authority's policy for Wastewater Treatment and Disposal Systems.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- Refusal recommended.

### 3.2.2. Other Technical Reports

EHO: No objections subject to conditions

Municipal District Engineer: Roads and surface water related issues previously dealt with under Reg. Ref. 14/1265.

### 3.3. **Third Party Observations**

- None received

## 4.0 **Planning History**

There are a number of previous applications pertaining to the site which are detailed in the report of the Planning Authority. In the most recent case Reg. Ref. 14/1265 there was a split decision. Permission and retention permission granted for the construction and completion of dormer bungalow previously approved and on-site effluent treatment system. Permission was refused for the retention of the two-storey garage with artist studio as constructed for use in association with the main house.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

The relevant plan is the Wicklow County Development Plan 2010-2016.

- Rural Housing Policy is set out in Chapter 6
- No.26 – Lough Dan Road (L10591) prospect to Lough Dan Valley and Carrigeenshinnagh Mountain.

### 5.2. **Natural Heritage Designations**

The site adjoins the Wicklow Mountains SAC Site Code 002122 and the Wicklow Mountains SPA Site Code 004040.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The appellants outlined the relevant planning history on the site. Under Reg. Ref. 06/4720 permission was granted for the demolition of the existing farmhouse and outbuildings and the construction of a new dormer bungalow, effluent treatment system and detached double garage.
- Under Reg. Ref. 08/128 permission was granted for revisions to the design of the dwelling. Development works commenced on site in 2007/2008 where the basement of the main house was built and the detached double garage. The new wastewater treatment system and well was also constructed.
- During construction the design of the garage was revised. The height of the roof apex was raised to be in line with the main dwelling. This was carried out to provide an art studio for Mrs Campbell.
- The structure is located behind the main dwelling and therefore the appellants did not consider that there would be an issue with these changes.
- Work halted on site after 2008 due to the economic downturn as the appellants were unable to complete the project within the five year time frame.
- Under Reg. Ref. 14/1265 permission was sought to retain the two-storey outbuilding with artist's studio above. The Planning Authority refused permission for the upper storey of the garage.
- The dwelling under construction on site is located within a one acre area within the overall farm holding of 150 acres. The appellants have worked on the 150 acre holding since 2008 and have made a number of improvements. They continually tend the farm and still wish to reside on their holding.
- As they were previously unable to afford the construction of the dwelling on site they continued to live in their existing house in Shankill, Co. Dublin. They would travel up and back from their home in Dublin to work on the holding. On occasion to avoid the need to travel back to Dublin they would stay in the residential accommodation above the garage.

- The house in Shankill was for sale in 2015 but failed to sell and has been taken off the market. Building works commenced on site to construct the dwelling on the 18<sup>th</sup> of April 2016. In spring 2016 Mr Campbell being to reside in the detached garage to tend to the farm and oversee the construction of the dwelling.
- Enforcement proceedings were taken by Wicklow County Council in relation to the residential use of the garage/outbuilding. A retention application was lodged seeking permission for the continued use of the upper floor of the outbuilding for residential use pending the construction and completion of the main house. A temporary permission for a period of three years was sought. It is considered that the structure as built is not injurious to the visual amenities of the area.
- The proposal refers to a temporary use of part of the development while retaining a single residential use on site and to retain the building as constructed as it is larger than previously applied for and approved.
- The appellants request that the Board grant permission for the two elements sought.

## 6.2. Planning Authority Response

- None received

## 7.0 Assessment

Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Principle of development
- Drainage and Water Supply
- Appropriate Assessment

## 7.1. Principle of development

- 7.1.1. Firstly, it is proposed to retain the two-storey structure as constructed and secondly to retain the use of the first floor for residential use for a period of three years. Under Reg. Ref. 07/1047 permission was granted for a single storey detached double garage with a ridge height of 5.4m. The garage/outbuilding built is two-storey with a ridge height of 7.39m. Under Reg. Ref. 14/1265 permission was refused for the retention of the garage and artist studio with a total floor area of 117sq m. While the principle of a single storey garage has been permitted on the site, a two-storey structure with the first floor with an alternative usage i.e. either an artist's studio or a residential unit does not currently have permission. The building itself is located circa 10m to the south-west of the dwelling under construction. It is set back from the main dwelling and has wide views north towards Lough Dan. The overall floor area of the building at 117sq m is relatively large and as stated in the Planner's report there is a lack of information regarding the future use of the first floor. Therefore, in the absence of information relating the need and long term use of the upper floor, I do not consider it appropriate to grant permission for the retention of the overall structure.
- 7.1.2. The second matter to address concerns the proposal to retain the use of the first floor for residential purposes for a period of three years. The Planning Authority refused permission on the basis that the proposed residential unit did not represent a necessary dwelling in the Landscape Zone Designated Area of Special Amenity and that the applicant did not come within the housing need criteria set out under Objective RH12 of the County Development Plan.
- 7.1.3. Notwithstanding the proposal to retain the residential use for a period of three years, the proposed development constitutes the provision of an additional residential unit on a site where the applicants have already received permission for a replacement dwelling. Having regard to the location of the site within an un-zoned rural area the proposal should be assessed having regard to compliance with rural housing policy. Therefore, the proposal should be in accordance with the provisions of the Sustainable Rural Housing Guidelines and the provisions of the Wicklow County Development Plan 2010 – 2016, as it relates to settlement in rural areas.

- 7.1.4. The appeal site at Carraigeenshinnagh, Co. Wicklow is located in an area identified as an Area Under Strong Urban Influence on Map No.1 – Indicative Outline of NSS Rural Area Types in the Sustainable Rural Housing Guidelines. The site is located within an area designated 'Area of Special Amenity' in the Wicklow County Development Plan, 2010-2016. Objective RH14 of the Wicklow County Development Plan 2010 – 2016 allows for the consideration of residential development in the countryside where, inter alia, it is for the provision of a dwelling for a permanent native resident. A permanent native resident is defined as a person 'either born and reared in the family home in the immediate vicinity of the proposed site, or (who has) resided in the immediate environs of the proposed site for at least 10 consecutive years prior to the application for planning permission.'
- 7.1.5. However, given that the applicants have already been granted permission for a dwelling in this area, I would consider that their rural housing need has fundamentally been met. Therefore, I would concur with the assessment of the Planning Authority that the proposed residential unit does not constitute a necessary dwelling under the provisions of Objective RH14. In addition, I also note that the DoEHLG rural housing guidelines and the County Development Plan recommend against the creation of ribbon development for a variety of reasons relating to road safety, future demands for the provision of public infrastructure as well as visual impacts.
- 7.1.6. To conclude, it is considered that the applicants does not comply with the rural housing policies of the Wicklow County Development Plan 2010-2016 as they do not have a local rural housing need in accordance with the criteria set out under Objective RH14.

## 7.2. **Drainage and Water Supply**

- 7.2.1. The subject residential unit, it's proposed to retain is connected to the on-site wastewater treatment system and is served by a bored well. The wastewater treatment system has been constructed on foot of the permission granted under Reg. Ref. 14/1265. Permission and retention permission was granted for the construction and completion of a dormer bungalow previously approved and on-site effluent treatment system. However, permission was refused for the retention of the two-storey garage with artist studio as constructed. Therefore, the subsequent

connection of the residential unit proposed to be retained to the permitted on-site wastewater treatment system is contrary to the provisions of that permission.

- 7.2.2. While, I note the report of the Environmental Health Officer dated the 23<sup>rd</sup> of May 2016 where it was stated that there were no objections to the proposal, I would concur with the Planning Authority that to permit the connection of two separate residential units into one on-site effluent treatment which is designed to serve only one dwelling unit would set an undesirable precedent. Furthermore, notwithstanding the proposal to retain the first floor unit for residential for a period three years it is feasible that the main dwelling would be complete prior to that and both residential units would be disposing effluent to the single system.
- 7.2.3. Accordingly, it is considered that the no evidence has been provided to demonstrate that the effluent treatment and disposal arrangements on site comply with the Environmental Protection Agency's Code of Practice, 2009 in respect of the permitted house and the development to be retained and therefore the development proposed for retention would be prejudicial to public health.

### **7.3. Appropriate Assessment**

- 7.3.1. The site adjoins the Wicklow Mountains SAC Site Code 002122 and Wicklow Mountains SPA Site Code 004040. Having regard to the nature of the proposed development I am satisfied that the development would not give rise to significant effects on a European Site.

## **8.0 Recommendation**

- 8.1. I have read the submissions on file, visited the site, having regard to the above assessment, I recommend that permission be refused for this development for the reasons and considerations set out below.



## 9.0 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 in accordance with the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of Environment, Heritage and Local Government in April, 2005. This objective is considered reasonable. It is considered that the applicants do not come within the scope of the housing need criteria set out in the Development Plan. Taken in conjunction with existing and permitted development in the area, the retention of this two-storey structure which is not authorised and the use of the first floor for residential purposes 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, would lead to demands for the uneconomic provision of further public services and facilities in an area where these are not proposed and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that the site is suitable for the disposal of foul effluent from the permitted house on site under construction and from the development proposed to be retained. The existing arrangements for the disposal and treatment of effluent on the site are contrary to the proposals conditioned in the permission granted under planning register reference number 14/1265. In addition, no evidence has been provided to demonstrate that the effluent treatment and disposal arrangements on site comply with the Environmental Protection Agency’s

Code of Practice, 2009 in respect of the permitted house and the development to be retained. The development proposed for retention would, therefore, be prejudicial to public health.

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Siobhan Carroll  
Inspectorate

3<sup>rd</sup> November 2016