



An
Bord
Pleanála

Inspector's Report

PL 27.248896

Development	House, garage, wastewater treatment system and all ancillary works.
Location	Golden Hill, Manor Kilbride, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	16/1187
Applicant(s)	Mr. David Reddy
Type of Application	Permission
Planning Authority Decision	To Grant Permission subject to conditions
Type of Appeal	Third Party
Appellant(s)	Mr. Pat Duke
Observer(s)	No observers
Date of Site Inspection	27/09/2017
Inspector	Erika Casey

1.0 Site Location and Description

- 1.1. The subject site is located in a rural area to the west of Manor Kilbride Village. The site is located within an established cluster of residential properties. To the east of the site, are a number of large detached dwellings located in a linear fashion along the L-8375-0 route. To the north, is established forestry. To the west and south are further residential dwellings and a commercial premises – Kilbride Plant Services.
- 1.2. Access to the site is via laneway which connects to the L-8375-0. This also provides access to two separate dwellings located to the west of the site. The site has a slightly elevated topography. The appellants dwelling is located to the east of the site.

2.0 Proposed Development

- 2.1. The proposed development provides for the construction of a detached 4 bedroom dwelling with an area of 248.15 sq. metres. A separate garage with a floor area of c. 21 sq. metres is located to the east of the dwelling.
- 2.2. The design of the dwelling has an irregular form and comprises a contemporary interpretation of a traditional rural house. Materials and finishes comprise blue black slates and a nap plaster finish with natural stone finish on the porch. The maximum height of the dwelling is 5.675 metres.
- 2.3. The dwelling is set back from the access laneway by c. 25 metres. New boundary treatment comprising post and rail fencing and planting of native trees is proposed. A new well is proposed to the north west of the site. Foul drainage will be addressed through the provision of a wastewater treatment system with raised percolation area.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 To Grant Permission subject to conditions. Conditions of note include:

Condition 2: occupancy restricted to those who comply with the settlement strategy for single houses in Level 9: Rural Clusters as set out in the Wicklow County Development Plan 2016-2022.

Condition 5: Requires that area of margin outside the boundary fence at both sides of the entrance shall be lowered in level 300mm above the adjoining road level in order to provide adequate sightlines.

Condition 9: External walls to have a cement rendered finish. They shall be finished with nap plaster or painted in the white/off white colour range. Stone to be used shall be submitted and agreed acceptable in writing by the Planning Authority.

Condition 11: Refers to tree planting and landscaping.

3.2. Planning Authority Reports

3.2.1. Planning Reports (1/12/2016 and 22/06/2017)

- Development is located on what has become an infill site, located within an existing cluster of dwellings. Given the existing pattern of residential development, the site is considered suitable for the provision of an additional dwelling.
- Subject to planting of site boundaries, it is considered that a dwelling would be assimilated into the site.
- Applicant is a permanent native resident of Golden Hill, has a proven need for a new dwelling and therefore qualifies for special consideration in accordance with Objective RH13 of the County Development Plan.
- It is not considered that development would result in the loss of existing residential amenity or create overlooking.

3.2.2. Other Technical Reports

Baltinglass Municipal District (28/10/2016): No objection. Notes requirement to lower area of margin outside boundary fence to 300mm to provide adequate sightlines.

Environmental Health Officer (14/11/2016 and 16/06/2017): No objection subject to conditions.

3.3. Prescribed Bodies

3.3.1 No submissions received.

3.4 Other

Dublin City Council Water Services, Environment and Engineering Department (01/12/2016): No objection subject to conditions from the perspective of minimising pollution threats to the raw water in the Poulaphouca Reservoir.

3.4. Third Party Observations

Mr. Pat Duke, Beechwood House, Manor Kilbride, Co. Wicklow.

- Grounds of objection relate to loss of residential amenity, overlooking and intensification of traffic access onto a rural road.

4.0 Planning History

4.1 There is no recent planning history on the site. Permission has been granted for 2 no. dwellings to the west of the site under planning authority references 102061 and 102063.

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.

Section 3 Settlement Strategy: Golden Hill is identified as a rural cluster under the County Plan. It is stated:

“These are ‘unstructured’ settlements considered suitable for very limited new rural development, with the main purpose of the designation being to direct rural generated housing into clusters rather than the open countryside.”

Multi house developments are not permitted within such clusters. With regard to applications for single houses, it must be demonstrated that the prospective applicant/purchaser:

“(a) be a resident for at least 10 years duration in County Wicklow of a settlement / area designated as Level 7-10 in the County settlement hierarchy that is within 10km of the rural cluster in question prior to making of application / purchase of new house.

(b) demonstrate a proven need for housing, for example:

- *first time home owners;*
- *someone that previously owned a home and is no longer in possession of that home as it had to be disposed following legal separation / divorce, the transfer of a home attached to a farm to a family member or the past sale of a home following emigration.”*

Appendix 5: Landscape Assessment: The subject site is located in an area designated as Western Corridor – Map 10.13 (d). It is stated in the plan that: *“Development proposals within this area should aim to locate within existing clusters of structures tree stands and avoid locating new development in open fields.”*

5.2. Natural Heritage Designations

5.2.1 There are no designated site in immediate proximity to the site. The Poulaphouca Reservoir SPA is located approximately 2.5 km to the south of the site. The Wicklow Mountains SAC is located c. 5 km to the east of the site.

6.0 The Appeal

6.1. Grounds of Appeal

Mr. Pat Duke, Beechers Wood House, Golden Hill, Manor Kilbride (dwelling to the east of the subject site).

- Objects to the further intensification of this backland area.
- Concerns regarding loss of residential amenity and overlooking.
- Due to elevated topography of site, the development will not assimilate into the existing landscape and thus will impact on the visual amenities of the area.
- Proliferation of percolation areas in the vicinity may cause a public health nuisance.

6.2. Applicant Response

- The proposed development is located within a designated Rural Cluster and thus is in accordance with the provisions of the County Development Plan.
- With regard to impacts on residential amenities, the proposed dwelling is of a single storey design and is located 60 metres from the appellant's house. The eastern boundary has mature planting which is to be retained and augmented.
- The Planning Authority were of the view that the development would result in no loss of amenity to adjoining properties.
- The percolation test for the site was carried out in accordance with the EPA Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses. A T test of 48.77 was recorded and deemed acceptable by the Environmental Health Officer.

6.3. Planning Authority Response

- No response received.

6.4. Observations

- 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
- Impact on Residential Amenity
- Wastewater Treatment
- Appropriate Assessment.

7.2. Principle of Development

7.2.1 The subject site is located within an established cluster of rural dwellings. The site has been identified as part of the Golden Hill Rural Cluster under the Wicklow County Development Plan 2016-2022. It is recognised in the plan that it is more

appropriate and sustainable to group rural houses together in a planned way and to promote dwellings on infill sites such as this rather than sporadic development.

- 7.2.2 Documentation was submitted with the application including bank and revenue correspondence, school attendance records, drivers licence and evidence of participation in local clubs and societies. It is considered that having regard to the documentation submitted with the application, the applicant would comply with the current settlement strategy which requires applicants for rural housing in rural clusters to be a native resident who has resided in a rural area that is within 10 km of the rural cluster in question prior to making of application and is a first time home owner.
- 7.2.3 Having regard to the foregoing, it is considered that the proposed development is entirely appropriate. It is in an infill development within an identified Rural Cluster and the applicant meets the criteria for applications for housing in such areas. The principle of the development is considered acceptable.
- 7.2.4 Concerns are raised by the appellant that the development will result in the inappropriate intensification of development in this area. It is considered having regard to the policies of the plan, that the subject site is an appropriate location for a further dwelling. As outlined in the Planning Authority's Planning Report, the site is both a backland and infill site. It is considered, therefore, that a further dwelling at this location will assimilate with the pattern and character of development in the vicinity. There have been no concerns raised by the Planning Authority regarding the access to the site. Adequate sightlines can be achieved at the junction of the laneway and the L-8375-0, subject to the removal of some hedgerow. In this context, I am satisfied that an additional dwelling at this location will not give rise to inappropriate intensification.
- 7.2.5 It is not considered necessary or appropriate to impose a sterilisation condition pursuant to section 47 of the Planning and Development Act, 2000 (as amended), to prevent further development. The County Plan sets out clear guidance regarding the quantum of development appropriate for such rural clusters, as well as strict criteria for potential applicants. Any further application in the vicinity would be considered on its merits and in accordance with the policies and objectives of the County Plan.

7.3. Impact on Residential Amenity

7.3.1 The proposed development comprises a single storey dwelling with an irregular form. The design is generally well considered and is a contemporary interpretation of the traditional rural house. The overall height is modest at 5.675 metres and materials comprise a simple palette of nap plaster finish, blue/black slates and natural stone.

7.3.2 The dwelling is well set back from the boundaries of adjacent dwellings. To the east, there are a number of one off dwellings located in a linear pattern along the L-8375-0. The appellant's dwelling is located immediately adjacent to the access laneway and is over 45 metres away from the eastern boundary of the proposed house. There is established screen planting along the eastern boundary of the site which can be further augmented through appropriate landscaping. This can be addressed by condition. There is a further dwelling located to the south of the site. The proposed dwelling is set back from this existing house by over 115 metres.

7.3.3 Having regard to the siting of the house and its set back from adjacent properties, I am satisfied that it will not give rise to any adverse overlooking or overshadowing impacts nor have any material impacts on the residential amenities of neighbouring dwellings.

7.3.4 Concerns are also raised regarding the impact of the development on the visual amenities of the area. Whilst it is acknowledged that the site is slightly elevated, I consider that having regard to the design of the house and proposed landscaping, that it will not have any adverse visual impact. It is noted that the site is not located in a landscape environment of any particular sensitivity and is located within a well established rural cluster of dwellings.

7.4. Wastewater Treatment

7.4.1 It is proposed to install a packaged wastewater treatment system and polishing filter with discharge to ground water. The treatment system and percolation area are located to the south of the proposed dwelling. 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 complies with these requirements. A well is proposed to the northwest of the site.

7.4.2 The Environmental Health Officer's Report (14.11.2016) raised concerns initially that the submitted percolation tests indicated that the T test results could not accurately be recorded due to poor permeability. On foot of this, Further Information was submitted by the applicant which included a revised percolation test using the modified method which reported a T value of 48.377 (min/25mm). As per the EPA guidelines, if the T value is greater than 3 and less than or equal to 75, the soil may be used as a polishing filter. The P test indicated a value of 17.33 (min/25). This indicates that the topsoil is suitable for the construction of a raised percolation area. The EHO report dated 15/06/2017 noted no objection to the proposed wastewater treatment system.

7.4.3 Having regard to the information on file, I am satisfied that the proposed system, once installed and maintained to the required specifications in conjunction with a polishing filter, would be acceptable and would not give rise to public health concerns.

7.5. Appropriate Assessment

7.5.1 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 the objectives for the site set out in the Wicklow County Development Plan 2016-2022, the pattern of development in the area and to the nature, form and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of traffic safety and convenience and would have no adverse impact in terms of surface water disposal or foul drainage. The proposed

development 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 31st 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. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, 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 adjoining property in the vicinity.

4. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven

years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

- 5 (a) A scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

This boundary treatment scheme shall provide a screen along the site boundaries consisting predominantly of trees, shrubs and hedging of native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder species. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works.

(b) Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and in the interest of visual amenity.

6. 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.

7. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 26th day of October 2016 and 31st day of May 2017, 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. Arrangements in relation to the ongoing maintenance of the systems shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) 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 are working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

8. Prior to the commencement of development, the applicant shall submit details of proposed surface water disposal arrangements for the written agreement of the Planning Authority. These shall include that 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 to adjoining properties.

Reason: In the interest of public health and to ensure a proper standard of development.

9. Prior to commencement of development the applicant shall submit details of the proposed entrance arrangements onto the L-8375-0 to ensure adequate sightlines can be achieved for the written agreement of the Planning Authority.

Reason: In the interest of traffic safety.

10. 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 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.

Erika Casey

Planning Inspector

28th September 2017