Inspector's Report PL.27.247929

Development	House, detached garage, shared entrance, private well, treatment plant and soil polishing filter.
Location	Annacarter Roundwood, Co. Wicklow.
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	16/789.
Applicant	Chantelle McMullen.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party v Decision.
Appellant	Chantelle McMullen.
Observer	None.
Date of Site Inspection	30th March 2017.
Inspector	Dáire McDevitt.

1.0 Site Location and Description

1.1 The appeal site is located c.2km north of Roundwood in the townland of Annacarter, Co. Wicklow. The area is rural with the site located on the eastern side of the L1036, c. 200m south of the junction with the R759 Regional Road. The site has a stated area of c. 0.296 hectares.

1.2 The western, southern and eastern boundaries are densely planted with trees and hedgerow, there is a watercourse running along the western (front) boundary. A stream flows along the southern boundary of the site. The northern boundary with the applicant's sisters house is a timber post fence with an opening into the site. Opposite the site on the western side of the L1036 are agricultural lands.

1.3 Access is proposed via a shared entrance with the house to the north. The existing entrance has high stone flank walls which continue along the western (roadside) boundary of the adjoining site. The roadside boundary of the site is a clay embankment and is densely planted. There are no views into it from the public road.

1.4 Rushes and extensive ponding were observed, along with water in the trial holes, at the time of inspection.

1.5 Maps, photographs and aerial images in file pouch.

2.0 Proposed Development

2.1 Permission is being sought for:

- A single dwelling (stated gfa of c.270 sq.m with a height of c.5.5m).
- Shared access off the public road with the adjoining house to the north.
- Private well and on site Wastewater Treatment System with Soil Polishing Filter.

Reference in the appeal to documentation submitted with the Planning Application in relation to the applicant's compliance with the Rural Housing criteria as set out in the Development Plan.

- Site Characterisation Form.

2.2 Subsequent Unsolicited Information submitted to the Planning Authority includes a revised site layout plan showing an alternative entrance layout and revisions to the house by reducing its gfa to c. 239sq.m, increasing its height to c. 5.95m and revised external finishes but the overall design remaining largely in line with the original proposal.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the following reasons:

1. *The proposed development would not represent a necessary dwelling in this landscape designated (Corridor Area) contrary to the provisions of Section 4.4 of the County Development Plan 2016-2022. These provisions are required to maintain scenic amenities, recreational utility, existing character, and to preserve views of special amenity value and special interest and to conserve the attractiveness of the county for the development of tourism and tourist related employment.*

   The Council's settlement strategy is to encourage further growth of existing settlements and to restrict rural housing development to cases where there is a bone fide necessity to live in the rural area instead of in existing settlements. It is considered that the applicant does not come within the scope of the housing need criteria as set out under Objective HD23 of the County Development Plan as insufficient information has been submitted to establish that the applicant has a housing need in the area at this time and that the applicant has economic ties to this rural area. The proliferation of non-essential housing in rural landscape areas erodes the landscape value of these areas and seriously detracts from views of special amenity value.

2. *Objective HD3 of the County Development Plan 2016-2022 provides that all new housing developments (including single and rural houses) shall achieve*

the highest quality of layout and design, in accordance with the standards set out in the Development and Design Standards document appended to this plan, which includes a Wicklow Single Rural Houses Design Guide.
The proposed dwelling due to its height, large mass and floor area, would form a highly incongruous feature in this area, would mitigate against the presentation and protection of the rural and visual amenities of the area and would therefore be contrary to the design guidelines and objectives of the County Development Plan and would be contrary to proper planning and sustainable development

3.2 Planning Authority Reports

3.2.1 Planning Reports (24th August 2016 and 15th December 2016)

The initial application was assessed by the Planning Authority under the Wicklow County Development Plan 2010-2016. By the time the final decision issued the Wicklow County Development Plan 2016-2022 had come into operation as referred to in The Planner's Report dated 15th December 2016.

The Area Planner made a recommendation to refuse permission for two reasons on the 24th August 2016. An extension of time was sought on the 29th August 2016 and unsolicited Information was received by the Planning Authority on the 4th November 2016.

The Planners Reports along with comments by the Senior Engineer (25th August 2016) formed the basis of the Planning Authority's Decision. The main issues can be summarised as follows:

- The applicant has not demonstrated compliance with the Rural Housing policy.
- Inappropriate design, mass and floor area and does not comply with the Rural Design Guidelines.
- Sightlines are not accurately shown.

Following the submission of the Unsolicited Information a decision to refuse permission issued as per the recommendation of the Report dated 15th December 2016.

3.2.2 Other Technical Reports

Wicklow Municipal District Engineer (18th August & 2nd December 2016). Applicant should be requested to clarify how suitable sightlines will be achieved. And confirmation that the proposed flexible pipe is suitable to divert water past the treatment system and the treatment meets current requirements. Subsequent Comments (2nd December 2016) noted 'No comments or objections relating to the FI submission'.

EHO (15th August & 15th November 2016). No objection.

Dublin City Council Engineer in Charge, Vartry Waterworks. (8th August 2016). No objection to the proposal subject to:

- The piping of the watercourse as detailed on the site layout plan is for a "300mm flexible drainage pipe laid on a pebble bed". A pebble bed must not be used and soil must be compacted around the pipe to prevent a pathway for effluent occurring along the outside of the pipe.
- The pipe diameter to be increased to 400mm.

3.3 Third Party Observations

None.

4.0 Planning History

None attached to the application site.

Planning Authority Reference 07/2769. This relates to a 2007 application for a single house at Ballinavalla off the next minor road off the R759 to the west of the current site. Permission was refused on the basis of visual impact.

There are a number of planning applications in the name of Beverly McMullen (Applicant's mother) and the family home at Mullinaveige dated 1996 and 2003.

5.0 Policy Context

5.1. The planning application was initially 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 an Area Under Strong Urban Influence.

Rural Housing Policy

Section 4.4 Housing Objectives. Objectives HD22 to HD25 apply to the Open Countryside

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)

(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 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.

(8) 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.

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

Objective HD 3 refers to the need for single rural houses to comply with certain design criteria as set out in Appendix 1 and Appendix 2.
Appendix 1 refers to general development and design standards.
Appendix 2. refers to the ***Design Guidelines for New Houses in Rural Co. Wicklow.***

Appendix 5 Landscape Assessment. The site is located within the ***North East Mountain Lowlands (4-AHA),*** an 'Area of High Amenity' *which includes the transition lands between the Corridor Zone to the east and The Area of Outstanding Natural Beauty to the west. This area includes a number of views and prospects. Therefore, there is a need to ensure that development will not have a disproportionate or dominating visual impact on the surrounding environment.*

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 identified as being under strong 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 5km of the application site:

- Wicklow Mountains SAC (site code 002122) c. 2.2km to the west of the site.
- Wicklow Mountains SPA (site code 004040) c. 2.2km to the west of the site.
- Carriggower Bog SAC (site code 000716) c. 2.8km northeast 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:

Rural Housing Policy

- The appeal refers to the documentation submitted with the Unsolicited Information to the Planning Authority as evidence of compliance with the Rural Housing policy.
- The information submitted with the initial application was presented in a misleading manner. The applicant does not reside in the UK. Her home is at Annacarter and her work involves travelling to the UK, Europe, America and the main office is in the UK where she travels to attend meetings on occasion. Therefore, the applicant is not a returning emigrant. Her place of residence has been Annacarter since the late 1990s apart from when she was in college or travelling.
- Sightlines of 100m can be achieved at the proposed entrance.
- The applicant was refused permission for a house in 2007 on the grounds of visual impact. At the time the Planning Authority was satisfied that the applicant had demonstrated compliance with the rural housing policy.
- The site is screened from the adjoining road and a comprehensive planning scheme is proposed. As such, the proposed house would not be visually obtrusive.
- The applicant consulted Dublin City Council regarding the impact on Vartry reservoir before lodging the application.
- Site Assessment carried out and concluded that the site is suitable for the installation of an effluent disposal system

6.2 Planning Authority Response

None.

6.3 Observations

None.

7.0 Assessment

At a meeting of the 28th June 2017, the Board decided to defer consideration of this case and issued a Direction that a revised Inspector's report be prepared to take account of the missing unsolicited application documentation supplied by the Planning Authority to the Board on the 4th May 2017.

The main issues in this appeal are those raised in the grounds of appeal which seek to address the reason for refusal. 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.
- Design
- Wastewater Treatment.
- Appropriate Assessment.

7.1 Rural Housing Policy

7.1.1 The site is in an area designated as an area under strong 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 The County Development Plan places an 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 and eighth criteria apply to the applicant. The first criteria 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. The eighth criteria relates to persons whom have inherited or have been gifted a site.

7.1.3 The appeal refers to documentation submitted with the Planning Application in support of the applicant's ties to the area and compliance with objective HD23. These include documents dating from 2006 to 2016 to support the applicant's links to the area. Details of the applicant's legal interest in the site has also been submitted. Based on the information on file I am satisfied that the applicant has demonstrated that she complies with objective HD23 as set out in Section 4.4 of the Development Plan.

7.1.4 I am, therefore, of the opinion that the appeal in relation to the first reason for refusal should be upheld.

7.2 Design

7.2.1 The site is located within the North East Mountain Lowlands (4-AHA), an Area of High Amenity which includes that transition lands between the Corridor Zone to the east and an Area of Outstanding Natural Beauty to the west. The adopted policy is that there is a need for appropriate siting, scale and design of development to ensure that it will not have a disproportionate, conspicuous or dominating visual impact on the surrounding environment.

7.2.2 The Planning Authority's second reason for refusal was on the basis that the proposal would be contrary to Objective HD3 of the Development Plan, in particular that the height, large mass and floor area of the proposal would form a highly incongruous feature in this area, would mitigate against the presentation and protection of the rural and visual amenities of the area.

7.2.3 The applicant is seeking permission for a c. 239 sq.m single storey dwelling with a ridge height of c. 5.95 metres. The design proposed while reflecting that of the adjoining house to the north and which predates the Rural Design Guidelines, it is not reflective of the guidelines set out in the Development Plan which seeks to promote dwellings that will blend and not dominate the local

landscape. The issue of design could be resolved by condition and minor modifications to reduce the overall mass and bulk, if the site is deemed suitable for development and the Board is of a mind to grant permission.

7.2.4 I consider, therefore, that appeal against the Planning Authority's second reason for refusal should be upheld.

7.3 Wastewater Treatment:

7.3.1 The Rural Housing policy HD23 sets out that, notwithstanding compliance with one of the 16 criteria for a house in a rural area, if the proposal would likely lead to a public health hazard, this will override the need for a house at this location. Even though this has not been referenced by the Planning Authority in its reason for refusal, it has been referred to by the applicant in her grounds of appeal. Therefore, it is not considered a new issue before the Board.

7.3.2 The applicant proposes to install an onsite wastewater treatment system and soil polishing filter with discharge to groundwater. A well is also proposed.

7.3.3 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.

7.3.4 The site is located in an area which is classified as highly vulnerable and has a ground water protection scheme in place. The soil is described as free draining in the site characterisation form. A T value, in this case 18.06 (min/25mm) is reported. Results for a P test have been included in the assessment, the result of which was a P value of 16.06. This is not reflective of the situation on the ground. At the time of inspection, the site was very soft underfoot, rushes and extensive surface water ponding was observed along with substantial levels of water in the trial holes.

7.3.5 Based on the information on file and my observations at the time of inspection I am not satisfied that the applicant has clearly demonstrated that the site is suitable for the safe disposal of foul effluent arising from the development.

7.3.6 There is a water course running along the southern boundary of the site which feeds into the Vartry reservoir which is located c. 850 metres to the east of the site. The Engineer in Charge of Vartry Waterworks (Dublin City Council) noted in his comments that there was no objection to the proposal subject to the piping of the watercourse using a 400mm flexible drainage pipe with soil compacted around the pipe to prevent a pathway for effluent occurring along the outside of the pipe. The Unsolicited information submitted to the Planning Authority addressed these issues. The Municipal Engineer had no further comment.

7.3.7 Having regard to the concerns raised in relation to effluent disposal in Section 7.3.4 and the ground conditions on site, I am not satisfied that the applicant has demonstrated that the proposed development would not be likely to have an adverse impact on this stream.

7.4 Appropriate Assessment

7.4.1 There is extensive ponding within the site and there is a watercourse running along the western boundary which feeds into a stream running along the southern boundary. The closest Natura 2000 site is the Wicklow Mountains SAC (site code 002122) c.2.2km 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 Notwithstanding the drainage conditions on site. The watercourse in question flows in an easterly direction to a different drainage catchment. Therefore, there is no hydrological connection to Wicklow Mountains SAC.

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. On the basis of the information submitted with the application and the appeal, the Board is not satisfied that the subject site is suitable for the safe disposal of foul effluent arising from the proposed development. Accordingly, it is considered that the proposed development would be prejudicial to public health, would give rise to a serious risk of water pollution and would be contrary to the proper planning and sustainable development of the area.

Dáire McDevitt
Planning Inspector

30th June 2017