



An  
Bord  
Pleanála

## Inspector's Report PL.27.248025

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<b>Development</b>	Permission for house, connection to public sewer and water mains and all associated site works.
<b>Location</b>	Ballinahinch, Ashford, Co. Wicklow.
<b>Planning Authority</b>	Wicklow County Council.
<b>Planning Authority Reg. Ref.</b>	16/1316.
<b>Applicants</b>	Stephen Byrne.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party v. Decision.
<b>Appellant</b>	Stephen Byrne.
<b>Observers</b>	None.
<b>Date of Site Inspection</b>	16 <sup>th</sup> May 2017.
<b>Inspector</b>	Dáire McDevitt.

## **1.0 Site Location and Description**

- 1.1 The site is located at Ballinahinch, a residential cul-de-sac north of the R763 on the western side of Ashford, a rural town located off the M11 c.5km northeast of Wicklow town.
- 1.2 The immediate area is characterised by a mixture of house types, designs and forms. The original houses along the cul-de-sac were laid out on 0.2 hectare plots. To date there has been some backland and infill development. There is a two storey semi-detached house on site and a recently constructed contemporary style house to the rear on a site taken from the original plot.
- 1.3 The site, with a stated area of c. 309 sq.m, is the side garden of the semi-detached two storey house. The main body of the site is rectangular in shape. The existing roadside boundary is a plastered wall. The boundary with the lane to the south, which serves as access to the backland site, is a block wall. There are no boundaries between the site and the house to the north. The eastern boundary (rear) is a block wall. The site is level but elevated in relation to the adjoining site to the rear and the lane to the south.
- 1.4 Access is off a cul-de-sac off the R763. There are no defined footpaths along this road. The ground levels fall from north to south towards the R763.
- 1.5 Maps, photographs and aerial images in file pouch.

## **2.0 Proposed Development**

Permission is being sought for a c.99 sq.m two storey house with a ridge height of c. 7.64m.

Connection to public sewer and water mains and shared open plan access and parking with the existing house on site.

The site layout plan submitted with the application and the revised one submitted with the appeal do not accurately reflect the existing built environment. The file was deemed valid by the Planning Authority. These inconsistencies do not have an impact on the assessment of the current

application and measurements have been verified on site at the time of inspection.

### **3.0 Planning Authority Decision**

#### **Decision**

Permission refused for the following reason:

*Having regard to:*

- 1) *The existing pattern of development in the area,*
- 2) *The planning history of the site,*
- 3) *The lack of a coherent boundary treatment, car park and vehicular access arrangements to serve existing, proposed and permitted dwellings.*

*It is considered that the proposed development works, would be out of character with the area, would be unacceptable from an amenity viewpoint and would set a precedent for similar in-depth infill development on this narrow cul-de-sac which would be unsuitable to cater for such increased traffic movements. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

### **3.2 Planning Authority Reports**

#### **3.2.1 Planning Report (10<sup>th</sup> January 2017)**

This Report formed the basis for the Planning Authority's decision and the main points are reflected in the reason for refusal.

#### **3.2.2 Other Technical Reports**

**Municipal Engineer (9<sup>th</sup> January 2017).** No details of where surface water from the proposed house and open plan tarmac parking spaces is to be collected.

**Irish Water (16<sup>th</sup> December 2017).** No objection subject to conditions.

### 3.3 Third Party Observations

None.

### 4.0 Planning History

There is an extensive planning history associated with the application site:

**Planning Authority Reference 16/918.** Permission refused in 2016 for a similar development to the current application with a similar reason for refusal.

**Planning Authority Reference 13/8547. (An Bord Pleanála Reference No. PL.27.242572).** Permission refused in 2014 for a similar development to the current application for the following reason:

*Having regard to the pattern of development in the area, the planning history of the site, the planning history of adjacent lands and the lack of a coherent boundary treatment and vehicular access arrangement to serve existing, proposed and permitted dwellings, the Board considered that the proposed development would contravene condition number 1 attached to planning register reference number 08/1755 and would seriously injure the visual amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

**Planning Authority Reference 12/6624, 12/6043 & 11/4259.** Permission refused for a similar development to the current application for reasons relating to over development, traffic and that dimensions did not accurately reflect the site.

**Site to the rear taken from the original landholding:**

**Planning Authority Reference 08/1755.** Permission granted for a house to the rear of the application site with access off the lane that runs along the southern boundary of the current application site.

**Planning Authority Reference 14/1018.** Extension of time granted for 08/1755.

**Planning Authority Reference 15/450.** Permission granted for change of house type to that granted under 08/1755. House as constructed on site.

**Adjoining properties:**

**To the North:**

**Planning Authority Reference 08/1775.** Permission granted for a house to the north of the application site in the side garden of the adjoining semi-detached dwelling. This would result in a third house on the original plot. Not constructed.

**Planning Authority Reference 10/2955.** Permission granted for change of house type and revised site boundaries as previously granted under PRR08/1775. Not constructed.

**Planning Authority Reference 17/482.** Current application for permission for retention of existing single storey extension to rear of existing dwelling, as built shed to rear garden. Permission is also sought for a new dwelling inside site (as previously granted under PRR 10/2955) and revised site boundaries including new entrance to service existing dwelling and upgrading of existing entrance to service proposed dwelling, connection to sewerage and all associated site works and services. Planning Authority decision due 22<sup>nd</sup> June 2017.

## **5.0 Policy Context**

## 5.1 Wicklow County Development Plan 2016-2022

### Volume 2 Town Plans & Settlement Plans

**Land Use Zoning Objective RE.** Existing Residential. *To protect, provide and improve residential amenities* of existing residential areas.

**Ashford Town Plan 2016-2022 (Vol. 2 Wicklow County Development Plan 2016-2022)** sets out the development strategy for Ashford which is identified as a Level 5 settlement and its main role is to provide economic and social services to its population and that of its rural hinterland.

#### **Appendix 1 General Development and Design Standards:**

**Residential Development** standards are set out including separation distances, private open space provision, access.

**Infill/Backland Development** standards refers to a range of standards including:

- The site / plot must be capable of being developed in accordance with the density limit set for that area in the local area or town plan, or in any case in keeping with the prevailing density of the immediate area.
- The design of a new house should complement the area.
- Cognisance will be required to be taken of the potential of adjacent rear / side plots to be developed in a similar manner and separation between site boundaries, location of windows etc must not prejudice development options on the adjacent plot.

## 5.2 Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities (2009).

**Chapter 6 Smaller Towns & Villages (Population of 400 to 5000)** refers to the need to channel development to smaller towns and villages in a manner that is consistent with the Regional Planning Guidelines.

### **5.3 Natural Heritage Designations**

None applicable.

## **6.0 The Appeal**

### **6.1. First Party Appeal**

The first party appeal seeks to address the reason for refusal of permission and is summarised as follows:

- Site is located on zoned, serviced lands.
- The proposal complies with land use zoning and private open space requirements as set out in the Development Plan.
- The design of the house has a minimum impact on surrounding properties.
- There has been a precedent of backland and infill developments granted and completed in the immediate area.
- The proposal would not create a traffic hazard.

### **6.2 Planning Authority Response**

None received.

### **6.3 Observations**

None.

## **7.0 Assessment**

Permission was refused in 2014 under PL.27.242572 for a similar development to that currently before the Board. The reason for refusal referred to the pattern of development in the area, the planning history of the site, the planning history of adjacent lands and the lack of a coherent boundary treatment and vehicular access arrangement to serve existing, proposed and permitted dwellings. The Board considered that the proposed development would contravene condition number 1 attached to Planning Authority Reference number 08/1755 and would

seriously injure the visual amenities of the area. The current proposal is an attempt to overcome the reason for refusal. The house is moved northwards, decreasing the separation distance between the existing and proposed house in order to retain the width of the access lane to the house to the rear in accordance with condition no. 1 of 08/1755 and to provide a shared access off the cul-de-sac with an open plan parking area to serve the existing and proposed houses.

The main issues in the appeal are those referred to in the reason for refusal. The issue of appropriate assessment also needs to be addressed.

The issues can be dealt with under the following headings:

- Design.
- Residential Amenity.
- Access.
- Appropriate Assessment.

## **7.1 Design**

7.1.1 Permission is sought for a c.99 sq.m two storey house with a ridge height of c. 7.64m on a site with a stated area of c. 309 sq.m. Appendix 1 of the Development Plan refers to infill/backland sites and a range of criteria that applies to their development, which includes that the design of the house should complement the area and should not prejudice the development of adjoining sites. There is a mixture of house types and styles in the immediate vicinity of the site. I am satisfied that the design and scale of the proposal is acceptable in this context.

7.1.2 The landholding associated with the original house had a stated area of c.0.2 hectares. This has subsequently been subdivided to accommodate a backland site (PA Ref. 08/1755). There is a precedent in the area for permitting second



subdivisions to the original plots to accommodate both backland and infill development to the side of the original dwellings which results in a third house.

7.1.3 The Development Plan refers to the provision of appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity on lands zoned under Land Use Objective RE. It is my considered opinion that the proposed development in terms of design, scale and siting complies with the design standards for infill/backland developments and is an appropriate form of development for the application site.

## **7.2 Residential Amenity**

7.2.1 The Planning Authority's reason for refusal refers to the proposed development having a negative impact upon the character of the area by setting an undesirable precedent for similar in-depth infill development.

7.2.2 The proposed development complies with the standards for residential developments as set out in Appendix 1 of the Development Plan in terms of private open space provision, separation distances and design. In my view the design, scale and orientation of the house is acceptable and would not detract from the amenities of future occupiers or of those of adjoining properties. The development is considered an appropriate and sustainable use of serviced zoned lands within the town in line with similar forms of development permitted in the vicinity of the site.

7.2.3 I, therefore, consider that the appeal should be upheld on these grounds.

### **7.3 Access**

- 7.3.1 The Planning Authority's reason for refusal also refers to the lack of a coherent boundary treatment, carpark and vehicular access arrangement to serve the existing, proposed and permitted development.
- 7.3.2 Under An Bord Pleanála Reference PL.27.242572 the Board issued a direction to refuse permission on the basis that they were not satisfied regarding the accuracy of the submitted drawings and the associated impact the dwelling would have on the vehicular access serving the dwelling permitted under Planning Authority reference no. 08/1755. In addition, there were concerns that the vehicular access arrangements and the boundary treatment details fronting the existing and proposed dwellings would be out of character with the area and unacceptable from an amenity viewpoint.
- 7.3.3 The main difference between the current application and that refused by An Bord Pleanála in 2014 (PL.27.242572) is the revised siting of the house northwards with a separation distance of c. 0.85m from the existing house. The revised siting of the house means it does not encroach on the lane and therefore would not contravene condition no. 1 of Planning Authority Reference No. 08/1755.

7.3.4 It is proposed to remove the existing roadside boundary and create a shared open plan area with a tarmac finish with the existing house on site. The original submission showed no boundary treatment between the properties. The appeal documentation includes proposals for boundary treatment between the two properties which would result in three access points in quick succession off the cul-de-sac. In my view, the removal of the roadside boundary would result in a visual imbalance along this cul-de-sac. If the Board is of a mind to grant permission a condition should be attached requiring that the existing entrance off the cul-de-sac should be used as a shared entrance and that the existing roadside boundary be retained. These access arrangements would be satisfactory having regard to the level of traffic and the speed of the vehicles travelling along this cul-de-sac.

7.3.5 The Planning Authority also raised concerns regarding the restricted nature of the site to accommodate the required carparking and turning area within the site. In my view there is ample space on site to accommodate the required carparking.

7.3.6 The reason for refusal also referred to the precedent for similar forms of infill development on this narrow cul-de-sac which would be unsuitable to cater for such increased traffic movements. It is my view that the additional traffic movement associated with a house along this residential cul-de-sac will not result in a traffic hazard due to increased traffic movements. The Municipal Engineer had no objection on traffic grounds.

7.3.7 I am, therefore, satisfied that the proposal will not create a traffic hazard and the appeal should be upheld in relation to the Planning Authority's reason for refusal.

## **7.4 Appropriate Assessment**

7.4.1 Having regard to nature and small scale of the development and the location of the site in a fully serviced built up area, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have

a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

I recommend that planning permission should be granted subject to the conditions as set out below.

## **9.0 Reasons and Considerations**

Having regard to the provisions of the Wicklow County Development Plan 2016 - 2022, to the design and scale of the proposed development and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of residential amenities and traffic safety and would be in accordance with the proper planning and sustainable development of the area

## **10. Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Prior to the commencement of development the applicant shall submit revised plans for the written approval of the Planning Authority as follows:
  - a) The existing entrance off the cul-de-sac shall be used as a shared access to serve the existing and proposed development.

- b) The existing front roadside boundary shall be retained.
- c) The existing block wall along the southern boundary shall be retained.

**Reason:** In the interest of traffic safety and visual amenities.

- 3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

- 4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

- 5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television cables) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. Any existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity

- 6. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

7. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Dáire McDevitt  
Planning Inspector

19<sup>th</sup> May 2017