



An
Bord
Pleanála

Inspector's Report PL 27.249019

Development	Retention of change of use of agricultural building to veterinary clinic/surgery, internal works, existing septic tank and use of a driveway and permission for a well and percolation area
Location	Knockatemple, Roundwood, County Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	17/590
Applicant(s)	Bernadette Byrne
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First Party
Appellant(s)	Bernadette Byrne
Observer(s)	None
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The site of the existing veterinary surgery is located approximately 2km south-east of Roundwood in County Wicklow and is less than 0.5km east of Vartry Reservoir. The site is accessed from Roundwood via a local road. There is an existing farm complex on the landholding and the proposed development is located within an existing farm building, most of which accommodates the veterinary surgery.

2.0 Proposed Development

- 2.1. The proposed development comprises the retention of the conversion of a farm building to a veterinary surgery and a septic tank and the installation of a percolation area and the provision of a well. The surgery is stated to be 164.33 square metres in area and includes a reception, examination rooms, operating theatre, hospitalised areas, and pharmacy.
- 2.2. Details submitted with the application included a planning report and a site characterisation report

3.0 Planning Authority Decision

3.1. Decision

On 2nd August, 2017, Wicklow County Council decided to grant permission for the development subject to 9 conditions. Condition 2 was as follows:

“2. ***Within 3 months of the date of this permission, the developer shall pay the sum of €7,230 (seven thousand two hundred and thirty euro) to the planning authority as a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority.***

The contribution sought is in accordance with Wicklow County Council's Development Contribution Scheme for the area in which the site is located and Section 48(1) of the Planning and Development Act 2000.

Where the contribution remains unpaid monies payable shall be updated in accordance with the Wholesale Price Index as published by the Central

Statistics Office on the 1st January of each year following the date of the Final Grant.

REASON: The public infrastructure and facilities included in the Development Contribution Scheme will facilitate the development and it is considered reasonable that the developer should contribute towards the cost thereof."

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted planning history relating to the site, interdepartmental reports received, and development plan provisions. It was considered that the proposed development accords with Objective RUR2 of the Development Plan relating to employment generating developments in rural areas and would not adversely impact on visual amenity. It was further considered that the proposal would not adversely impact on residential amenity, subject to restrictions on hours of operation and control of noise, and would be acceptable in terms of traffic impacts, subject to provision of appropriate sightlines. A request for further information relating to sightlines, the structural condition of the septic tank, and disposal of wastewater was recommended.

3.2.2. Other Technical Reports

The District Engineer submitted that sightlines were impeded and hedges needed to be cut back. It was concluded that the applicant be conditioned accordingly.

The Water & Environment Technician requested further information relating to the percolation testing, the existing septic tank, the proposed well, disposal of waste, disposal of wastewater, and noise reduction.

The Environmental Health Officer had no objection to the proposal.

A request for further information was issued on 7th July, 2017 in accordance with the Planner's recommendation and a response was received on 12th July, 2017.

Following this, the reports to the planning authority were as follows:

The District Engineer considered the sightline provisions were acceptable.

The Planner considered the further information response to be acceptable and recommended that permission be granted subject to conditions.

4.0 Planning History

P.A. Ref. 15/1020

An application for permission for a new veterinary clinic and effluent treatment system was withdrawn.

5.0 Policy Context

5.1. Wicklow County Development Plan 2016-2022

Economic Development

Rural Employment Objectives

Objectives include:

RUR1 To permit the development of employment generating developments in rural areas, where it is proven that the proposed development requires to be located in a rural area (e.g. dependent on an existing local resource) and will have a positive impact on the location.

RUR2 To permit the development of small-scale commercial / industrial developments in rural areas that are not dependent on an existing local resource, subject to compliance with all of the following criteria:

- The proposed development shall be a small-scale industrial / commercial scheme or service and the number employed shall be appropriate in scale to the location and its characteristics, including proximity to the workforce and customers;
- the proposed development shall be located on the site of a redundant farm building / yard or similar agricultural brownfield site; and
- the nature and scale of the proposed development and the proposed process or activity to be carried out, shall be appropriate to and compatible with, the

character of the rural environment of the site at which the development is proposed, and shall not be detrimental to the rural amenity of the surrounding area. In the assessment of planning applications, cognisance shall be taken of the location of the site vis-à-vis the proximity of the site to the national and regional road network.

6.0 The Appeal

6.1. Grounds of Appeal

The first party appeal is against the contribution required under Condition 2 of the planning authority's decision. It is submitted that Condition 2 is outside the ambit of the Council's Development Contribution Scheme. The grounds of appeal may be synthesised as follow:

- The Development Contribution Scheme states in Section 4.10 that contributions shall not be charged on a change of use where it does not result in a significant intensification of demand on public infrastructure.
- The appellant should not be levied at the same rate as commercial or industrial organisations.
- Reference is made to the publication *Development Contributions: Guidelines for Planning Authorities* and An Bord Pleanála decision PL 09.222386.
- A contribution can only be required by the Council if it can show that the change of use, from an activity potentially involving animals to another use involving livestock, results in a significant intensification of demand on public infrastructure.
- The planning reports did not consider whether the development resulted in a significant increase in demand for services.
- While Section 5.2 of the Contribution Scheme states no exemptions / reductions will be allowed for retention permissions, this does not concern the current case. The provision governing the withdrawal of benefits in s. 5.2 only prevents the privileges in ch. 5 from being applied and does not affect the calculation of the original contribution, pursuant to chapter 4 of the Scheme.

On this basis, the fact that the present application entails the retention of unauthorised development does not affect the levy which should be paid in this instance.

6.2 Planning Authority Response

The response may be synopsised as follows:

- The permitted development is a commercial development. It is not an agricultural development. Thus, the permitted change of use allows for part of the existing structure to change from one for which development contributions were normally not required to one where development contributions would normally be required.
- The change of use would result in a significant intensification in demand for public infrastructure
- The contribution sought is in accordance with the Council's Development Contribution Scheme.

7.0 Assessment

7.1. The appeal relates solely to the proper application by the planning authority of the terms of its development contribution scheme adopted under section 48 of the Planning and Development Act. It is considered appropriate that the Board determines the appeal in relation to the disputed condition only (Condition 2 of the planning authority's decision) which relates to the financial contribution of €7,230 being sought by the planning authority. The provisions of section 48(10)(b) and (c) apply in this instance.

7.2. The current Wicklow County Council Development Contribution Scheme is that which was adopted on 5th October, 2015. Section 3 identifies the classes of public infrastructure and facilities, Section 4 sets out the basis for the determination of the contribution, and Section 5 details the exemptions that apply. I note the following:

- Table 3.1 of the Scheme shows that the classes of public infrastructure and facilities in respect of which contributions are sought are roads and transportation, stormwater drainage, and community and recreational amenity.

- Table 4.3 of the Scheme shows that the total contribution for commercial development is €44 per m² of development area, derived from €32 per m² for roads and transportation, €4 per m² for stormwater drainage, and €8 per m² for community and recreational amenity.
- Section 4.2 of the Scheme states that Table 4.3 refers to all commercial developments and that floor areas are based on gross floor area.
- Section 4.10 of the Scheme states:
“Development contributions shall not be charged on a change of use permission, where such change of use does not result in a significant intensification of demand on public infrastructure.”
- Section 5.2 of the Scheme states:
“No exemptions/reductions will be allowed for retention permissions.”

7.3. I first acknowledge that a veterinary surgery is a commercial development. The nature and extent of this use is not in dispute. The proposed development is a commercial development seeking a retention permission. It, thus, cannot avail of any exemptions. The planning application details state that the gross floor area of the development is 164.33 square metres. Based upon a development contribution rate of €44 per m², the contribution would total €7,230.52. This is a total contribution, which is derived from the three classes of public infrastructure and facilities that are applicable to all relevant commercial developments.

7.4. With regard to Section 4.10 of the Scheme, I submit that the change of use from an agricultural dry shed (a shed previously used mainly for the sorting of dry potatoes on a farm) to a veterinary surgery would introduce material and substantial changes to the activities at this location and, in particular, the traffic patterns on the public road network that would result. This use is not an incidental use to the establish farm, where, for example, traffic would frequently be generated on the farm and within the farm holding, but rather is an independent active use. According to the submitted application documentation, the surgery has two part-time veterinary surgeons, a support staff member and a part-time office employee. There is reception cover at weekends and on occasional evenings. I note also from application documentation that, in the previous application that was withdrawn, it was

estimated that the volume of traffic would be 15 cars and 1 van/truck movement per day. Indeed, I note that much emphasis was placed in the application on catering for large animals, which I suggest would imply transportation of animals via trailers and other such means likely on a relatively regular basis. Such traffic generation would evidently introduce significant changes to the nature of traffic on the local road network and would increase the volumes of traffic over that which would apply to the use of the shed as a dry potato sorting shed on a farm. It is evident that the proposed use introduces a wholly different patronage / visitor to the farm complex, derived from a completely separate commercial operation. This patronage would result in a significant intensification of demand on the local road infrastructure in the vicinity of the farm.

- 7.5. Having regard to the above, I do not consider that the appellant can seek immunity from making a development contribution in this instance and I conclude that the planning authority made a correct estimation of the required development contribution, based upon the current Wicklow County Council Development Contribution Scheme.

8.0 Recommendation

- 8.1 I recommend the attachment of Condition No. 2 of the planning authority's decision in accordance with the following:

9.0 Decision

The Board considered, based upon the reasons and considerations set out below, that the terms of the Development Contribution Scheme for the area had been properly applied in respect of condition number 2 and directs the said Council under subsection 10(b) of section 48 of the Planning and Development Act, 2000 to ATTACH the said condition and reason therefor.

10.0 Reasons and Considerations

Having regard to the nature of the development, which is a development subject to the provisions of Wicklow County Council Development Contribution Scheme 2015,

it is considered that the terms of the development contribution scheme have been properly applied and a development contribution condition should be included in this instance.

Kevin Moore
Senior Planning Inspector

19th February 2018