



An
Bord
Pleanála

Inspector's Report PL 27.249407

Development	House, garage and associated site works
Location	Ardoyne, Tullow, County Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	17/381
Applicant(s)	Shay O'Sullivan
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Jim O'Neill
Observer(s)	None
Date of Site Inspection	24 th January, 2018
Inspector	Kevin Moore

1.0 Site Location and Description

1.1. The site of the proposed development is located approximately 2.2 km south-east of the town of Tullow close to the boundary of County Wicklow and County Carlow. It comprises the southern part of an agricultural field, the northern part of which is occupied by a bungalow. The land rises above the level of the adjoining local road and is separated from the road by a ditch and hedgerow. The site's roadside boundary comprises a bank and hedgerow. A farm complex and house is located on the opposite side of the road and there is one-off housing in the immediate vicinity. The applicant's existing house is located on land south-west of the farm complex and is accessed via a lane that passes for a short distance between a couple of farm buildings.

2.0 Proposed Development

- 2.1. The proposed development would comprise a three bedroom bungalow and domestic garage on a stated site area of 0.41 hectares. The house would have a stated floor area of 200 square metres and the garage would be 40 square metres in area. The proposed development would be served by a private waste water treatment system and on-site well.
- 2.2. Details submitted with the application included a covering letter from the applicant's agent, a letter from the applicant's father permitting the making of the application on his land and a completed site characterisation form.

3.0 Planning Authority Decision

3.1. Decision

On 21st September, 2017, Wicklow County Council decided to grant permission for the development subject to 15 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the interdepartmental reports received, the objection made, and relevant development plan policy. It was noted that the applicant owns a house in the vicinity and it was considered that housing need could be met within the current landholding. It was further noted that the proposed house would not be sited in an exposed location and the design was regarded as appropriate. The traffic safety concerns of the Area Engineer were acknowledged. It was considered the proposal would be unlikely to adversely impact on the qualifying interests of the Slaney River Valley SAC, which lies 550m west of the site. A refusal of permission was recommended for two reasons relating to lack of housing need and traffic hazard arising from the development.

3.2.2. Other Technical Reports

The Environmental Health Officer had no objection to the proposed waste water treatment system.

The Area Engineer recommended a refusal of permission, noting the proposed entrance was located on the inside of a tight bend on a fast moving section of local road that would require substantial realignment works.

Further to the above reports, the applicant sought an extension of the appropriate period for the making of a decision, which was approved. Unsolicited further information was received by the planning authority on 3rd July, 2017. This provided further details on the applicant's housing need and a revised site layout plan showing improved sightlines at the proposed entrance.

The reports to the planning authority following this information may be synthesised as follows:

The Area Engineer requested revisions to the entrance arrangements.

The Planner maintained the applicant's existing house could meet his housing need and recommended refusal of permission for this reason.

The Director of Services noted the applicant's existing house is well maintained but considered a replacement house is not suitable for a new dwelling as the laneway serving it goes through an existing farmyard not in the applicant's ownership. The

application was considered acceptable, provided the applicant undertook to enter an agreement to cease the use of the current house as a permanent dwelling.

Further to the latter note, the applicant submitted a letter to the planning authority stating he intended to abandon the use of the existing house as a dwelling and to use it for storage for agricultural and ancillary purposes.

Further to the Director of Services note, the Planner made a recommendation to grant permission subject to 15 conditions.

3.3. **Third Party Observations**

An objection to the proposed development was received from Jim O'Neill. The grounds of appeal reflect the principal planning concerns raised.

4.0 **Planning History**

P.A. Ref. 15/515

Permission was refused by the planning authority for a dwelling and waste water treatment system for four reasons relating to lack of housing need, traffic safety, visual impact, and public health concerns.

5.0 **Policy Context**

5.1. **Wicklow County Development Plan 2016-2022**

Housing Objectives

Objectives include:

HD1 New housing development shall be required to locate on suitably zoned or designated land in settlements, and will only be considered in the open countryside when it is for the provision of a rural dwelling to those with a housing, social or economic need to live in the open countryside.

HD23 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.

Residential development will be considered in the countryside having regard to a range of circumstances. The Plan includes the following:

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 ...
2. A son or daughter, or niece/nephew considered to merit the same position as a son/daughter within the law (i.e. when the uncle/aunt has no children of his/her own), of a permanent native resident of a rural area, who can demonstrate a definable social or economic need to live in the area in which the proposal relates and not as speculation.
3. A son or daughter, or niece/nephew considered to merit the same position as a son/daughter within the law (i.e. when the uncle/aunt has no children of his/her own), of a permanent native resident of a rural area, whose place of employment is outside of the immediate environs of the local rural area to which the application relates and who can demonstrate a definable social or economic need to live in the area to which the proposal relates and not as speculation.
4. Replacing a farm dwelling for the needs of a farming family, not as speculation. If suitable the old dwelling may be let for short term tourist letting and this shall be tied to the existing owner of the new farm dwelling were it is considered appropriate and subject to the proper planning and development of the area.

HD25 The conversion or reinstatement of non-residential or abandoned residential buildings back to residential use in the rural areas will be supported where the proposed development meets the following criteria:

- the original walls must be substantially intact – rebuilding of structures of a ruinous nature will not be considered;

- buildings must be of local, visual, architectural or historical interest;
- buildings must be capable of undergoing conversion / rebuilding and their original appearance must be substantially retained. (A structural survey by a qualified engineer will be required with any planning application); and
- works must be executed in a sensitive manner and retain architecturally important features wherever possible and make use of traditional and complementary materials, techniques and specifications.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal may be summarised as follows:

- Having four family houses already established in the area, the applicant's family has exploited the provisions in the Development Plan which allow for housing in rural areas. The proposal is excessive and there are serious concerns about the proliferation of houses in the immediate area.
- The Council's decision is inconsistent with the site's planning history and is contrary to the consistent advice of the Council's Planners.
- The proposal is contrary to the County Development Plan settlement strategy and housing policy. The applicant does not meet with the requirements the Council's rural housing policy, being a haulier, not directly involved in farming, having a small, unviable holding, not being a resident of the local area, and having no requirement to be living in proximity to his parents as a number of family members reside locally.
- The proposed house is not for occupancy by the applicant but for others.
- The applicant's existing house is in reasonable condition and is capable of being upgraded and extended. The proposal to convert the existing house to a store is unsustainable and its use as a residence is a viable proposition. Its shared access arrangement is common in rural areas and is unlikely to pose

any problems. Being 800m from the proposed site, it could not be considered a replacement dwelling.

- The proposal is contrary to the rural character of the area and the Council's heritage policy.

6.2. Applicant Response

The applicant's response to the appeal may be summarised as follows:

- The applicant farms his own holding, works on the family farm at weekends and evenings, and intends to take over the family farm in the future.
- The applicant has never lived at any other address other than at his present address or with his parents.
- The proposed house is not required by the applicant's aunt.
- Regarding the applicant's existing house, it is in poor condition and a new build is a better option.
- Information has been provided by the applicant to the planning authority addressing the previous refusal of planning permission.
- The proposed development will be provided in accordance with the Council's rural house design guidelines and will be assimilated into the landscape.

Details submitted with the response include letters from the applicant, his father and his aunt and a Superficial Survey of the applicant's existing farm house.

6.3. Planning Authority Response

I have no record of any response to the appeal by the planning authority.

7.0 Assessment

7.1. Introduction

7.1.2 I consider that the principal planning issues relating to the appeal focus on the applicant's local housing need, the impact on rural amenity, and traffic impact. I do not propose to consider superfluous matters such as further development on the

family farm holding, unsubstantiated claims relating to the intended use of the new house, or matters relating to the applicant's wider family that are unrelated to the planning application.

7.2. The Applicant's Local Rural Housing Need

- 7.2.1 The applicant has clearly demonstrated his association with the area in which he proposes to build a new house. He intends to construct the house on his father's land, which forms part of a farm that the applicant states he assists in running in the evenings and weekends.
- 7.2.2 A critical issue for consideration is the reality that the applicant already owns a house in the immediate vicinity and lives in it. This is a house that is within the applicant's own farm holding and is separate from the appeal site. The proposed development cannot, as a consequence, be determined to be a replacement house. Furthermore, this is a house that has been inhabited by different families over several generations and continues to function as a family home.
- 7.2.3 I acknowledge the applicant's agent's 'Superficial Survey' of the existing house. It is my submission to the Board that the information provided could not, in any reasonable manner, be determined to conclude that the existing house is not in a habitable condition and that, while acknowledging the age of the structure, upgrading and refurbishments can readily improve upon perceived deficiencies that arise at this property. I submit to the Board that the applicant has two very clear options relating to the existing house that would both be more sustainable than the development of a new house separate from the applicant's farm holding. These comprise the renovation and extension of the existing house to meet his family and farming needs or potentially the demolition / part demolition of the same dwelling and development of a genuine replacement house at that location, where the residential use is established and where there would be minimal impacts on the amenity of this rural area. I submit to the Board that the house at this location is not in any way remote from his father's farm holding and that the existing house has proved to be a location suitable for residential purposes for several generations. Further to this, I submit that the need to travel along a lane that passes between a couple of farm buildings is not a matter of any true concern in the context of a rural development to meet rural

needs and where clearly the applicant has a right of way over the access lane. There are no restrictions or impediments to using this laneway or gaining access to the existing house.

7.2.4 Further to the above, I note the provisions of Wicklow County Development Plan as it relates to rural housing. In accordance with Objective HD1, new housing development will only be considered in the open countryside when it is for the provision of a rural dwelling to those with a housing, social or economic need to live in the open countryside. While I do not refute that the applicant has definable social and economic needs to reside at this general location and that he is a member of a farming family from this area, I do not accept that the applicant has the need for a second house in this area. The refurbishment, upgrading and extension of the applicant's existing house must be viewed as the appropriate, sustainable approach in the context of meeting his family's needs and the needs relating to the farming of his holding, as well as to the sustainable management of residential development in this rural area.

7.2.5 Finally, I note the outcome for the applicant's existing house arising from the decision of the planning authority to grant permission for a new house at a different location. The applicant was being granted permission to construct a new house away from his existing house premised upon a condition that the habitable use of the existing house be abandoned. It must be acknowledged that the Council's Director of Services noted that the applicant's existing house is well maintained. Such an approach is wholly misplaced. To suggest that there is a requirement to remove a residential use in a house that is inhabited, which is viable as a dwelling, and which can readily undergo refurbishment and extension to meet changing occupants' needs is completely unsustainable and must be avoided.

7.3 Impact on Rural Amenity

7.3.1 I note the proposed development is located within open countryside. I also acknowledge that the applicant has made changes since the refusal by the planning authority for a dwelling on this site under P.A. Ref. 15/515 in the form of making minor alterations to the house location within the site and by introducing a change in house design by way of a change of bungalow type. However, I put it to the Board

that placing a further dwelling for the applicant in this landscape further emphasises the unsustainability of the new development where development of the applicant's existing house can clearly meet his needs. The proposed development introduces an unnecessary bungalow development over the local road, further intruding on the amenities of this rural area. It is not warranted in an area that is being significantly encroached on by one-off housing in recent years.

7.4 Traffic Impact

7.4.1 The proposed development seeks to provide an entrance onto the local road on the inside of a bend on this road at a point where sightlines are restricted and where the maximum speed limit applies for the road. The applicant has sought to address the reason for refusal relating to traffic in the previous application under P.A. Ref. 15/515 by expansive removal of roadside frontage and to address the Area Engineer's recommendation to refuse permission by making minor adjustments to the site's entrance. It is my submission to the Board that sightlines are severely restricted at this location and that, while the very minimum of required sightlines are proposed to be achieved at the expense of the loss of some 105 metres of established road frontage in this rural area, the additional traffic turning movements onto the local road, where the horizontal alignment of the road is particularly poor, would conflict with the free flow of traffic on this road and would result in a traffic hazard. Once again, I submit that this proposal not merited at this location based upon the lack of need for this additional house.

8.0 **Recommendation**

8.1. I recommend that permission is refused in accordance with the following reasons and considerations.

9.0 **Reasons and Considerations**

1. It is an objective of the planning authority, as set out in Wicklow County Development Plan 2016-2022, that new housing development will only be considered in the open countryside when it is for the provision of a rural

dwelling to those with a housing, social or economic need to live in the open countryside. The proposed development comprises the construction of a new house in a rural area where the applicant owns and occupies an existing house in the immediate vicinity. It is considered that the applicant does not come within the scope of the housing need criteria for a house at this location as set out in the current Development Plan. The proposed development, in the absence of any identified need for a second dwelling, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment. The proposed development would, therefore, be contrary to the Development Plan provisions relating to sustainable rural housing and would, thus, be contrary to the proper planning and sustainable development of the area.

2. The proposed vehicular entrance to the site would access the adjoining local road on the inside of an existing bend, at a point where the maximum speed applies for the road, and where sightlines are severely restricted, necessitating the removal of extensive roadside hedgerow. It is considered that the proposed development would endanger public safety by reason of traffic hazard due to the additional traffic turning movements that would be generated onto this substandard road and that the resultant development would necessitate unacceptable hedgerow removal that would be injurious to the visual amenities of this rural area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Kevin Moore
Senior Planning Inspector

25th January 2018