



An
Bord
Pleanála

Inspector's Report PL.27.248372

Development	Demolition of house and construction of a two storey house, new treatment system and polishing filter, alterations to entrance and ancillary site works.
Location	Ballysize Lower, Co. Wicklow.
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	16/1258.
Applicant	Kasha Mleko.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party.
Appellant	Patrick Dunne.
Observers	None.
Date of Site Inspection	1 st August 2017.
Inspector	Dáire McDevitt.

1.0 Site Location and Description

- 1.1. The site is located in the rural townland of Ballysize Lower, c. 1.5km north of the village of Hollywood, County Wicklow. The site is located along the southern side of the LS8361, a local secondary road off the N81 c. 1km west of the site.
- 1.2. The existing two storey farmhouse on site, originally an Irish Constabulary building/station, is unoccupied and in a state of disrepair. A rear return has been demolished and there are structural cracks noted to the external walls. Foundations have been dug to the rear and cavity blocks were noted on site. No works were taking place at the time of inspection.
- 1.3. The northern boundary consists mainly of mature trees. An access track/lane to farm buildings, in separate ownership, runs along the northern boundary with an agricultural gate into the applicant's site from this lane. The western boundary along the road to the front of the house consists of a low wall with railings, a pedestrian gate and an access with an agricultural gate. Further south there is a second access which serves a farmyard in the applicant's ownership. A farm building forms part of the southern boundary of the site. There are stone outhouses to the rear (east) of the site and a gate to a field to the rear. The applicants landholding is bounded to the east by forestry in Coillte ownership.

2.0 Proposed Development

- 2.1 The applicant is seeking permission for
 - The demolition of an existing c. 94sq.m two storey dwelling and replace it with a new two storey dwelling of similar design with a two storey rear annex. The proposal would have a gfa of c. 144sq.m.
 - Replacement of existing septic tanks with a new secondary treatment system and a polishing filter.
 - Alterations to entrance off the public road.
- 2.2. Further Information was submitted to the Planning Authority consisting:
 - a) A Design statement and revised design as follows:
 - Omission of the stone finish to the front façade.

- A second chimney stack across the ridge to provide balance and symmetry (in keeping with the two chimney stacks associated with the structure to be demolished).
- Omission of the rooflights to the front elevation.

b) Access details submitted, the widening of an existing entrance.

c) Details of the applicant's legal interest in the land declarations by previous owners pertaining to the right of ways.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 7 standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

These Reports formed the basis for the Planning Authority's decision. The main issues considered related to the design, entrance details and the issue of right of way. These formed part of a Further Information request which was addressed to the satisfaction of the Planning Authority.

3.2.2. Other Technical Reports

Transport Infrastructure Ireland. Rely on the Planning Authority to abide by official policy in relation to development on/affecting national roads.

Environmental Health Officer. No objection subject to conditions and clarification on whether the proposed bored well or the existing mains water supply is to be used.

Roads Engineer. No objection as the proposal is for a replacement dwelling, therefore, there would be no increase in the usage of the LS8361 from the proposal. And no impact on the N81 or the proposed N81 Tallaght Hollywood road improvement scheme.

Municipal Engineer. No objection subject to no surface water being discharged on to the public road.

3.3. Third Party Observations

One submission received by the current appellant. The issues raised are largely in line with the grounds of appeal and shall be dealt with in more detail in the relevant section of this Report.

4.0 Planning History

None as per Planning Register.

5.0 Policy Context

5.1. Wicklow County Development Plan 2016-2022

Section 10.2.3 refers to the County's Architectural Heritage. Policies BH15 to 17 refer to other structures and vernacular architecture objectives.

BH15 seeks the retention, conservation, appropriate repair and reuse of vernacular buildings such as milestones, stonewalls, traditional shopfronts, thatched roofs and other historic elements.

Appendix 1 refers to general development and design standards.

Appendix 2 refers to the design guidelines for new rural houses.

5.2. Natural Heritage Designations

None attached to the site, the following sites are noted in the vicinity:

- Poulaphouca Reservoir SPA c. 1.5c. km to the north and c. 3km to the east

- Wicklow Mountains SAC. C. 7km to the east.

6.0 The Appeal

6.1. Grounds of Appeal

A third Party appeal had been lodged by Patrick Dunne, Chapel Street, Ballymore Eustace, Co. Kildare. The house which is the subject of this application was the ancestral home of the Dunne family. A member of the Dunne family had links to this house up to 2 years ago. The grounds of appeal are summarised as follows:

- The house is a former constabulary building and should not be demolished as it is of local historical importance. It should be repaired and refurbished as set out in policy BH15 of the Development Plan.
- The appellant has stated that he and his family (former owners and occupiers of the house) and neighbours have enjoyed two right of way over the site for generations and strongly object to any interference with these right of ways. Declarations have been included, signed by two sons of the appellant, to support this.
- Changes to the entrance off the public road would result in a traffic hazard.
- Unauthorised works carried out to date. The file is invalid as the incorrect development description and fee was submitted to the Planning Authority.
- A new treatment system and a wall is proposed to be built over the right of way which would interfere with its use.

6.2. Applicant Response

The applicant has submitted a detailed response which is mainly in the form of a rebuttal. However, the following points of note were made:

- Declarations submitted from two previous owners. Mary Dunne, who declared that the right of way had not been used for over 40 years and Triona Phelan outlining that it had not been used since she acquired the property in 2015. The issue of right of way is a legal matter and outside the scope of a planning application.
- The applicant's original intention was to renovate and refurbish the property. However, the structural condition of the house became apparent during renovation works and following an assessment the applicant was advised that its replacement was the only viable option.
- Proposal complies with the Development Plan policies and standards.

6.3. Planning Authority Response

None.

6.4. Observations

None.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Architectural Heritage.
- Other Issues.

- Appropriate Assessment.

7.1. Architectural Heritage.

- 7.1.1 Policy B15 in the Development Plan refers to the need to retain and conserve buildings of vernacular importance and resist their demolition. The structure in question had been altered and adapted over the years to facilitate its change from its original use as a constabulary building/police station to a farmhouse.
- 7.1.2 The existing structure is a two storey house which is in a state of disrepair. The applicant has submitted details of the condition of the structure and has put forward the argument that the most viable option is to demolish and replace it with a similar style structure. The Planning Authority was satisfied that the concerns raised in relation to the proposed stone cladding and the lack of symmetry to the roof profile were addressed in the Further Information submission.
- 7.1.3 The structure, while part of the vernacular architecture of the rural countryside, is not included in the Record of Protected Structures in the County Development Plan or the National Inventory of Architectural Heritage. The structure is in a state of significant disrepair. The available evidence is that the original building has been eroded and compromised over the years through its adaption for use as a domestic house. I have no objection to the demolition of the structure on site on architectural heritage grounds and I am satisfied that its demolition would not contravene Policy B15 of the Development Plan.
- 7.1.4 The design of the replacement house resembles the structure to be demolished with a rear return. The visual impact of the new house on site will not be significantly different to the existing. I am satisfied that the proposed development complies with the development management standards and design guidelines for rural houses as set out in the Development Plan.

7.2. Other Issues

- 7.2.1 The grounds of appeal also refer to the proposed entrance as a traffic hazard and that the applicant has sufficient land with road frontage to provide an

access at an alternative location. The Planning Authority's Roads Engineer has no objection as there would be no increase in the usage of the adjoining public road arising from the proposal. The house on site was occupied until c. 2 years ago, as verified by the appellant, with vehicular access off the road. I am satisfied that the widening of an existing access to the site would not create a traffic hazard having regard to the alignment of the road at this point and visibility at the entrance which is set back from the edge of the carriageway.

7.2.2 The appellant has highlighted concerns that the rear portion of the house would be in conflict with the adjoining agricultural use of the neighbouring farmyard to the north. There are no submissions on file from the owners of these farm buildings. I note that the proposed dwelling would have a similar footprint to the one being demolished. I am satisfied that the proposal complies with the development management standards and the design guidelines for rural houses as set out in the Development Plan and that no such conflict would arise.

7.2.3 The appellant has also raised the issue of two right of ways over the application site to adjoining lands. The applicant maintains that these right of ways have not been exercised for decades. The appellant maintains that they were in daily use up to two years ago. Folio details have been submitted and both the appellant and the applicant have submitted declarations from third parties in support of their assertions. The question of the exercise of any right of way is a legal matter and outside the scope of a planning permission. In this context, I would draw attention to Section 34 (13) of the Planning and Development Act 2000 (as amended) which reads '*A person shall not be entitled solely by reason of a permission under this section to carry out development*'.

7.3 Appropriate Assessment.

7.3.1 There is no evidence of significant surface water conduits within the site. There is a watercourse c.55 metres from the western boundary. The nearest Nature 2000 sites are the Wicklow Mountains SAC (site code 002122) c.7km

to the north and Poulaphouca Reservoir SPA is c. 1.5km to the north and c.3km to the east of the site.

7.3.2 The proposed development would be served by a secondary wastewater treatment system and a polishing filter. Site Assessment has been carried out and included with the planning application. The site test results show that the site is suitable for a proprietary wastewater treatment system and polishing filter and complies with the EPA Code of Practice for Single Houses (2009)

7.3.3 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 planning permission should be granted, subject to 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 nature and scale of the proposed replacement dwelling house and to the pattern of development in the area, it is considered that subject to compliance with the following conditions, the proposed development would be in accordance with the adopted rural housing policy and would not constitute a traffic hazard or seriously injure the amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

10.0 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. The external walls shall be finished in neutral colours such as grey or off-white.

Reason: In the interest of visual amenity.

3. The roof colour of the proposed house shall be blue-black, black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.

Reason: In the interest of visual amenity.

4. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

5. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent pollution.

6. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning

authority, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.

(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.

(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.

(d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.

(e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

7. 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.

8. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management

Dáire McDevitt
Planning Inspector

14th August 2017