



An
Bord
Pleanála

Inspector's Report PL27.247488

Development	House, wastewater treatment system, garage, new entrance and associated site works.
Location	Ballynacarrig, Brittas Bay, Co. Wicklow.
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	16/933
Applicant(s)	Roy & Paula Copeland
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First-v-Refusal
Appellant(s)	Roy & Puala Copeland
Date of Site Inspection	06 th January 2017
Inspector	Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.303 hectares, is located a short distance north of Brittas Bay. The site is on the western side of the rural settlement of Ballynacarrig. The appeal site is a part of a small field on the southern side of the public road. Levels on site fall steadily southwards away from the public road. Adjoining uses are mainly agricultural with existing fields to the east, west and south of the site. Immediately to the west is an agricultural building. On the opposite side of the public road are detached dwellings. The boundaries of the site (north, south and west) are defined by existing hedgerow.

2.0 Proposed Development

2.1. Permission is sought for a single-storey dwelling with a floor area of 175sqm and a ridge height of 4.426m. the dwelling features a pitched roof and external finishes of plaster walls and a slate roof. Permission is also sought for a new vehicular entrance and a proprietary wastewater treatment plant. The dwelling is to be supplied by an existing well on site.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on 5 reasons...

1. Having regard to:
 - a) The steeply sloping topography of the site;
 - b) The lack of a site specific design and cognisance to the site topography;
 - c) The extent of site structural and retaining works required to facilitate the siting of the development which have not been detailed;
 - d) The lack of details of all existing and proposed levels;
 - e) The location of the site in a Coastal Area of Outstanding Natural Beauty;

- f) The visibility of the site from the Coast Road;
- g) The poor quality of the photomontages and lack of a full Visual Impact Assessment in accordance with the requirements of Objective LA2,

it is considered that insufficient information has been submitted to allow the full impact of the development to be assessed. In particular, it is not possible to assess the full extent of works required to construct the dwelling and what the resultant visual impact would be. Given this relatively unspoilt, highly sensitive and elevated Area of Outstanding Natural Beauty, to permit the proposed development in the absence of such information would be contrary to the proper planning and sustainable development of the area.

- 2. The proposed development would be prejudicial to public health because the site is unsuitable for effluent disposal due to the high water table evident on site.
- 3. The proposed development would endanger public safety by reason of serious traffic hazard because in the absence of sufficient information it cannot be fully assessed whether:
 - a) Adequate exiting and forward visibility sightlines can be achieved;
 - b) The driveway can be achieved at a gradient of 1 in 40 for a minimum of 6m from the junction of the access road and a maximum of 1:7 thereafter,

Therefore, to permit the development as proposed would be contrary to proper planning and sustainable development.

- 4. The proposed development is located within the Level 8 Small Village of Ballynacarrig. These settlements represent the more rural small settlements in the County. It is an objective of the County Development Plan under RH12 that any new single house developments shall be for persons with a proven need who are permanent native residents of any location from Level 6 –10 in the County settlement hierarchy.

Inadequate evidence has been submitted to show that the applicants come within the Local growth definition and have a proven need for a new dwelling. Therefore to permit the development in the absence of this information would be contrary to proper planning and sustainable development.

5. The site is located 650m from the edge of Brittas Buckroneys Dunes and Fen, which is a groundwater fed candidate Special Area of Conservation. Given the evidently high water table, the proposed on site effluent disposal system has the potential to significantly affect the conservation objectives of the SAC. In the absence of sufficient information to enable the carrying out of Screening for and/or an Appropriate Assessment, as necessary to meet the requirements of Article 6 of the Habitats Directive to ascertain the likely effects of the development on the Fen, to determine the application in the absence of same would be contrary to the conservation objectives of the Special Area of Conservation and the proper planning and sustainable development of the area.

3.2. Local Authority and External reports

- 3.2.1. EHO (08/09/16): Revised proposals for a raised polishing filter to be submitted taking into account a water table level 1m below ground level. Proposal required for a land drain above the effluent treatment system to intercept surface water.
- 3.2.2. Senior Executive Engineer (23/09/16): Adequate sightlines cannot be achieved at the entrance; the applicant is requested to propose how such may be obtained.
- 3.2.3. Planning report (29/09/16): Insufficient evidence has been provided to demonstrate a need for the dwelling at this location. Concern is expressed regarding the sloping nature of the site and the need to build up the site. The site is in a Coastal Area of Outstanding Natural Beauty. It is considered that applicant has not adequately demonstrated that the proposal would have an acceptable visual impact at this location. Inadequate sightlines are available at the proposed vehicular entrance. A high water table was evident on site with concerns regarding public health. The site is approximately 650m from the Buckroneys Brittas Dunes and Fen SAC with concerns that the proposal may have a significant effect on the conservation status

of such and no Appropriate Assessment carried out in this regard. Refusal was recommended based on the reasons outlined above.

4.0 Planning History

- 4.1 15/1162: Permission refused for a dwelling, wastewater treatment system on the appeal site. Refusal reasons are similar to the current case.
- 4.2 15/233: Permission refused for a dwelling, garage, wastewater treatment system, vehicular entrance and site works. Refusal for similar reasons as the appeal case (4 reasons).
- 4.3 07/362: Permission refused to construct 2 no. detached dwellings, a new entrance, 2 waste water treatment systems and site works. Refused due to being prejudicial to public health, visual obtrusive and failure to comply with County Development Plan settlement policy.
- 4.4 04/501: Permission refused for a dwelling, garage and associated services. Refused due to being prejudicial to public health, being visual obtrusive and a traffic hazard.
- 4.5 02/7240: Permission refused for two dwellings and associated site works. Refused due to failure to comply with County Development Plan settlement policy, visual impact and prejudicial to public health.
- 4.6 98/9470: Permission refused for a dwelling and associated site works. Refused due to visual impact, traffic hazard and the creation of ribbon development.
- 4.7 97/7005: Outline permission refused on the basis of visual impact, creation of ribbon development.

4.8 95/3017: Outline permission refused for a dwelling and septic tank. Refused due to visual impact and creation of ribbon development.

5.0 Policy Context

5.1. Development Plan

5.1.1 The relevant Development Plan is Wicklow County Development Plan 2016-2022.

5.1.2 The appeal site is located within the Level 8 (Small Villages) sentiment of Ballynacarrig-Brittias Bay.

The Housing Occupancy Controls for this settlements for a single house states that...

100% Applicant/purchaser of any new home must be either a resident for at least 5 years duration in County Wicklow or in permanent employment for at least 5 years duration in County Wicklow of within 15km of the small village in question prior to making application/purchase of a new houses.

5.2 Under Sustainable Rural Housing: Guidelines for Planning Authorities, the site is located in an Area Under Strong Urban Influence.

6.0 The Appeal

6.1 Grounds of Appeal

6.1.1 A first party appeal has been lodged by Alphaplan design on behalf of Roy & Paula Copeland. The grounds of appeal are as follows...

- The appellants note that the proposed site levels and that of the dwelling are clearly set out and that the overall design and scale of the proposal would be

acceptable in regards to the visual amenities of the area and requires minimal site works or changes in level to the existing site.

- It is noted that the site is included within the settlement boundary of Ballnacarrig, which is designated as a small village under the County Development Plan. It is noted that the appellants qualify under Objective RH14 of the County Development Plan.
- In regards to the issue of public health it is noted that the EHO did not recommend refusal and that the issues raised could have been dealt with by way of further information. It is noted that the site assessment report indicates the site is suitable for the operation of a wastewater treatment system.
- It is noted that sightlines of 80m set back 2.4m from the road edge are achievable at this location and are consistent with NRA Guidelines for a local road with a design speed of 50km. It is noted that despite the gradient of the site a level area at the location of the entrance will be provided for a standing vehicle prior to exiting the entrance.
- The appellants note that they have submitted ample evidence to demonstrate compliance with settlement policy under the County Development Plan. The appellants qualify under Objective RH 12 to construct a dwelling in this Level 8 settlement with it noted that the applicant's siblings have built dwellings outside of the designated settlement and were deemed to comply with Objective 14 of the County Development Plan.
- The design of dwelling is compliant with the design guidelines for new homes under the County Development Plan.
- In regards to its location relative to the Brittas Buckroneys Dunes and Fen it is noted that groundwater flow at this location is to the south of the site with the SAC located to the east. It is considered that subject to compliance with the requirements of the EHO that the proposal for a wastewater treatment system would not have a significant effect on the SAC and that in recent times permission have been granted for dwellings in closer proximity to it.

6.2 Responses

6.2.1 No response.

7.0 Assessment

7.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development/Development Plan settlement policy

Design, scale, visual impact

Traffic impact

Wastewater treatment

Appropriate Assessment

Other Issues

7.2 **Principle of the proposed development/Development Plan settlement policy:**

7.2.1 The proposal is for a new dwelling and associated site works at Ballynacraig, Brittas, Co. Wicklow. The appeal site is located within the designated settlement boundary for Ballynacarrig-Brittas. The housing occupancy controls for this level of settlement are that "100% applicant/purchaser of any new home must be either a resident for at least 5 years duration in County Wicklow or in permanent employment for at least 5 years duration in County Wicklow or within 15km of the small village in question prior to making application/purchase of a new houses". Based on the information on file I would consider that the applicants do comply with the requirement of settlement strategy in that they are residing in area (renting a property) and Roy Copeland is originally from the area with family home located a short distance from the site.

7.3 Design, scale and visual impact:

7.3.1 Permission was refused on the basis of visual impact with the proposal located in a Coastal Area of Outstanding Natural Beauty and concerns regarding the levels of excavation that may be needed on site. It was considered that the design of the dwelling was inconsistent with the Design guidance under the County Development Plan. Level on the appeal site fall steadily southwards away from the public road. The dwelling is located on the steepest part of the site in terms gradient. It appears the proposal is to build up levels to facilitates the dwelling instead of cutting into the slope (a cross section of the proposal would have been helpful in this regard). The dwelling itself is single-storey dwelling, relatively simple in design and with a ridge height of 4.426m.

6.2.2 I would have concerns that the location of the dwelling on the steepest contours of the site would require significant alteration of the landscaped necessitating building up the levels. The applicant has failed to demonstrate whether such is to be done in manner that would not be detrimental to the visual amenities of the area or be contrary to the guidance provided under the Design Guidance for Rural Homes in County Wicklow. In addition, I would note that the location of the dwelling on the upper level of the site and on the steepest contours would mean it is likely to be highly visible when viewed from the south east/east and the coastal area including the coast road. As noted above the site is located with a Coastal Area of Outstanding Natural Beauty and the overall design and siting of the dwelling would be detrimental to the visual amenities.

7.4 Traffic Impact:

7.4.1 It is proposed to provide a new vehicular access onto the public road. The drawings submitted indicate that sightlines of 80m are available in each direction and that such would be consistent with National Guidance (TII standards) for a road with a design speed of 50kph. In terms of dealing with the slope of gradient of the site, the applicants have noted that a level area is to be provided adjacent the road edge to facilitate traffic turning out of the proposed vehicular entrance. Having inspected the site, I consider that the visibility standards indicated by the applicants are achievable

at this location and would be sufficient to facilitate traffic without concerns regarding the potential to create a traffic hazard.

7.5 Wastewater Treatment:

7.5.1 The proposal entails the installation of a proprietary wastewater treatment system. A site characterisation was submitted and such indicates that no water was encountered in the trial hole (2m). The percolation tests result for T tests carried out by the standard method indicate percolation values that are within the standards that would be considered acceptable for operation of a wastewater treatment system set down under the EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses.

7.5.2 Despite the site characterisation results submitted, it is notable that there is a significant planning history on the appeal site including several refusals of permission for a dwelling/dwellings with a common reason being concerns regarding drainage characteristics and public health. A high water table level is frequently cited as being a reason for refusal. It is notable that the Environment Section confirm that the water table level on site is high. I would consider having regard to such factors that the drainage characteristics of the site are unsuitable for the operation of a wastewater treatment system and that the proposal would be prejudicial to public health.

7.5 Natura 200 sites:

7.5.1 The EU Habitats Directive (92/43/EEC) Article 6 (3) requires that “any plan or project not directly connected with or necessary to the management of the (European) Site, but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives. In the light of the conclusions of the assessment of the implications for the site and, subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public”. The Board as a competent authority "shall agree to the plan or project only

after having ascertained that it will not adversely affect the integrity of the site concerned". In this regard it is appropriate to carry out a stage 1 screening assessment and then if necessary a stage 2 appropriate assessment.

7.5.2 There are two Natura 2000 sites within 10km of the site. These are...

Buckroneys-Brittis Dune and Fen SAC (Site Code 000729) 650m to the south east of the site.

Magherabeg Dunes SAC (Site Code 001766) 800m to the north east.

The Magherabeg Dunes SAC is a sand dunes system. The appeal site is remote from the designated site and is unlikely to have significant effects on such. In the case of the Buckroneys-Brittis Dune and Fen SAC is also a dune system, but also includes Buckroneys Fen. The fen system is a wetland area characterised by a high water table and is dependent on groundwater quality to maintain favourable conservation status. The proposal entails installation of a wastewater treatment system on a site that has been subject to a long history of planning refusals due to concerns regarding high water table levels. There are potential concerns that the proposal for a wastewater treatment system would result in reduced groundwater quality and subsequent effect on the integrity of the designated Natura 2000 site to the south east. The cumulative effects of the proposal in conjunction with other plans and projects is also relevant given all houses in the vicinity (existing or planned in the future) require individual wastewater treatment systems. No screening assessment was carried out for the proposed development in regards to appropriate assessment. In this regard I would note that it has not been demonstrated that the proposal either in isolation or in conjunction with other plans of projects would not be likely to have significant effects on the integrity of the Buckroneys-Brittis Dune and Fen SAC.

8.0 Recommendation

8.1 I recommend a refusal of permission based on the following reason.

9.0 Reasons and Considerations

1. Having regard to:

- a) the location of the site in a Coastal Area of Outstanding Natural Beauty;
- b) the steeply sloping topography of the site and the location of the dwelling on the steepest gradient of the site;
- c) the lack of a site specific design and cognisance to the site topography;
- d) the extent of site excavation/raised levels works required to facilitate the siting of the development;
- e) the elevated location of the dwelling relative to the coastal area to the east and south east;
- f) The visibility of the site from the coast road to the east and south east;

it is considered that proposal would have an obtrusive visual impact and would detrimental to the visual amenities of the area. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the drainage characteristics of the site, which include a high water table level, it is considered that the appeal site is unsuitable for the operation of a wastewater treatment system and the proposal would, therefore, be prejudicial to public health.

3. The site is located 650m from the edge of Brittas-Buckroneys Dunes and Fen, which is a groundwater fed Special Area of Conservation. Given the high water table/drainage characteristics of the site, there is potential for the proposed on site effluent disposal system to significantly affect the conservation objectives of the SAC. It has not been demonstrated that the proposal either in isolation or in conjunction with other plans of projects would not be likely to have significant effects on the integrity of the Buckroneys-Brittas Dune and Fen SAC.

Colin McBride
Planning Inspector

08th February 2017