



An
Bord
Pleanála

Inspector's Report PL 27.248839.

Development	Retention of existing garage and existing entrance and associated works
Location	Dunlavin Upper, Dunlavin, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	16/1397
Applicant(s)	Kathleen Keogh
Type of Application	Retention Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Kathleen Keogh
Observer(s)	No observers
Date of Site Inspection	6 th September 2017
Inspector	Erika Casey

1.0 Site Location and Description

- 1.1. The subject site is located on the eastern outskirts of Dunlavin Village on the southern side of the L8336-0. It forms part of a cluster of one off rural dwellings with direct access to the local road. The existing dwelling is well screened with mature trees and vegetation. The front boundary is bound by a wooden post fence and the existing access is set back and bound by a concrete capped wall.
- 1.2. The site accommodates a detached single storey bungalow. There is a separate single storey garage located to the west of the dwelling. The dwelling and associated garage are well set back from the public road access via a long driveway.

2.0 Proposed Development

- 2.1. The proposed development comprises the retention of the existing garage and its use for hobby and domestic use including the provision of an open car port canopy to the front. Permission is also sought for the retention of the entrance and of the secondary effluent treatment system as constructed and for elevational amendments for the front facade of the house as constructed.
- 2.2. The garage subject of retention has a gross floor area of 77 sq. metres. The applicant has submitted photographic evidence of its use for domestic/hobby use. The secondary treatment unit is designed with capacity for 8 people and includes a soil polishing filter.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 Refuse permission for 1 reason:

“The proposed development would endanger public safety by reason of serious traffic hazard because the entrance as constructed is substandard in terms of sightline distances and the applicant has failed to demonstrate that adequate sightline distances can be achieved.”

3.2. **Planning Authority Reports**

Planning Reports 03/02/2017, 31/03/2017 and 12/06/2017

3.2.1. As further information and clarification of further information were requested, there are three planning reports pertaining to the application. Key points from each are summarised below.

- The retention of the garage and amendments to the elevation of the existing dwelling are considered acceptable.
- Concern raised that the development does not comply with a condition attached to the parent permission in 2005 which required the removal of adjoining hedgerows in order to achieve adequate sightlines.
- Consider that sightlines of a minimum of 80 metres from 2.4 metres set back should be provided.
- The use of the standards set out in DMURS is not considered appropriate in this instance.
- Amended percolation area in accordance with the recommendation to use rigid piping considered acceptable.

3.2.2. **Other Technical Reports**

Environmental Health Officer 18/01/2017 and 29/03/2017 and 25/05/2017

Satisfied with the clarification of further information submitted and no objection to retention of the development.

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

P.A. Ref. 05/2643: This is the parent permission pertaining to the site. Permission was granted on the 7th July 2005 for a bungalow, septic tank and percolation area to EPA recommendations for waste water treatment systems for single houses, bored well, domestic garage and all ancillary works.

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative development plan is Wicklow County Development Plan 2016-2022. The plan states that local roads provide the principal circulation networks through the County, meeting the needs of local journeys and providing connections to higher order routes.

Policy TR33 states: Rural local roads shall be protected from inappropriate development and road capacity shall be reserved for necessary rural development.

5.2. Natural Heritage Designations

5.2.1 There are no designated areas in the immediate vicinity of the site.

6.0 The Appeal

6.1. Grounds of Appeal

- The Planning Authority have conceded in their report that it is traffic flows and the alignment of the public road that dictate the appropriate design speed and thus the site distance required.
- The subject site is located within area where a 50kph speed restriction applies. Data from the Road Safety Authority indicates that there has been only one

minor road accident on the L8336-0 in 2006. The existing access has been in place for over 12 years.

- Under the guidance set out in Design Manual for Urban Roads and Streets (DMURS) a sightline of 45 metres is required. Under the Design Manual for Roads and Bridges (DMRB), a 70 metre sightline is adequate.
- The existing site access can accommodate sightlines of 2.4 metres by 45 metres. In addition, a sightline of 2 metres by 70 metres can be achieved.
- It is not possible to increase the sightlines available as the adjoining landowner will not co-operate regarding the removal of the existing hedgerow.
- Traffic survey undertaken demonstrates that traffic flow is less than 135 vehicles per hour and thus it is a lightly trafficked road.
- Planning precedents in the vicinity have similar or reduced sightlines.
- Reason for refusal is excessively applied to an existing and permitted development.

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:

- Principle of Development
- Access
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1 The subject dwelling was granted by Wicklow County Council in 2005. It is evident however, that a number of elements of the original proposal were not constructed in accordance with plans and particulars approved by the Planning Authority. The applicant now seeks to regularise this situation through a retention application. The garage as proposed was c. 40 sq. metres. As constructed, it is 77 sq. metres and includes an open car port canopy to the front of the garage. It is being used for domestic/hobby use. The garage is well set back from the public road and its design and use is considered ancillary to the main dwelling. The retention of this structure is considered acceptable.
- 7.2.2 Retention is also sought for the existing secondary effluent treatment system as constructed. Detailed information regarding the treatment system was submitted at Further Information and Clarification of Further Information Stage. Necessary works were undertaken to ensure that the system is in accordance with the EPA Code of Practice 2009 including the replacement of land drainage pipes with rigid piping. It is noted that the Environmental Health Officer had no objection to the development. Having regard to the revisions made by the applicant during the course of the application process, the retention of the effluent treatment system is considered acceptable.
- 7.2.3 The retention of amendments to the fenestration on the front elevation of the dwelling is also sought. Having regard to the design of the existing bungalow and its set back from the public road, these are also considered acceptable. The principle issue therefore to be considered is the acceptability of the entrance.

7.3 Access

- 7.3.1 The subject access has been insitu since 2005 when the dwelling was constructed. It is understood that under the parent permission, condition no. 8 required the set back of the roadside embankment to be carried out in accordance with the details submitted for the purpose of achieving and maintaining a minimum sightline distance of 80 metres in both directions. Correspondence was submitted under the parent permission from the adjacent landowner agreeing to remove ditches in order to achieve better sightlines on the applicant's land. It is apparent that subsequently, this agreement with the adjoining landowner fell through, and thus a sightline of 80

metres was not achievable. The application seeks permission for retention of the access with a reduced sightline.

7.3.2 The subject site is located on the L8336-0, a local road which connects with Dunlavin Village to the east. The existing access is a simple priority junction, similar to a number of other residential properties in the vicinity. The road has an average carriageway of 4.5 metres and the site is located within the zone where speed limits are restricted to 50kph.

7.3.3 It is set out in the appellant's response that relevant guidance applicable to this location is DMURS. The Planning Authority do not concur with this view given the predominantly rural character of the site. It is not considered that DMURS is applicable to the subject site. DMURS is a guidance document primarily relating to the road safety and design of urban roads and streets. It is not considered that the subject site has such characteristics given it is a local road primarily serving one off rural dwellings and agricultural landholdings. It is considered that the more relevant guidance document is the Design Manual for Roads and Bridges (DMRB).

7.3.4 It is noted that the DMRB is primarily a guidance document dealing with the geometric design of new major/minor priority junctions rather than existing access arrangements. The guidance notes however, that the desirable distance back (referred to as the 'x' distance) from a direct access for a simple junction is 2.4 to 3 metres. It notes however, that on local roads, this standard can be reduced to 2 metres for lightly used accesses. Given the domestic nature of the existing land use, it is not considered that it would constitute a heavily trafficked access nor would it be an access where agricultural vehicles would be expected. In this regard, an 'x' distance of 2.0m is considered acceptable.

7.3.5 The guidance further sets out the minimum sightline distances ('y' distance) that will be required to be able to see clearly points to the left and right. Table 7.1: 'y' Visibility Distances from the Minor Road sets out that the 'y' distance within a 50kph design speed is 70 metres.

7.3.6 The appellant has submitted revised drawings and photographic evidence which confirm that a sightline of 2 metres by 70 metres can be achieved on the subject site. A review on site confirms that good sightlines can be achieved in either direction. Furthermore, the characteristics of the existing road condition must be considered.

The traffic survey submitted by the appellant indicates that the L L8336-0 is a local road with low traffic volumes. Furthermore, the existing access has been insitu and operational since 2005 with no apparent difficulty.

7.3.7 Whilst it is noted that under the parent permission a sightline of 80 metres was required, the relevant standards now dictate a reduced distance of 70 metres. There was no objection to the proposed development by the Roads Department of Wicklow County Council. It is also noted that the planner's report dated 31/03/2017 was initially of the view that having regard to the location of the site and the prevailing pattern of development in the area, that the entrance as constructed is acceptable to serve a single dwelling unit. Having regard to the low traffic levels in the road and additional information submitted by the appellants indicating that a standard consistent with the DMRB guidance can be achieved, it is not considered that the proposed development would give rise to an unacceptable traffic hazard.

7.4 **Appropriate Assessment**

7.4.1 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 granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1 Having regard to nature of the established access, the character and low traffic volumes on the local road and sightline distances achievable, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of traffic safety and convenience 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 as amended by the further plans and particulars submitted on the 14th March 2017 and 19th 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. The effluent treatment and disposal system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.

Reason: In the interest of public health.

Erika Casey

Planning Inspector

11th September 2017