



An
Bord
Pleanála

Inspector's Report PL27.249428

| | |
|-------------------------------------|---|
| Development | Demolition of workshop and construction of new workshop, relocation of office unit and all associated site works, vehicular access and forecourt to workshop. |
| Location | Ballintombay Lower, Greenane, Rathdrum, Co. Wicklow. |
| Planning Authority | Wicklow County Council |
| Planning Authority Reg. Ref. | 17/665 |
| Applicant(s) | Martin Breen |
| Type of Application | Permission |
| Planning Authority Decision | Refuse |
| Type of Appeal | First-v-Refusal |
| Appellant(s). | Martin Breen |

Date of Site Inspection

09th January 2018

Inspector

Colin McBride

1.0 Site Location and Description

1.1 The appeal site, which has a stated area of 0.6614 hectares, is located approximately 4km to the west of Rathdrum. The appeal site is located adjacent Glenmalure Golf Club. The site accessed off a laneway serving Glenmalure Golf Club that forms a junction with the L6214-45 county road to the south of the site. The site is located to the west of the existing access to the Golf Club with a short laneway providing access to the site, which is split in two by such. To the north of the laneway is an existing single-storey dwelling with a vehicle repair workshop within its curtilage. To the south of the site and the laneway is a flat gravelled area at a lower level than the existing house. The laneway serving the site serves an existing farmyard located to the west of the site. There are existing trees along the western boundary and level on site. Adjoining lands west, south and south west are agricultural in nature where that Golf Club lands are located to the north and east. There is an existing dwelling located to the north east of the site also accessed from the laneway serving the Golf Club.

2.0 Proposed Development

2.1. Permission is sought for demolition of an existing workshop (64sqm) previously granted permission for retention under ref no. 12/6841 and the construction of a new workshop (161.5sqm) for mechanical repairs and servicing private cars and the relocation of existing office unit (4sqm) also granted permission for retention under ref no. 12/6841 to a new position adjacent to the new workshop including all associated site works including vehicular access driveway and forecourt to the new workshop.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on three reasons...

1. Having regard to:

- a) The scale of the proposed development, which is a car repairs workshop and the lack of justification for the substantial increase in size
- b) The location of the development in a rural area
- c) Objective RUR2 of the County Development Plan which states that 'To permit the development of small-scale commercial/industrial development in rural areas that are not dependent on an existing local resource, subject to compliance with all of the following criteria.
 - i) The proposed development shall be 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;
 - ii) the proposed development shall be located on the site of a redundant farm building/yard or similar agricultural brownfield site; and
 - iii) 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-a-vis the proximity of the site to the national and regional road network.

It is considered that the proposed development is excessive in scale for a rural area, would contravene the Objective of the County Development and would therefore be contrary to the proper planning and development of the area.

2. Having regard to the

- i) Limited capacity and suitability of the road network serving the site,
- ii) The increase in the level and nature of the vehicle movements that would be generated by the proposed development,

It is considered that the proposed development would endanger public safety by reason of serious traffic hazard.

3. Having regard to the location of the proposed development on the existing septic tank and percolation area serving the existing dwelling on site, it is considered that the development would impact on the operation and would restrict the maintenance of the effluent disposal system and would be therefore prejudicial to public health.

3.1 Local Authority and external reports

3.1.1. Area Engineer (05/07/17): No objection.

3.1.2. Irish Water (07/07/17): No objection.

3.1.3. Planning Report (21/07/17): The existing commercial development on site was acknowledged, however it was considered that the size of the new workshop was excessive in the context of its rural location with no justification provided for the increase. It was noted that the proposed workshop and access track as well as the relocated office coincide with the location of the septic tank on site and would be contrary condition no. 5 attached to ref no. 12/6841. It is noted that there is a protacabin on site for which there is no record of permission. It was considered that

the access arrangements and road network is unsuitable for the increased level of traffic proposed. The visual impact of the proposal was considered satisfactory. Refusal was recommended based on the reasons outlined above.

3.1.4. Planning Report (14/09/17): Report in response to unsolicited information including a proposal to reduce the floor area of the workshop to 146sqm. The same issues raised on the previous planning report including the excessive size of the structure and lack justification for such was indicated. Refusal was recommended based on the reason outlined above.

4.0 Planning History

- 4.1 12/6841: Permission granted for retention of workshop for mechanical repairs and service of private cars, retention of office adjacent workshop, retention of existing dwelling and associated site works and permission for a balcony.
- 4.2 09/554: Permission granted for retention of workshop for mechanical repairs and service of private cars, retention of office adjacent workshop.
- 4.3 09/570: Application under section 42 of the Planning and Development Act to further extend the appropriate period of permission. Not permitted.
- 4.4 PL27.205711: Permission sought for retention of workshop for mechanical repairs and servicing of private cars and permission for A2 signage. Split decision, permission granted for the workshop and refused for the sign.
- 4.5 03/8883: Permission refused for retention of 64m2 workshop and A2 sized signage on grounds of contravention to County Development Plan policies and traffic hazard.
- 4.6 98/8433: Permission granted for a dwelling.

4.5 00/163: Permission granted for a new club house.

5.0 Policy Context

5.1. Development Plan

5.1.1 The relevant development plan is the Wicklow County Development Plan 2016-2022.

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

- iv) The proposed development shall be 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;
- v) the proposed development shall be located on the site of a redundant farm building/yard or similar agricultural brownfield site; and
- vi) 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-a-vis the proximity of the site to the national and regional road network.

6.0 The Appeal

6.1 Grounds of appeal

6.1.1 A first party appeal has been lodged by BPS Planning Consultants on behalf of Martin Breen, Ballintombay Lower, Greenane, Rathdrum, Co. Wicklow. The grounds of appeal are as follows...

- The appellant outlines the planning history of the development on site and notes that the principle of development is established with the existing commercial development permitted under ref no. 12/6841. The appellant notes that justification has been provided for the proposal with it noted that the current workshop is not fit for purpose being small in size requiring movement of vehicles into and out of existing structure as only one can be worked on inside at one time. The appellant also notes that the workshop is close to the existing dwelling and within the curtilage of such, which impacts on residential amenity and the ability of the appellant's family to use the immediate curtilage of the dwelling.
- The appellant notes the principle of commercial development is established on this site and that the Planning Authority's assessment noted that the visual impact/impact on rural character would not be detrimental.
- The appellant notes that proposal would not be contrary to Development Plan policy and in particular Objectives RUR1 and RUR 2 (Rural Employment Objectives). It is noted that the appellant is operating a permitted established business in a rural area with a significant number of clients in the local area. It is noted that farm buildings of much more significant scale have been

permitted in recent years within the adjacent farm complex and that the overall physical impact of the proposed structure is not significant.

- In relation to the refusal reason regarding traffic it is noted that the Area Engineer indicated no objection. It is noted that there is no proposed increase in traffic arising from the proposed development and that the business is to remain a single person operation as it is at present. It is noted that proposal is seeking an increase in the floor area of the workshop and that such is not a large scale development. It is noted that the existing laneway has been safely used for the existing business and dwelling with no traffic issues and it is noted that the sightlines of the access laneway serving the site and the Golf Club are of a good standard. The appellant refers to the Inspector's assessment of traffic impact under PL27.205711.
- In relation to refusal reason 3 the appellant notes that the Area Engineer raises no objection in regards to drainage issues. It is noted that the applicant/appellant offered to relocate and upgrade the wastewater treatment system as part of the unsolicited information submitted and that there was no need for the proposal to be refused on such grounds. The appellant notes that the Board may wish to include a condition requiring that alternative wastewater treatment proposals be implemented. It is noted that the location of the workshop encroaches on the existing percolation area but that an area has been retained on site for a reserve percolation area if needed. The appellant notes that should it be considered acceptable, he would be willing to provide a new percolation area that would be unaffected by the new workshop and the appellant has submitted a layout drawing in this regard.

6.2 Responses

6.2.1 No response.

7.0 Assessment

7.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development/development plan policy

Design, scale, visual impact, adjoining amenity

Traffic impact

Appropriate Assessment

Unauthorised development/enforcement

7.2 **Principle of the proposed development/development plan policy:**

7.2.1 The proposal is for demolition of an existing vehicle repair workshop (64sqm GFA) within the curtilage of an existing dwelling. It is proposed to construct a new workshop (161.5sqm GFA) further away from the dwelling to the south as well as relocate an existing portacabin used as an office (4sqm) from adjacent the existing workshop to adjacent the new workshop. Permission was refused on the basis that the proposal is located in a rural area and would be contrary to Development Plan policy, in particular Objective RUR 2 (outlined above). The existing vehicle repair garage including the existing workshop and office structure are permitted development under ref no. 12/6841.

7.2.2 The proposal entails alteration of an established and permitted commercial operation at this location with the main change being a larger workshop located further away from the applicant's/appellant's dwelling. The principle of commercial development is already established at this location with numerous permissions permitting the existing vehicle repair workshop on a temporary basis and then on a permanent

basis under ref no. 12/6841. The refusal reasons notes that the new workshop is excessive in scale and there is a lack of justification for such in the context of its rural location. In regards to justification I would note that the applicant has provided such noting that the existing structure is too small in size allowing for only one vehicle to be worked on inside at any one time. The existing structure is located in close proximity to the applicant's/appellant's dwelling and within the immediate curtilage of such and would not be ideal in terms residential amenity and parking of vehicles. I would consider that a larger workshop located further from the existing dwelling with more space outside for vehicle parking and movements would be beneficial to the applicant's/appellant's existing operation and residential amenity.

7.2.3 The refusal reason and assessment raises concerns regard the intensification of development in the rural context of the area. I would consider that it would be unreasonable to curtail the improvement or expansion of an established commercial development if such can demonstrate that its physical impact would be acceptable in the context of the proper planning and development of the area. I would also note that a larger workshop structure does not guarantee that the intensity of the existing commercial operation would be increased and may simply serve as an improvement to the existing operation. Notwithstanding such, based on the established nature of the development and the justification provided for such by the applicant/appellant, I would consider that the proposal would not be contrary to the Development Plan policy or the Rural Employment Objectives (RUR 1 and RUR 2). I would consider that the principle of the proposed development is acceptable subject to the visual impact, traffic impact and wastewater treatment arrangement being satisfactory. These aspects of the proposal are to be assessed in the following section of this report.

7.3 Design, scale, visual impact, adjoining amenity:

7.3.1 The new workshop has a floor area of 161.5sqm and a ridge height of 5.6m. The structure consists of block work at a lower level for the walls and profiled metal cladding for the upper walls and roof. The new workshop is located further south of

the existing dwelling and on lands at lower level than the existing dwelling and workshop. It is also proposed to relocate a small poratacabin used as an office to adjacent the new workshop. The workshop structure is unlikely to be highly visible or prominent at this location. The finished floor level of the structure is lower than adjoining lands to the north, north east and west and there are existing trees and vegetation adjacent the site. The site is also adjacent an existing farmyard complex (west) with the proposed structure smaller in scale than some of the existing structures that make up the farmyard complex. The overall design of the structure is very much in keeping with agricultural structures and would not be out of character in a rural location such as this. I am satisfied that the overall visual impact of the proposed development would be acceptable in the context of the visual amenities of the area.

7.3.2 The applicant/appellant during the course of the application submitted revised plans as way of unsolicited information providing for a workshop of reduced size (148sqm). The appeal submission notes such and provides such as an alternative if considered necessary. I would note that the overall scale and design of the original proposal is satisfactory and should be permitted in the event permission is granted.

7.4 Traffic Impact:

7.4.1 The site is accessed from the L6214-45 local county road. The site is located off the existing access road serving Glenmalure Golf Club and has a short access laneway off such. Permission was refused on basis that the proposal would generated increase traffic levels on a substandard access road/road network creating a traffic hazard. As noted above the proposal entails the provision of a larger workshop (an increase of nearly 100sqm). As noted in the first section of this assessment, the increased size of the workshop does not necessarily mean an increased intensity of activity or traffic one site. It is important to note that the proposal is an alteration to an existing, established and permitted commercial development and that the existing access arrangement would appear to be facilitating the operation of such without any adverse traffic impact. I would note that if the proposal does entail an increase in traffic levels, such is unlikely to be a significant increase above and beyond the existing level generated and is also to be similar in nature to the existing traffic

generated. The condition of the access road is off a good standard and visibility both at the junction of the laneway to the site and the access lane to the Golf Club and the main access lane to the golf club and the public road are off an acceptable standard. I am satisfied that the proposal would not generate a significant level of additional traffic over and above the existing commercial operation at this location and that the existing access arrangements and road network are of a sufficient standard to cater for such.

7.5 Wastewater Treatment/public health.

7.5.1 The relocated workshop and associated parking area coincides with the location of the existing wastewater treatment system on site serving the existing dwelling. Permission was refused on the basis that the location of the proposed development on the existing percolation area serving the dwelling on site, it is considered that the development would impact on the operation and would restrict the maintenance of the effluent disposal system and would be therefore prejudicial to public health. It appears from the drawings submitted including that submitted with the appeal submission that the septic tank is not impacted and that it is the percolation area that would be encroached on by the new workshop as well being located on the circulation/parking area associated with such. The appellant has proposed to relocate the percolation area further south east as well as setting aside ground for a reserve percolation area. I would consider that subject to adequate conditions requiring the relocation of the percolation area and its construction in accordance with the recommendations of the EPA Code of Practice, the measures proposed would deal with concerns regarding wastewater treatment. I also note that the wastewater treatment system is an existing system on site and the proposal does not appear to entail any intensification of use of such system (no sanitary facilities in the proposed workshop as is the case with existing existing). I am satisfied subject to the provision outlined above, the proposal would be satisfactory in the context of public health.

7.6 Appropriate Assessment:

7.6.1 Having regard to the nature and scale of the proposed development and its proximity 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 I recommend a grant of permission subject to the following conditions.

9.0 Reason and Considerations

9.1

Having regard to the provisions of the current Wicklow County Development Plan 2016-2022, to the scale and pattern of development in the area, the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience, and be acceptable in the context of public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the further plans received on the 19th day of October 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. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

3. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, 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 property in the vicinity.

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

Reason: In the interest of the visual amenities of the area.

5. (a) The percolation shall be relocated as per the site layout drawing submitted on the 19th day of October 2017 and such shall be provided 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.

(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 raised percolation area is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

6. 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.

Colin McBride
Planning Inspector

26th January 2018

