



An
Bord
Pleanála

Inspector's Report PL.27.248528

Development	Permission for a house, entrance and connection to services.
Location	Ballinahinch Lower, Newtownmountkenedy, Co. Wicklow
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	16/1295.
Applicant	Margaret Carroll.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party v. Decision.
Appellant	Margaret Carroll.
Observers	None.
Date of Site Inspection	1 st August 2017.
Inspector	Dáire McDevitt.

1.0 Site Location and Description

- 1.1 The appeal site is located at Ballinahinch Lower on the southwestern side of Newtownmountkennedy, a rural town located off the N11 c.6.5km southwest of Greystones in Co. Wicklow. It is located on the southern side of a former section of the R765 (Newtownmountkennedy-Roundwood Road). Following a recent road realignment, the road is now a cul-de-sac serving 14 houses and is characterised by a mixture of detached and semi-detached single storey houses. There are no defined footpaths along the southern side of the road in front of the site. The new section of the R765 bounds the Wicklow Hills housing scheme which is under construction to the north of the cul-de-sac.
- 1.3 The site, with a stated area of c. 510 sq.m, is the side garden of a detached single storey house 'Sunrise' and is rectangular in shape. There are no boundaries between the site and Sunrise to the west. The boundary with the adjoining house to the east is mature hedges and trees. The southern boundary (rear) consists of mature hedges and the roadside (northern) boundary is a low wall with mature trees/hedges. The ground levels fall from south to north towards the public road. The ground level of the site is higher than that of the existing house at present.
- 1.4 Maps, photographs and aerial images in file pouch.

2.0 Proposed Development

Permission is being sought for a c.189.6 sq.m split level house with a height of c. 6.5m to the rear and c. 5.4m to the front. Connection to public sewer and water mains and a new entrance off the public road.

3.0 Planning Authority Decision

Decision

Permission refused for the following 3 reasons:

1. *The site of the proposed development is located in an area for which the zoning objective, as set out in the current Development Plan for the area, is*

to protect and preserve existing residential uses and provide for infill residential development that reflects the established character of the area in which it is located.

Having regard to:

- a) The planning history of the site.*
- b) Restricted nature of the site and*
- c) Layout of the proposed development.*

It is considered that the proposed development would result in the overdevelopment of the site which if permitted, would lead to an undesirable precedent being established that would significantly alter the existing character of this area. The proposed development would therefore be contrary to the zoning objective for the site and to the principle of proper planning and sustainable development.

2. Having regard to

- a) The design and location of the proposed retaining walls which will result in foundations being constructed on adjoining property and*
- b) The extensive excavation works required to carry out the proposed development.*

it is considered that the proposed development works would impact on the adjoining property for which the applicant has no control, would be out of character with the area, would be unacceptable from an amenity viewpoint and would set an undesirable precedent for similar in-depth infill on this restricted site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- 3. The proposed development would endanger public safety by reason of a serious traffic hazard because it has not been demonstrated that a safe vehicular entrance in terms of sightline distance and gradient can be provided to serve this development.*

3.2 Planning Authority Reports

3.2.1 Planning Report (13th January 2017).

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

This included

- The proposed excavation works are considered excessive and given the limited size of the site and the location of the adjoining properties it would have a serious impact on the adjoining properties.
- The proposed retaining wall would require the consent of adjoining property owners to carry out the works. No consent is included with the application. Concerns also noted over the gradient to the rear garden resulting from the excavations.
- The entrance is considered acceptable subject to the appropriate setback of boundaries, however, there are concerns over the gradient of the entrance, driveway and parking area. No detailed design has been submitted.
- The design is not considered consistent with the adjoining property.

I note that an extension of time was sought until May 2017. No additional information was submitted and there is no subsequent planners report on file. Decision to refuse issued in April 2017 as per the Area Planners recommendation of January.

3.2.2 Other Technical Reports

Municipal Engineer (5th January 2017). It is noted that this section of the R765 should shortly become an access serving only approximately 14 houses. Sightlines should be maximised and this may require an agreement with houses either side to maintain or remove their hedges.

Irish Water No objection subject to conditions.

3.3 Third Party Observations

None.

4.0 Planning History

Application site (Sunrise):

Planning Authority Ref. 15/538. This refers to a 2015 refusal of permission for a dormer dwelling (gfa c. 207.53sq.m, height c. 6.5m) for reasons relating to the overdevelopment of the site and traffic safety as it had not clearly been demonstrated that the entrance was safe in terms of sightlines and gradient and that the proposal would interfere with the safety and free flow of traffic on the regional road.

Planning Authority Ref. 14/1857. This refers a 2014 refusal of permission for a dormer dwelling (gfa c.249.03sq.m and height of c. 6.2m) for reasons relating to the overdevelopment of the site, carparking arrangements that it has not clearly been demonstrated that the entrance was safe in terms of sightlines and gradient and that the proposal would interfere with the safety and free flow of traffic on the regional road.

Monalin:

The site layout maps submitted with the current application refers to 'Sunrise' as 'Monalin' which is incorrect:

Planning Authority Ref.10/2675. An Bord Pleanala Ref. PL.27.237931.

Permission refused in 2010 for a dwelling in the garden of Monalin on the opposite side of the road. Permission was refused on the grounds that traffic generated by the house would interfere with the safety and free flow of traffic on the regional road.

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.

Newtownmountkennedy Town Plan 2016-2022 (Vol. 2 Wicklow County Development Plan 2016-2022) sets out the development strategy for Newtownmountkennedy which is identified as a Level 4 settlement, a moderate sustainable growth town.

Appendix 1 General Development and Design Standards:

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

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 reasons for refusal of permission and can be summarised as follows:

- The proposal complies with land use zoning and private open space requirements as set out in the Development Plan.
- The applicant has reduced the scale of the house in each application since 2014 in an attempt to reduce the impact on surrounding properties.
- If the Board is of a mind to grant the design submitted to the Planning Authority, the applicant is willing to build the retaining walls to the requirements/ specification as set by the Planning Authority.
- Proposed revisions are included with the appeal for a single storey dwelling with a gfa of c. 88.14sq.m which significantly reduces the scale of the development and removes the requirement for retaining walls.
- The proposal would not create a traffic hazard, this section of the regional road is now a cul-de-sac. The access was discussed with the Roads Department and the removal of hedgerow was considered acceptable for the achievement of sightlines and the issue of surface water runoff is addressed by providing a drainage channel along the full width of the entrance at the roadside.

6.2 Planning Authority Response

None received.

6.3 Observations

None.

7.0 Assessment

Permission was refused in 2014 and 2015 under Planning Authority Ref. 14/1857 and 15/538 respectively for a similar development to that currently before the Board. The reasons for refusal referred to the pattern of

development in the area and that the scale and layout of the proposal would result in overdevelopment of the site. The development would constitute a traffic hazard due to the lack of space for parking and turning movements within the site, the sightlines and gradient at the entrance and that the proposal would interfere with the freeflow of traffic on the regional road.

The current application is an attempt to overcome the reason for refusal. In response to the Planning Authority's decision to refuse permission the applicants have included revisions to the original design in the documentation that accompanied the appeal. The house has been significantly reduced in size, height and scale. The revisions proposed remove the requirement for retaining walls. I note that the scope of these changes do not require re-advertisement. This report, therefore, includes consideration of these proposed revisions.

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 The Planning Authority refused permission for a c. 189.6sq.m split level dwelling (FFL 98.26) with a height of 6.5m to the rear and c. 5.4m to the front on the grounds that the proposal would result in the overdevelopment of the site due to the restricted nature of the site and the layout of the development proposed.

7.1.2 The applicant has submitted revisions for a c.88.14 sq.m single storey house with a FFL 100 and a ridge height of c. 4.4m in keeping with the existing house on site. 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 and ensure the protection of existing residential amenity on lands zoned under Land Use Objective RE. The area is characterised by modest single storey dwellings. It is my considered opinion that the proposed revisions submitted with the appeal in terms of design, height, 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 first reason for refusal also 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 appeal site has a stated area of c. 510 sq.m and is taken from a landholding associated with the original house with an area of c. 1815 sq.m. I am satisfied that the subdivision of the plot can accommodate two sites that comply 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 revisions to the scale and design submitted with the appeal are 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. I, therefore, consider that the appeal should be upheld on these grounds.

7.2.3 The Planning Authority's second reason for refusal related to the proposed development works which would have a negative impact on the adjoining properties, would be out of character with the area and would be unacceptable from an amenity viewpoint.

- 7.2.4 The Planning Authority considered the level of excavation works proposed to be excessive given the limited size of the site and the location of the adjoining properties. It was considered that these works would have a significant impact on the adjoining properties and would set an undesirable precedent for future infill developments. I note that there are no third party submissions on file. Based on the information on file there is no evidence that the site works required to be carried out would have a detrimental impact on the adjoining properties.
- 7.2.5 The site is predominantly rectangular in shape with a small indentation along the western boundary where the existing house has a side projection. It is commonly understood that overlooking between properties does not usually occur at ground floor level. This is because in most urban cases a two metre solid boundary from the front building line back, either a wall or fence, is erected to screen views and in rural areas landscaping along site boundaries is conditioned to screen sites. There is no standard in relation to separation distances which concern ground floor windows and new development. I am satisfied that the boundary treatment proposed along the western boundary address this issue. The site is well screened from the property to the west and a condition should be attached requiring that all mature boundary treatment be retained if the Board is of a mind to grant permission. There are no first floor opposing windows and the existing and proposed boundary treatment will screen the site from the adjoining houses. I am satisfied the extent of site works required and the siting of the house would not have a detrimental impact on the amenities of the adjoining properties.
- 7.2.6 A retaining wall to both side boundaries was also proposed with the initial application. The proposed revisions submitted with the appeal do not include retaining walls.
- 7.2.7 I, therefore, consider that the appeal should be upheld in relation to the Planning Authority's second reason for refusal.

7.3 Access

- 7.3.1 The Planning Authority's third reason for refusal was on the grounds that the proposed development would endanger public safety by reason of a traffic hazard because it has not been clearly demonstrated that a safe vehicular entrance in terms of sightline distance and gradient can be provided to serve this development.
- 7.3.2 The Municipal Engineer in their Report noted that the road was to become a cul-de-sac and that sightlines at the proposed entrance may require the maintenance/removal of hedge on adjoining properties. At the time of inspection, I noted that the new traffic arrangements are in place and this former section of the R765 is a cul-de-sac serving 14 houses. 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.
- 7.3.3 It is proposed to remove a section of the existing roadside boundary and create a new entrance off the cul-de-sac. 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.
- 7.3.4 The Planners report raised concerns over the gradient of the entrance, driveway and parking area and that no detailed design had been submitted. Based on the information on file the applicant has not demonstrated that the gradient complies with the requirements as set out in Section 7, Appendix 1 the Development Plan for a driveway and parking area with a gradient of no more than 1:40/2.5% for the first 6 metres from the public road carriageway. The siting of the house and access arrangements reflect those of the existing houses to the east. I am of the view that this matter can be overcome on site and that revised details, including where required the provision of retaining walls, should be required by condition if the Board is of a mind to grant permission having regard to the pattern of development in the immediate vicinity and the location of the site on serviced zoned lands

7.3.5 The applicant has referred to the provision of a drainage channel for the entire width of the entrance at the roadside to address the concerns raised in relation to surface water runoff from the site due to its gradient. I am satisfied that this issue can be addressed by condition if the Board is of a mind to grant permission.

7.3.6 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 location of the site on lands zoned under land use objective RE and 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

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and by the further plans and particulars received by An Bord Pleanála on the 18th day of May, 2017, 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 to be agreed in writing with Planning Authority as follows:
 - a) Revised plans and specifications for the entrance and driveway showing a gradient of no more than 1:40/2.5% for the first 6 metres from the public road carriageway edge.
 - b) Details and specifications for retaining walls to facilitate the entrance arrangements where required.

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

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

Reason: In the interest of visual amenity.

5. 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.

6. 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

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. 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.

Dáire McDevitt
Planning Inspector

23rd August 2017