



An
Bord
Pleanála

Inspector's Report PL.27.247644

Development	House, detached garage, double entrance, treatment plant and polishing filter.
Location	Tomriland, Roundwood, Co. Wicklow.
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	16/584.
Applicant	Sinead Kenna.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party v Decision.
Appellant	Sinead Kenna.
Observer	None.
Date of Site Inspection	15 th February 2017.
Inspector	Dáire McDevitt.

1.0 Site Location and Description

- 1.1 The appeal site is located c.5km southeast of Roundwood and c. 6.5km northwest of Ashford in the townland of Tomriland, Co. Wicklow. The area is rural with the site located on the northern side of the R763 Regional Road. The site has a stated area of c. 0.45 hectares and is taken from the applicant's landholding of c. 2.22 hectares.
- 1.2 The site and adjoining lands to the east, west and north are planted with Birch trees and covered with thick vegetation with no defined boundaries marked out for the site. Beyond this to the west is a single storey dwelling. A stream flows along the northern (rear) boundary of the landholding c. 50 metres north of the application site boundaries. Opposite the site on the southern side of the R763 are agricultural lands.
- 1.3 Access is proposed off a straight stretch of the R763 at a point where the maximum speed limit of 80 kph applies and there is a continuous white line. The roadside boundary is a clay embankment and densely planted. There are no views into the site from the public road apart from a small section of the site which has been cleared to facilitate access on foot to an area with excavated 'trial' holes.
- 1.4 Maps, photographs and aerial images in file pouch.

2.0 Proposed Development

- 2.1 Permission is being sought for:
- A storey and a half dwelling (stated gfa of c.249sq.m with a height of c.7.2m).
 - Detached garage (stated gfa of c.37.6 sq.m with a height of c.5m).
 - Entrance off Regional Road. The site layout shows a proposed vehicular access to the remainder of the lands as well as the application site.
 - Private well and on site Wastewater Treatment System with Soil Polishing Filter.

all on a site with an overall area of c. 0.45 hectares.

Documentation also includes details of the applicant's compliance with the Rural Housing criteria as set out in the Development Plan and a Site Characterisation Assessment.

- 2.2 Subsequent Unsolicited Information submitted to the Planning Authority includes a site layout plan showing an optional entrance layout with access only to the application site.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the following reason:

1. Having regard to

- a) The level of traffic, speed limit and the white continuous line on the road.*
- b) The traffic turning movements generated by the proposed development.*
- c) Lack of sufficient genuine necessity to build at this particular location and insufficient evidence to show that no other development sites, away from the regional road network, are available.*
- d) The policy of the Planning Authority to strictly control new means of access onto a regional road.*

It is considered that the proposed development, would interfere with the free flow and safety of traffic on R756, would increase the frequency of traffic conflicts on this busy Regional road, would compromise the carrying capacity of the road, would contravene the objectives of the County Development Plan, would set an unfavourable precedent, would endanger public safety by reason of a serious traffic hazard and would therefore be contrary to the proper planning and development of the area.

I note that the appeal and the reasons for refusal refer to the R756 Regional road. The site is located along, and with proposed access off, the R763.

Therefore, I take the reference to R756 as a typographical error, the Planning Authority Reports refer to the correct road.

3.2. Planning Authority Reports

3.2.1. Planning Reports (13th July 2016 and 14th November 2016)

The Area Planner made a recommendation to refuse permission for two reasons on the 13th July 2016. An extension of time was sought on the 18th July 2016 and unsolicited Information was received by the Planning Authority on the 10th August 2016.

The Planners Reports along with comments by the A/Director of Services (22nd July 2016) formed the basis of the Planning Authority's Decision. The main issues can be summarised as follows:

- Photographs taken at initial inspection stage show the roadside boundary heavily planted and the site inaccessible.
- Applicant complies with Rural Housing policy and criteria.
- Proposal does not comply with policies and objectives for access off Regional Road.
- Public Health concerns due to the inaccessibility of the site to inspect trial holes.
- Reference is made in the Report of the 14th November 2016 to the second entrance option submitted as unsolicited information which is for access solely to the application site.

Note from the A/Director of Services also highlighted concerns regarding the proposed design of the house along the regional road irrespective of the existing trees.

3.2.2. Other Technical Reports

Wicklow Municipal District Engineer (1st July 2016). Site Notice not erected, therefore site could not be verified. Subsequent Comments (24th August 2016) noted 'No additional Observations'.

EHO (14th June 2016). Noted the site was inaccessible and therefore trial holes could not be inspected. Subsequent Report (12th August 2016) recommended no objection subject to conditions.

Inland Fisheries Ireland (23rd June 2016). No objection subject to surface water and ground water protection. Relevant conditions to be attached in the event of a grant.

An Taisce (7th June 2016).

- Need to comply with the County Development Plan, NSS and Sustainable Rural Housing Guidelines on rural housing policy.
- The proposal should have regard to both the individual and cumulative impacts on surface and Groundwater protection and comply with the EU Groundwater Directive,

3.3. Third Party Observations

None.

4.0 Planning History

None attached to the application site.

Site in the Vicinity:

Planning Authority Reference 06/5022 (An Bord Pleanála Reference PL.27.221025). This relates to a 2007 application for a single house which the applicant has referred to in the grounds of appeal. The site is accessed off the R763 at Tiglin, Ashford, Co. Wicklow, c 2.2km east of the current site before the Board. The Board's reasons for refusal referred to settlement policy, landscaping impact and foul drainage. File attached.

Planning Authority Reference 08/1438. This was a subsequent grant of permission in 2008 for the above development.

5.0 Policy Context

5.1. The planning application was assessed under the Wicklow County Development Plan 2010-2016. Since then the Wicklow County Development Plan 2016-2022 has come into operation.

5.2. Wicklow County Development Plan 2016-2022

The Wicklow Settlement Strategy has identified a hierarchy of 10 levels of Settlement for the County, ranging from Level 1 Metropolitan Consolidation Town to Level 10 Rural Area.

The application site is located within **Level 10. Rural Area**, where the policy is that *Development within the Rural Area should be strictly limited to proposals where there is a proven social or economic need to locate in the area.*

The area is identified as a Strong Rural Area Under Urban Influence.

Rural Housing Policy

Houses in the Open Countryside

HD23 *Residential development will be considered in the open countryside only when it is for those with a definable social or economic need to live in the open countryside.*

Residential development will be considered in the countryside in the following circumstances: (HD23 sets out 16 criteria)

- *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 has resided in a rural area in County Wicklow for at least 10 years in total (including permanent native residents of level 8 and 9), or resided in the area for at least 10 years in total prior to the application for planning permission.*

In the event of conflict of any settlement strategy objective/landscape Zones and categories, a person who qualifies under Policy HD23 their needs shall be supreme, except where the proposed development would be a likely traffic or public health hazard

Regional Road Objectives

TR27 *New mean of access onto regional roads will be strictly controlled and may be considered if one of the following circumstance applies:*

- *The regional road passes through a designated settlement and a speed limit of 50km/h or less applies,*
- *Where the new access is intended to replace an existing deficient one,*
- *Where it is demonstrated that the entrance is essential and no other means of access is available.*

Appendix 1 Development and Design Standards

Section 7 Roads and Transportation: Regional Road development control objectives reiterate Objective TR27.

Heritage

NH19 *To encourage the retention, wherever possible, of hedgerows, stone walls and other distinctive boundary treatment in the County. Where removal of a hedgerow, stone wall or distinctive boundary treatment is unavoidable, provision of the same type of boundary will be required of similar length and set back within the site in advance of the commencement of construction works on site (unless otherwise agreed by the Planning Authority).*

5.3 Sustainable Rural Housing Guidelines (2005):

The overarching aim of the Guidelines is to ensure that people who are part of rural community should be facilitated by the planning system in all rural areas, including those under strong urban based pressures.

To ensure that the needs of rural communities are identified in the development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated.

The application site is in an area designated as being a strong rural area under urban influence. The guidelines advise that houses in such areas may be provided to meet the housing needs of the local rural community, but that urban generated housing should be directed to zoned and serviced land within settlements.

5.4 Natural Heritage Designations

There are a number of European designated sites within 10km of the application site:

- Wicklow Mountains SAC (site code 002122) c. 3.5km to the west of the site.
- Wicklow Mountains SPA (site code 004040) c. 6km to the west of the site.
- Vale of Clara/Rathdrum Wood SAC (site code 000733) c. 6.5km south of the site.
- Carriggower Bog SAC (site code 000716) c. 7.5km north of the site
- The Murrough SPA (site code 004186) c. 9km east of the site
- The Murrough Wetlands SAC (site code 002249) c. 9km east of the site.

In addition pNHA Devils Glen is c.1km east of the site.

There are no European designated sites within the immediate vicinity of the site.

6.0 The Appeal

6.1 Grounds of Appeal

The grounds of appeal address the reason for refusal as follows:

Level of Traffic:

- The level of traffic along the R763 is modest and a traffic survey is submitted to support this.
- A single house generates movements which equate to 1 movement per every 3 hours.
- Sightlines of 160m can be achieved at the location of the proposed entrance.
- The Municipal District Engineer has no objection to the development.

Traffic turning movements:

- Reference to An Bord Pleanála PL.27.221025 and the Inspector's statement that *the traffic generated by a single dwelling is modest and the width, horizontal and vertical alignment of the R763 is adequate for a modest traffic generating development.*
- Precedent set for houses off the R763 which is being ignored.

Lack of genuine need and lack of evidence that an alternative site is not available:

- Details submitted that the applicant owns the site since May 2015 and has ties to the area. Applicant complies with the Rural Housing Policy as set out by Wicklow County Council.
- Details submitted of the non-availability of sites in the area and the applicant's unsuccessful attempts to purchase an alternative site.
- The Area Planner noted that the applicant qualifies for a house in the rural area.

Policy to strictly control new access onto Regional Roads:

- Complies with the Rural Housing policy and criteria for a rural house.
- Access would not create a traffic hazard.
- The Municipal Engineer has no objection to the proposal.
- The Councils' main reason for refusal was that the proposal would contravene the 2010 County Development Plan. Since then the 2016 Plan has come into effect and the new policy in relation to access off Regional Roads should apply.
- There have been no houses granted along the R763 since 2008 when the site refused permission under PL.27.221025 was resubmitted to Wicklow County Council and granted permission. There has been no increase in traffic movements along the R763 since this house was built.
- 3 houses have been granted in the general area since 2008, all to sons/daughters of landowners. There are no sites available due to the reluctance of landowners to sell.

Documentation included with the appeal:

- Traffic Survey carried out by the applicant's agent.
- Letters from local landowners unwilling to sell sites.
- An Bord Pleanála Inspectors Report (PL.27.221025) for a site at Tiglin, Ashford, Co. Wicklow.

6.2 Planning Authority Response

None.

6.3 Observations

None.

7.0 Assessment

The application was assessed by the Planning Authority under the Wicklow County Development Plan 2010-2016. Since then the Wicklow County Development Plan 2016-2022 has come into operation and shall be referred to as the Development Plan in this appeal.

The main issues in this appeal are those raised in the grounds of appeal. In addition, the issue of wastewater treatment and compliance with the EPA Code of Practice needs to be addressed. The issue of appropriate assessment screening also needs to be addressed. The issues can be dealt with under the following headings:

- Rural Housing Policy.
- Traffic.
- Wastewater Treatment.
- Appropriate Assessment.

7.1 Rural Housing Policy

7.1.1 The application site is in an area designated as a strong rural area under urban influence. The Sustainable Rural Housing Guidelines advise that houses in such areas may be provided to meet the housing needs of the local rural community, but that urban generated housing should be directed to zoned and serviced land within settlements.

7.1.2 Under the new County Development Plan there is greater emphasis in the Rural Housing policy for houses in the open countryside on proving a “definable social or economic need” by reference to one of 16 criteria as set out in policy HD23. As referenced in Section 5.2 of this report the first criteria applies to the applicant. This provides that a person is considered to be a permanent native

resident if they have resided in a rural area in County Wicklow or in the area in question for at least 10 years prior to the application for planning permission.

7.1.3 Documentation has been submitted, including the applicant's birth certificate and letters of attendance at local schools supporting the applicant's ties to Moneystown, a rural area c.2km southwest of the application site, where she resides with her parents in the family home. The applicant has outlined that the house would be for her own use as she wishes to reside close to her family. Based on the information on file I am satisfied that the applicant complies with the first criteria as set out in policy HD23 for a house in a rural area.

7.2 Traffic

7.2.1 The reason for refusal refers to the impact of the proposed development on the free flow and safety of traffic on the R756 Regional road. The site is located along, and with proposed access off, the R763. Therefore, I take the reference to R756 as a typographical error. The Planning Authority Reports refer to the correct road.

7.2.2 The initial application included an access proposal for an entrance off the Regional road to serve the site and adjoining lands. This was changed by unsolicited information to the Planning Authority to a proposal for access to the site only and subsequently referenced as such in the Appeal documentation. In the interest of clarity, my reference to access in this assessment refers to the proposed access off the Regional road serving the application site only.

7.2.3 The Rural Housing policy HD23 sets out that, notwithstanding compliance with one of the 16 criteria for a house in a rural area, in circumstances where the proposal would likely lead to a traffic or public health hazard, this will override the need for a house at this location.

7.2.4 The Planning Authority in its reasons for refusal referred to both technical and policy issues.

- 7.2.5 In relation to the technical issues raised, I note that the site is located along a relatively straight section of the R763 where there is a continuous white line and a maximum speed limit of 80 kph applies. The opening of the new access and achievement of 160m sightlines requires the removal of c.25 metres of mature vegetation and a clay embankment along the roadside boundary. Notwithstanding the removal of a section of the roadside boundary, I am satisfied that this complies with policy NH19 regarding boundary treatment in the rural area.
- 7.2.6 The applicant in the appeal documentation referred to a traffic survey and concluded that traffic movements associated with a single house (equates to 1 movement every 3 hours) are modest. Reference is also made to the Inspector's comments in the Board's decision under Planning Authority Reference 06/5022, An Bord Pleanála Reference PL.27.221025 for a house accessed off the R763 c.2km east of the application site. It is noted that in this instance while the Board refused permission it did not include traffic as a reason.
- 7.2.7 I concur with the applicant that access to the site would result in a modest increase in traffic movements generated by a single house at this location. An access at this location would be open for consideration due to the favourable alignment of the road at this point and the modest impact on the free flow of traffic. Therefore, on the basis on the technical issues alone, I would the proposal acceptable.
- 7.2.8 In terms of policy, however, the Development Plan seeks to strictly control new accesses onto Regional Roads except in exceptional circumstances. The principle behind Objective TR27 is to protect the efficiency and operational capacity of the road by preventing the proliferation of new entrances along the

regional road network. The opening of new accesses is, therefore, limited to those circumstances where the access is considered essential. This is considered a reasonable approach and I note is applied by most Planning Authorities to development along Regional Roads.

7.2.9 Objective TR27 clearly sets out that new means of access shall be strictly controlled to a number of exceptional circumstances. The applicant has argued that the relevant circumstance that applies to her case is '*where it is demonstrated that the entrance is essential and no other means of access is available*'. I am of the opinion that this policy refers to instances where, for example, a need for a house on an established farm holding arises and the only available access is onto a regional road. The adopted policy position would, in my view, not include the current scenario where the applicant purchased a c. 2.2 hectare parcel of land (heavily planted with trees) in 2015 with the intention of seeking permission for a house. At the time of purchase the applicant would have been aware that the site had no access off a public road and no means of providing an access except other than directly off the Regional road. I would contend that the exceptional circumstances behind the essential need to open a new entrance onto a Regional road set out in Objective TR27 was not intended to include the circumstances presented in the current application.

- 7.2.10 While I acknowledge the applicant's submission in relation to the non-availability of alternative sites for purchase in the general area away from the regional road network, I am not satisfied that this is sufficient to comply with the policy requirements in terms of an essential need for a new access off a regional road as set out in the current Development Plan. To permit such an access under the circumstances presented in this application would set an undesirable precedent. Such an approach would lead to a proliferation of entrances onto regional roads in direct contravention of the overall objective of the Plan which is to strictly control such development and protect the free flow of traffic and the efficiency and operational capacity of the regional road.
- 7.2.11 I consider, therefore, that the Planning Authority's reason for refusal should be substantially upheld.

7.3 Wastewater Treatment:

- 7.3.1 The applicant proposes to install an onsite wastewater treatment system and soil polishing filter with discharge to groundwater. A well is also proposed.
- 7.3.2 The Site Characterisation report submitted with the application concludes that a Euro Bio treatment system and a soil polishing filter system is acceptable on the site. The average T_{100} value was 68.33 which required the implementation of the standard method to derive a T value, in this case 25.75 (min/25mm). Results for a P test have been included in the assessment, the result of which was a P value of 23.75. The Environmental Health Officer found the site assessment for wastewater treatment to be acceptable.
- 7.3.3 Based on the information submitted I note the following:
- The site is incorrectly described as 'grassland'.
 - The area is described as having slow drainage and suitable once a soil polishing filter installed and site works carried out.
 - Proposed to discharge to ground water.

Section 3.4 of the Site Characterisation Form sets out information to be appended to the Form. In this instance, the information is incomplete, for example:

- No site layout included with the assessment to illustrate the location of the trial holes or dimensions of same.
- Only one photograph showing a partially covered hole is included.
- No photographs of tests, etc are included.

7.3.4 A new and full site assessment in accordance with the EPA Code of Practice is required and evidence of tests and relevant trial holes submitted in accordance with the Methodology set out in the Code of Practice and Section 3.4 of the Site Characterisation Form.

7.3.5 However, as this is a new issue in the appeal, I am not recommending a specific reason for refusal in this instance.

7.4 Appropriate Assessment

7.4.1 There is no evidence of significant surface water conduits within the site. There is a watercourse c.50 metres from the northern boundary. The closest Natura 2000 site is the Wicklow Mountains SAC (site code 002122) c.3.5km to the west.

7.4.2 The Wicklow Mountains SAC is an extensive site which is spread across two counties. Conservation Objectives and a National Park Management Plan has been prepared for the site

7.4.3 Given the separation distance to the nearest identified watercourse to the north of the applicant's landholding and which flows in an easterly direction to a different drainage catchment, there is no hydrological connection to the designated site referred to in paragraph 7.4.1 above,

7.4.4 Having regard to the nature and scale of the development and its location relative to European sites, I consider it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue

a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 002122, or any other European site, in view of the site's Conservation Objectives. A Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

I recommend that permission be refused for the reasons and considerations as set out below

9.0 Reasons and Considerations

1. The Board is not satisfied on the basis of the submissions made in connection with the planning application and the appeal that the applicant has demonstrated an essential need for an entrance off the R763. The proposal does not comply with Objective TR27 of the current Wicklow County Development Plan which generally seeks to restrict new accesses onto regional roads. The proposed development and by itself or by the precedent which the grant of permission for it would set for other relevant development, would adversely affect the use of the regional road by traffic. The development would, therefore be contrary to the proper planning and sustainable development of the area.

Dáire McDevitt
Planning Inspector

15th March 2017