



An
Bord
Pleanála

Inspector's Report PL 27.248647

Development	Detached single storey dwelling with water well and effluent treatment system and all associated site works.
Location	Larkspur Killough, Kilmacanogue, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	17/336
Applicant(s)	Lise Jolley and Mark O' Hare
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v. Refusal
Appellant(s)	Lise Jolley and Mark O' Hare
Observer(s)	No observers
Date of Site Inspection	15.08.2017
Inspector	Erika Casey

1.0 Site Location and Description

- 1.1. The subject site comprises agricultural land and has an area of 0.309 ha. It is located approximately 2.5 km from Kilmacanogue Village. The site has a narrow linear configuration. Levels rise steeply across the site and there is an incline from 162.00m to the west to 180.00m to the rear. The site is primarily characterised by grassland with mature vegetation along the south, east and western boundaries. There is a stream located along the northern boundary of the site.
- 1.2. Access to the site is via a narrow laneway that serves two existing dwellings located to the north of the site. The laneway accesses directly to the R755 public road.
- 1.3. Development in the vicinity comprises a cluster of one off rural dwellings. To the north of the site are two existing dwellings which it is understood are in the ownership of the applicant's family.

2.0 Proposed Development

- 2.1. The development comprises a 3 bedroom bungalow with a floor area of 180 sq. metres. The dwelling has an L shaped configuration with vehicular access to the north onto the existing laneway. Parking for 2 no. cars is provided.
- 2.2. The dwelling has a height of 7.524 metres. The finished floor level will be 167.00m. It is set back approximately 44 metres from the R755 Road frontage. It has a contemporary design with glazing on the western elevation. There is a large feature chimney breast rising to a height of 8.274 metres on the northern gable. Materials predominantly comprise of K-Rend Thru Colour Render, uPVC windows and doors and a natural slate roof.
- 2.3. The proposed dwelling is served by an effluent treatment system with sand polishing. The wastewater treatment system is located to the west of the dwelling and the proposed gravel attenuation layer and sand polishing filter are located to the east. A new well is proposed at the eastern extremity of the site.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 Refuse permission for 3 no. reasons:

1. Having regard to:

- *The proposal to access the site via the entrance permitted to PRR 16/505,*
- *The deficiency of sightlines at that permitted entrance which was only considered appropriate to service the existing dwellings given that it would result in an improvement to the current entrance serving those houses off Regional Road R755,*
- *The additional traffic movements associated with a further dwelling at a point on the road where traffic speeds are high, where the road alignment is seriously substandard and where exiting and forward stopping distances would not accord with current standards,*

it is considered that the proposed development would endanger public safety by reason of serious traffic hazard because the traffic turning movements generated by the proposed development would interfere with the free flow and safety of traffic on this highly trafficked R755-322.

2. Having regard to:

- *The topography, elevation and location of the subject site in an Area of Outstanding Natural Beauty,*
- *The visibility of the subject site from listed prospects no. 5 and 8,*
- *The inappropriate dwelling design by reason of excessive ridge height and having regard to the levels at which the house is to be built, the use of non traditional building materials and the considerable amount of glazing,*

it is considered that the proposed development would form a highly incongruous feature in this highly scenic landscape designated an Area of Outstanding Natural Beauty, would adversely impact on listed prospect no. 5 and 8, which it is considered necessary to preserve, would lead to the suburbanisation of this relatively unspoilt rural area and would militate against the presentation and protection of the rural and

visual amenities. Accordingly, the proposed development would seriously injure the visual amenities of the area, would erode the high quality landscape at this point and would be contrary to the provisions of the County Development Plan and to proper planning and sustainable development.

3. Inadequate evidence is available to demonstrate that surface water can be disposed via public sewer and if found to be unachievable then this development would be prejudicial to public health.

3.2. Planning Authority Reports

3.2.1. Planning Report (12.05.2017)

- With regard to qualification to build, it was previously determined under P.A. Ref. 15/667 that the applicant came within the scope of RH14 of the 2010 CDP.
- Concerns raised regarding the stone cladding to the protruding chimney and the highly visible location of the site.
- Notes that permission granted under P.A. Ref 16/505 for new entrance and realignment of existing access laneway and that Planner's Report stated that the approved modifications would not facilitate the provision of access to a third dwelling due to inadequate sightlines.
- The proposed development is contingent on the implementation of works to the laneway granted under a separate permission and outside the control of the applicant.

3.2.2. Other Technical Reports

Environmental Health Officer (26.04.2017): No objection subject to condition.

3.3. Prescribed Bodies

3.3.1 No reports received.

3.4. Third Party Observations

3.4.1 No observations received.

4.0 Planning History

4.1 The site and its immediate has an extensive planning history which is set out in the Planning Authority's Planner's Report. A summary of key decisions is set out below.

Subject Site:

P.A. Ref. 15/677: Permission sought in June 2015 for two storey dwelling with adjoining garage. This application was withdrawn. It is noted however that the Engineer's Planning Report stated:

"The development would endanger public safety by reason of traffic hazard because it would generate additional traffic movements at an entrance with seriously deficient visibility on a heavily trafficked regional road where the maximum speed limit applies.

Visibility distance north of existing entrance is less than 45m. The maximum visibility distance achievable in both directions is about 60m with entrance relocation and boundary set back. The speed limit on the road is 80kph. The 85 percentile speed in both directions is approximately 70 kph requiring a visibility distance of 120kph."

The Planning Authority's Planner's Report recommended refusal for reasons relating to traffic hazard, visual impact and drainage.

P.A. Ref. 10/2260: Permission sought in May 2010 for a dormer dwelling and double sided garage. Permission refused for 5 no. reasons including that the development would not represent a necessary dwelling and that the applicant did not come within the scope of the housing need criteria, traffic hazard, visual impact, design and drainage.

P.A. Ref. 96/4831 and P.A. Ref. 97/6393: Permission sought in September 1996 and June 1997 for a dwelling on the subject site. Permission refused in both instances for reasons relating to visual impact, traffic hazard, non essential rural housing and suburban sprawl in a rural area.

Adjacent Site:

P.A. Ref 16/505: Permission sought in June 2016 on lands to the immediate north west of the site for modifications to the existing vehicular entrance onto the R755, where the driveway will be realigned and enlarged to improve access servicing the

existing dwellings, along with all associated and ancillary site development works. Permission granted in October 2016 subject to conditions.

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative development plan is Wicklow County Development Plan 2016-2022. Relevant policies include:

Section 4.3.6: Relates to the *Design of New Developments* and it is stated that all new housing including rural housing shall achieve the highest quality of layout and design.

Appendix 2: Sets out guidelines regarding single rural house design.

Housing in the Open Countryside Policy HD23: 16 criteria are set out which relate to the circumstances that will be considered regarding residential development in the countryside. The most relevant is no. 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 levels 8 and 9 or resided in the rural area for at least 10 years in total prior to the application for planning permission.”

The Plan sets out 10 levels of settlement and the subject site is located in Level 10 – The Rural Area. It is stated in the plan regarding Level 10 areas that:

“Development within the rural area should be strictly limited to proposals where it is proven that there is a social or economic need to locate in the area. Protection of the environmental and ecological quality of the rural area is of paramount importance and as such particular attention should be focussed on ensuring that the scenic value, heritage value and/or environmental/ecological/conservation quality of the area is protected.”

Appendix 5: Landscape Assessment: The subject site is located in an area designated as The Northern Hills (4-Area of Outstanding Natural Beauty) – Map 10.13 (b). It is stated in the plan that these areas are important locations for

recreational amenity both locally and for visiting tourists. Section 5.3.5 of the plan sets out objectives for the Northern Hills including *“To protect the built and cultural heritage of the Northern Hills”*.

Policy NH50: States: *“Any application for permission in the AONB which may have the potential to significantly adversely impact the landscape area shall be accompanied by a landscape/visual impact assessment which shall include inter alia, an evaluation of visibility and prominence of the proposed development in its immediate environs and in the wider landscape.”*

Section 10.3.10: Views and Prospects: There are a number of prospects of Special Amenity Value or Special Interest in the vicinity of the site including No. 5: R755 Rocky Valley Kilmacanogue.

Section 5.3.1 (2): States that listed views and prospects will be protected from development that would either obstruct the views/prospect from the identified vantage point of form an obtrusive or incongruous feature in that view/prospect.

Policy NH52: Relates to the protection of listed views and prospects from inappropriate development.

Policy TR27: States that new means of access will be strictly controlled and will only be considered in limited circumstances.

5.2. Sustainable Rural Housing Development Guidelines

5.2.1 The guidelines require a distinction to be made between ‘Urban Generated’ and ‘Rural Generated’ housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those with proximity to the immediate environs or close commuting catchment of large cities and towns. Examples are given of the types of circumstances for which ‘Rural Generated Housing Need’ might apply. These include ‘persons who are an intrinsic part of the rural community’ and ‘persons working full time or part time in rural areas’.

5.3. Natural Heritage Designations

5.3.1 There are no designated areas in the immediate vicinity of the site. The Wicklow Mountains SPA/SAC are located to the approximately 5km to the west of the site. Knocksink Wood SAC and Ballyman Glen SAC are located c. 3.5 km and 4km respectively to the north. Bray SAC is c. 5km to the east and Glen of the Downs SAC is c. 3.5km to the south east.

6.0 The Appeal

6.1. Grounds of Appeal

- The family have had a presence on this site for over 150 years. The applicants are fully compliant with the council's "Local Needs" rural housing policy.
- Policy TR27 of the County Development Plan is not relevant as permission for the entrance has already been permitted under 16/505.
- The applicants currently reside in the adjacent dwelling with one of the applicant's parents. There will therefore be no increase in the number of vehicular movements in and out of the access lane.
- Cumulatively, an additional dwelling at this location would result in a minimal visual impact due to the fact that there is a significant cluster of existing development in the vicinity.
- The design is appropriate and is a simple modern form. The topography and elevation of the site have been considered. The proposed glazing on the western elevation will not be visible from outside of the site.
- If the Board are minded to grant permission, would be happy to accept a condition reducing the ridge height of the dwelling further if required.
- Materials proposed are similar to those permitted under P.A. Ref. 14/1802.
- Issues in relation to surface water disposal can be appropriately addressed by way of condition.

6.2. Planning Authority Response

6.2.1 No further submission received.

6.3. Observations

6.3.1 No observations received.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Compliance with Rural Housing Policy.
- Access.
- Design and Visual Impact.
- Wastewater Treatment and Surface Water Drainage.
- Appropriate Assessment.

7.2. Compliance with Rural Housing Policy

7.2.1 The current settlement strategy for Wicklow is clearly set out in the County Development Plan (2016-2022) and summarised in section 5.1 above. The site is located within the open countryside (Level 10) where restrictions apply to new rural housing development. The site is located within relatively close proximity to Bray (Level 1 Growth Town) and a short distance from Kilmacanogue which is defined as a Level 6 Rural Town. With regard to Level 6 centres, the plan notes that “*These settlements are suited to accommodating a significant element of urban generated housing demand with necessary controls in place to ensure that local demand can also be met.*”

7.2.2 In this context, it is considered that the subject site is located within an Area Under Strong Urban Pressure where the policy framework including that set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” actively seeks to

direct pressure for new residential development to the nearby established settlements.

- 7.2.3 It is contended by the appellants that the appropriateness of the subject dwelling should be considered having regard to one of the applicant's close familial ties with the area. It is set out that the site is located on one of the applicant's family lands, where the family have had a presence for over 150 years. It is stated that the proposed development represents the only opportunity for the applicants to live in close proximity to family to avail of childcare in the short term and to look after their parents in the future.
- 7.2.4 Documentation was submitted with the application including bank correspondence, letters from employers, birth and marriage certs, school attendance records and evidence of participation in local clubs and societies. The Planning Authority's Planner's Report states that *"Under the previous application 15/677 it was determined that the applicant came within the scope of RH 14 of the 2010 CDP"*. The report with respect of the current application states *"On the basis of the information available, Ms. Jolley moved to Kilmacanogue in 1999 and has provided documentary evidence to show that she may have resided at this location for at least 10 years. I note that both applicants have demonstrated a proven need for a new dwelling by way of certification from Revenue. The applicants are therefore considered to come within the scope of Objective RH14"*.
- 7.2.5 It is considered that having regard to the documentation submitted with the application, the applicants would comply with the current HD23 policy which requires applicants for rural housing to be a native resident who has resided in a rural area in Co. Wicklow for at least 10 years prior to the application and who are seeking to build a house for his/her own family.
- 7.2.6 The Settlement Strategy of the Wicklow County Development Plan (Chapter 3, Level 10) also clearly states that *"Development within the rural area should be strictly limited to proposals where it is proven that there is a social or economic need to locate in the area."* This is also reflected in Policy Objective HD23 which states *"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."*

7.2.7 It is acknowledged that one of the applicants runs a business in Bray. However, it is not considered that this constitutes an economic need to reside in the open countryside. Social need is not defined in the Development Plan. However, the Sustainable Rural Housing Guidelines state: *“intrinsic part of the rural community examples in this regard might include sons and daughters of families living in rural areas who have grown up in rural area and are perhaps seeking to build their first home near their family place of residence”*. It is considered that in this instance, the applicants would meet these criteria.

7.3 Access

7.3.1 Access to the proposed dwelling is via an existing laneway that serves two existing houses to the north. The laneway directly accesses the R755. Permission has been granted under P.A Ref. 16/505 to modify the existing vehicular entrance onto the R755 to improve the access serving the existing dwellings. In this regard, the provision of improved access to the subject site is reliant on the implementation of a separate planning permission on land outside the control of the applicant. This is considered unsatisfactory.

7.3.2 It is also noted that whilst it is proposed to improve the existing access arrangements under P.A. Ref. 16/505, the Planning Authority were clear in their assessment that whilst the amendments would improve and existing deficient access to the existing dwellings, they were not sufficient to enable a third dwelling to use the laneway and access. It was considered that a third dwelling using the laneway to access the R755 would result in an inappropriate intensification.

7.3.3 The Engineers Planning Report in relation to P.A. Ref. 16/505 also noted that the existing speed limit along the R755 is 80pkh and in this regard a 120 metre sight distance in both directions is required. It stated that the proposed modifications would result in a sight distance improvement to c. 55m in the northern direction and to c. 75m in the southern direction. Whilst it was noted that these sight distances were seriously deficient, it stated that the application was considered acceptable in that it would improve the access for existing dwellings only. The proposed modifications clearly did not amend or improve the access to the level necessary to achieve the sightlines required to serve a third dwelling.

7.3.4 It is considered that the existing access to the subject site is seriously hazardous. Sightlines are severely restricted due to the alignment of the existing road and the proximity of the access to a bend. Whilst the modifications proposed under P.A. 16/505 will improve the access to the existing dwellings if implemented, they are not sufficient to address the deficit in compliance with the sightline standards. In this context, it would be inappropriate to permit a third dwelling and to intensify the use of the access further.

7.4 Design and Visual Impact

7.4.1 The proposed dwelling comprises a single storey dwelling with a floor area of 180 sq. metres. It extends to a height of over 7.5 metres. A large stone clad chimney stack is proposed on the northern elevation extending to a height of 8.2 metres.

7.4.2 It is noted that the Wicklow County Development Plan 2016-2022 includes “Design Guidelines for New Homes in Rural Wicklow” (Appendix 2). Whilst the design of the dwelling is generally considered acceptable, there are concerns regarding the extent, height and design of the feature chimney and the use of non traditional materials including uPVC windows.

7.4.3 The principle concern however, relates to the topography of the site. The subject site is located on an elevated site which slopes steeply upwards from 162.00m to 180.00m. Having regard to the height of the proposed dwelling and the elevated topography of the site, it will be clearly visible and will comprise a strident feature on the landscape. The guidelines specifically refer to the fact that prominent exposed sites should be avoided as well as those that would impinge on a protected landscape or view.

7.4.4 The subject site is located in an Area of Outstanding Natural Beauty and considered to be of intrinsic scenic value. No visual impact assessment has been submitted with the application. There are a number of listed prospects in the vicinity. Whilst it is not considered that the development would necessarily impinge upon these views, it would nonetheless due to its height and design be visually discordant and would militate against the protection of this scenic rural area. It would have a significant adverse impact on the visual amenities of the area.

7.4.5 Whilst it is noted that there the dwelling is located within an existing housing cluster, it is not considered that this would be sufficient to mitigate its potential visual impacts, due to the particular elevated characteristics of the subject site.

7.5 **Wastewater Treatment and Surface Water Drainage**

7.5.1 It is proposed to install a packaged wastewater treatment system and polishing filter with discharge to ground water. The treatment system is located c. 8 metres to the west of the proposed dwelling with the polishing filter c. 14 metres to the east. Table 6.1 of the “EPA Code of Practice for Waste Water Treatment and Disposal Systems Serving Rural Houses” sets out minimum separation distances from features including existing dwellings, wells, trees, roads etc. The proposed system appears to comply with these requirements. A well is proposed to the far east of the site. The Environmental Health Officer’s Report (26.04.2017) had no objection to the proposed treatment system subject to condition.

7.5.2 The Site Characterisation Report submitted with the application concluded that a Euro Bio treatment system with a sand polishing filter system would be suitable. A T value (modified method) of 77.687 (min/25mm) is reported. As the value was less than 90 a P Test was also undertaken to determine whether the site is suitable for a secondary treatment system with polishing filter. The P test indicated a value of 39.33 (min/25). This indicates that the topsoil is suitable for the construction of a raised percolation area. In this regard, having regard to the information on file, the proposed system once installed and maintained to the required specifications in conjunction with a sand polishing filter would be acceptable and would not give rise to public health concerns.

7.5.3 Concerns are raised in the Planning Authority’s Planner’s Report regarding proposed surface water disposal. It is proposed that surface water disposal is via public sewer, however, it is stated that the location of the public water sewer requires clarification. The report notes that the site is not suitable for surface water disposal via soakpit. No further clarification is provided in the appeal documentation as to the proposed method of surface water disposal and it is suggested that this addressed by way of condition. It is considered that inadequate information has been provided regarding surface water disposal and it would not be appropriate to address this issue by condition.

7.6 Appropriate Assessment

7.6.1 Having regard to the nature and scale of the proposed development, a single rural house, and the distance to the nearest European site, 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

8.1 It is recommended that permission be refused permission for the reasons set out below.

9.0 Reasons and Considerations

1. The site of the proposed development is located within an Area of Outstanding Natural Beauty, the landscape of which it is an objective to preserve in the current Wicklow County Development Plan 2016-2022. Having regard to the topography of the site and the elevated positioning of the proposed dwelling, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape and would militate against the preservation of the rural environment. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a road at a point where sightlines are restricted.
3. Inadequate evidence is available to demonstrate that surface water can be disposed via public sewer. The proposed development would therefore be prejudicial to public health.

Erika Casey
Planning Inspector

15th August 2017