



An
Bord
Pleanála

Inspector's Report PL.ABP.301120-18

Development	Retention permission for raised timber decking, 3 no. vehicular entrances, site boundary treatment.
Location	Murragh, Wicklow Town, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	17/1474
Applicant(s)	Omar O'Reilly
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	As above
Observer(s)	None
Date of Site Inspection	20 th June 2018
Inspector	Kenneth Moloney

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.2. Planning Authority Reports	5
3.3. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy Context.....	7
5.1. Development Plan.....	7
6.0 The Appeal	7
6.2. Planning Authority's Response	9
6.3. Observations	9
7.0 Assessment.....	9
8.0 Recommendation.....	14

1.0 Site Location and Description

- 1.1. The subject site is located on the northern edge of Wicklow town in an area known as the Murragh.
- 1.2. The site itself is located between the railway line (Dublin – Rosslare) and the coastline. The existing house on the appeal site and the two other established houses, situated north of the subject site, take their access off a cul-de-sac.
- 1.3. The existing house, the subject of the appeal, has 3 no. vehicular entrances onto the cul-de-sac.
- 1.4. The existing house on the appeal site is single storey in height. The house has a front and side garden but no rear garden. There are two windows located on the rear elevation (east facing) of the house and these are located adjacent to an established coastal path situated immediately east of the appeal site.
- 1.5. The size of the appeal site is approximately 0.16 ha (0.39 acres) and the shape of the site is approximately rectangular.
- 1.6. A block wall forms the site boundary to the site and there is a large wooden structure, unroofed, situated in the southern tip of the appeal site.
- 1.7. The site is only partially landscaped and there is public signage indicating the presence of Japanese Knotweed vegetation located between the subject house and the coastal path to the immediate east of the appeal site.

2.0 Proposed Development

- 2.1. Planning permission is sought for the following;
 - a. Retention and permission for the completion of a raised private amenity timber decking structure with roof.
 - b. Retention of 3 no. vehicular entrances
 - c. Retention / permission for completion of perimeter boundary walls

3.0 Planning Authority Decision

3.1. Wicklow County Council decided to refuse planning permission for the following reasons;

1. Having regard to,

- the design, mass, size, height and finish of the proposed timber gazebo structure,
- the prominent and exposed location of the development site within an attractive coastal landscape that is designated for passive amenity space and where there is an objective to protect the nature and built heritage of the area,
- the proposed finish to the boundary walls,

it is considered that the proposed development would be an incongruous and intrusive feature in this highly sensitive landscape which includes a protected prospect, and would seriously injure the visual amenities of the area. This would be contrary to proper planning and sustainable development.

2. The proposed development interferes with public water services infrastructure and therefore the development would be prejudicial to public health. The proposed development would, therefore, be contrary to proper planning and sustainable development.

3. Having regard to the proposal for multiple entrances to a single residential property and the proposed entrance design, it is considered that the development would interfere with the safety of road users and that inadequate sightlines would be provided, and therefore it is considered that the development would endanger public safety by reason of serious traffic hazard.

4. Insufficient information has been submitted in relation to:

- a. the interest of the applicant in the site and any burdens or otherwise that may exist in relation to the site,
- b. the interest of the applicant over adjoining lands to gain access to the proposed northern entrance,
- c. the location of water infrastructure on the site,
- d. the existence of a Compulsory Purchase Order (CPO) on part of the site,
- e. how the applicant has dealt with the Japanese Knotweed on the site during the construction of the proposed development,
- f. the raising of the ground levels at the Southern end of the site and the construction of a gabion wall,

To permit the proposed development in the absence of such information would be contrary to Proper Planning and Sustainable Development.

3.2. Planning Authority Reports

- 3.2.1. The main issues raised in the planner's report are as follows;

Area Planner

- The subject site is located on a prominent site within an area of high amenity value in terms of proximity to the coast including listed prospect.
- The size and height of the gazebo structure is more akin to a small dwelling.
- The finished floor level of the gazebo is 1.125m above ground level.
- The structure would be incongruous and a dominant feature in this sensitive landscape and would block the vistas to the traditional 19th century buildings viewed from the south.
- There is no justification for 3 no. vehicular entrances.
- The entrances are not recessed and the piers are 1.8m high. The sightlines would be restricted.

- It is considered that boundary walls similar to the 19th century railway cottages, which included a render finish, may have been more appropriate.
- No effluent is proposed under this application.
- There is a question whether the applicant has sufficient legal interest to carry out the development.
- No AA issues arise.

3.3. Third Party Observations

There is one third party submission and the issues have been noted and considered.

Submissions

There is a submission from Irish Water (IW) who request additional information as part of the proposed development is located over IW assets. Irish Rail made a submission requesting that the works carried out by the applicant ensures that there is a no risk to the railway because of these works and that the applicant is aware of vibrations and noise from operations.

4.0 Planning History

- L.A. 14/149 – Wicklow County Council refused permission to erect a two-storey extension and install WWTS. An Bord Pleanála **refused** permission (Appeal Ref. 245054) for the development as it was considered that the site was unsuitable for the disposal of foul effluent and therefore the proposal would be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Development Plan

The operational Development Plan is the Wicklow Town – Rathnew Development Plan, 2013 – 2019.

The appeal site is zoned ‘Passive Open Space (POS)’. The land-use zoning objective is ‘to preserve, improve and provide for parks, recreational public and private open space, green corridors and ecological buffer zones’. The objective is as follows ‘*to facilitate the further development and improvement of existing parks and other passive / amenity open areas and to facilitate opportunities for the development of new parks, recreational spaces, green corridors and ecological buffers*’.

The appeal site is also located within an area designated ‘Opportunity Area’. The site also adjoins a Conservation Zone.

- 5.1.1. Policy Objective VP1 sets out that it is an objective to protect listed views and prospects. Table 11.10 of the Wicklow Town – Rathnew Development Plan sets out ‘Prospects of Special Amenity Value or Special Interest’ and number 7 is ‘Railway from Greystones to Wicklow Town’.

6.0 The Appeal

- 6.1. The following is the summary of a third-party appeal submitted by Arcadia Architects on behalf of the applicant;

Refusal Reason no. 1

- It is intended to completely remove the timber raised deck structure off site.
- A drawing is enclosed illustrating the structure’s removal.
- The finished site boundary will be in natural stone with granite capping stones.

- The materials selected were chosen to enhance the appearance of the perimeter boundary walls within an exposed coastal climate whilst reducing on going maintenance.

Refusal Reason no. 2

- It is proposed to remove the raised timber deck structure.
- The raised timber deck structure was placed on the site to conceal the manholes.

Refusal Reason no. 3

- It is proposed to omit the existing entrance located on the northern site boundary.
- The middle entrance affords car parking for the existing residential property. The southern entrance provides access to the existing services.
- The subject property is located adjoining a public car park and in no way, affects the safety of road users / public safety.
- The site currently has adequate sightline provision.
- A submitted drawing reflects the above points.

Refusal Reason no. 4

- Full details of legal interest are submitted to address concerns.
- It is intended to omit the northern entrance.
- A submitted map indicates the location of mains water manholes.
- In relation to the CPO the applicant is awaiting financial compensation from Wicklow County Council. A map is submitted illustrating the status of the site having regard to the CPO.
- The applicant's acquired the site in 2013 and since then Japanese Knotweed has been effectively treated and controlled.

- There is no intention to import soil to the site. The existing property is located approximately 7m from the site of the Japanese Knotweed. No other third-party lands are located close to the Japanese Knotweed.
- The raised site area is approximately 730m higher than adjoining areas to the north of the site.
- Sections of gabion stone baskets are designed as decorative features to enhance the overall landscape setting.

6.2. **Planning Authority's Response**

The following is the summary of a response submitted by the local authority;

- The submitted land ownership documents are unclear.
- The omission of the northern entrance would address Planning Authority's concerns in relation to interest of the applicant in lands necessary to access the northern entrance. This omission would address refusal reason no. 3.
- The omission of the gazebo would address concerns in relation to refusal reason no. 1, refusal reason no. 2 and refusal reason no. 4 (c).
- Insufficient information is available how to address Japanese Knotweed.
- The surface soils on the site would not appear to be of similar type to that of the surrounding original soils.

6.3. **Observations**

None.

7.0 **Assessment**

- Principle of Development
- Visual Impact
- Vehicular Access

- Other Issues

7.1. **Principle of Development**

- 7.1.1. The proposed development represents modifications to an established residential use on the appeal site. The modifications, described above, in summary include the retention of 3 no. vehicular entrances, retention and completion of site boundary and retention of a raised decking area within the garden.
- 7.1.2. I would note from the planning history on the subject site that there is an established residential use on the appeal site, however in accordance with the Planning Inspector's report (appeal ref. 245054), the residential property was vacant in 2015. The residential property on the appeal site is now in use as confirmed by my site inspection.
- 7.1.3. The appeal site is zoned 'Passive Open Space (POS)'. The land-use zoning objective is 'to preserve, improve and provide for parks, recreational public and private open space, green corridors and ecological buffer zones'. In accordance with Table 13.2 of the Wicklow Town – Rathnew Development Plan, 2013 – 2019, residential use is typically not permitted on lands zoned 'Passive Open Space'. However, as outlined above, the principle of residential use on the subject site is established.
- 7.1.4. I would consider that the modifications to the established residential use on the appeal site would be acceptable in principle however the details of the proposals would have to be considered having regard to the sensitivity of the appeal site.

7.2. **Visual Impact**

- 7.2.1. In considering the visual impact of the proposed development I would have regard to principally the site context and Development Plan policy designations pertaining to the site and the immediate area.

- 7.2.2. In relation to the site context the appeal site is located to the north of Wicklow town and situated between the coastline and the Dublin – Wexford railway line. I would note that traditionally the land-uses in the immediate area of the appeal site were industrial or warehousing in character. However improved road access locally has opened the area for amenities such as walking and cycling. The eastern boundary of the appeal site abuts a coastal path and it was notable on the day of my site inspection that this coastal path was well used by members of the public. The subject site and its immediate area also offers panoramic views out to the Irish Sea and eastern coastline in a northern direction. Table 11.10 of the Wicklow Town – Rathnew Development Plan sets out ‘Prospects of Special Amenity Value or Special Interest’ and number 7 is ‘Railway from Greystones to Wicklow Town’.
- 7.2.3. The appeal site is located within a designated ‘Opportunity Area’, i.e. the ‘Murrough Opportunity Area’ in accordance with the provisions of the Wicklow Town – Rathnew Development Plan, 2013 – 2019. The redevelopment of this area, including mixed-use development, is a key objective for the redevelopment of this opportunity area. The area situated to the immediate east of the appeal site is designated a ‘Conservation Zone’ in accordance with the provisions of the Development Plan. This area is described in Table 13.1 ‘Landuse Zoning Objectives’ as *‘to protect these highly sensitive and scenic locations from inappropriate development, reinforce their character, distinctiveness and sense of place, and better manage current access and amenity uses’*.
- 7.2.4. In considering the visual impact of the proposed development I would note that the Board, in appeal ref. 245054, decided not to refuse permission for a two-storey extension to the existing house on the appeal site. The proposed two-storey extension had a floor area of 243 sq. metres to an existing 66 sq. metre house.
- 7.2.5. In terms of visual impacts I would consider that 3 no. vehicular accesses for the subject site would be excessive and would have an adverse impact on visual amenities. However, the submitted appeal outlines that the northern entrance will

now be omitted and in my view this revision would address visual concerns in relation to multiple entrances.

7.2.6. I noted from a visual observation of the local area that the subject site offers visual transparency through the appeal site and towards the Irish Sea coastline. I would accept that the applicant would have genuine grounds to protect and improve their residential amenities with site boundaries. The proposed west facing site boundary wall comprising of granite capping is 1.5m in height and the pier height are approximately 1.9m high. The proposed east facing site boundary wall ranges in height from approximately 1.6m – 1.9m (closer to the existing house). I would consider the scale and height of the proposed boundary treatment would be visually unacceptable and out of character with the local area. Furthermore, the scale of the proposed boundary wall would detract from the visual amenities of the local area and would inhibit views that are protected in Table 11.10 of the Development Plan, described above.

7.2.7. In relation to the gazebo feature I would note that the applicant has submitted revised details which illustrates the removal of the wooden gazebo from the proposed development. I would consider that an extension to the existing house would be a different consideration, in terms of visual impact, then a separate structure located in a different part of the appeal site. Overall, I would consider that the gazebo would be an incongruous and intrusive feature in a highly sensitive landscape.

7.3. **Access**

7.3.1. The development to be retained has multiple vehicular entrances, i.e. 3 no. separate vehicular entrances for one residential property. The Local Authority refusal reason no. 3 states that the multiple entrances at this location would interfere with the road safety of road users and that inadequate sightlines would be provided. I would concur with this refusal reason.

7.3.2. The appeal submission submits a revised site layout which illustrates the omission of the northern entrance and the Local Authority in their response submission consider that this revised proposal would address their concerns in relation to refusal reason no. 3.

7.3.3. I would consider that the 2 no. vehicular entrances as proposed in the appeal submission are acceptable in terms of public safety.

7.4. **Other Issues**

7.4.1. I would note that the Local Authority refusal reason no. 4 related to several separate issues. The appeal submission includes a land registry map which demonstrates the applicant's ownership. However I would note that the red line boundary in relation to the submitted land registry map would not correspond with the red line boundary on the submitted 'Locations Map' submitted to Wicklow County Council on 13th December 2017. It is unclear from the submitted documentation whether the land within the submitted 'Land Registry Compliant Map' is in favour of the applicant. However there is a second map, entitled DDPT3, which shows part of the appeal site in favour of the applicant. The local authority considers that the applicant has not fully clarified their legal ownership of the site. I would therefore concur with the Local Authority in concluding that the applicant has not fully clarified that he would have sufficient legal title to proceed with the proposed development should permission be granted.

7.4.2. The appeal submission also outlines the details of the CPO in relation to the appeal site. The south-western corner of the appeal site will be impacted by the CPO. I would consider that this will not impact on the proposed development and again this is clarified in the submitted revised site layout drawing. The omission of the proposed northern entrance addresses concerns over insufficient legal interest to provide for this entrance. The appeal submission also outlined the location of the existing water infrastructure on the appeal site and this in my view adequately addresses concerns in this regard.

7.4.3. I would consider that the submitted details in relation are Japanese Knotweed is inadequate and the submission in relation imported soils on the site would appear to be inadequate. However these issues did not form part of the current planning application and therefore it is questionable whether the Board would have appropriate jurisdiction in this appeal to make a determination on these items. I would consider that any determination in relation to Japanese Knotweed and imported soils would be ultra-virus.

8.0 Recommendation

8.1. I have read the submissions on the file, visited the site, had due regard to the County Development Plan, and all other matters arising. I recommend that planning permission be refused for the reason set out below.

9.0 Reasons and Considerations

1. It is considered that the proposed development would seriously injure the visual amenities of the area, set an undesirable precedent for other such development and would be visible from a protected prospect, i.e no. 7 of Table 11.10 of the Wicklow Town – Rathnew Development Plan, 2013 – 2019, which protects prospects from the railway ‘from Greystone to Wicklow Town’. The proposed development would seriously injure visual amenities in the local area, would be contrary Policy Objective VP1 of the Wicklow Town – Rathnew Development Plan, 2013 – 2019, and would therefore be contrary to the proper planning and sustainable development of the area.

Kenneth Moloney
Planning Inspector
28th June 2018