



An
Bord
Pleanála

Inspector's Report ABP.301699-18

Development	4 no. 4 bedroom detached dwellings, connection to existing public services and all associated works and services.
Location	Shroughaun, Baltinglass, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	17/1345
Applicant(s)	Conor Furey & Associates Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Frances Kenny
Observer(s)	None
Date of Site Inspection	27 th September 2018
Inspector	Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The appeal site is located on the outskirts of Baltinglass, Co. Wicklow, to the north of the town.
- 1.2. The appeal site is currently an agricultural field used for grazing.
- 1.3. The size of the appeal site is approximately 0.372 ha (0.918 acres) and the shape of the appeal site is approximately rectangular.
- 1.4. The public road onto which the appeal site faces has almost a continuous line of houses, both detached and semi-detached, from the town to the appeal site.
- 1.5. The level of the appeal site is slightly higher than the public road and the gradient of the appeal site rises steadily upwards from the public road to the rear of the site consistent with the local topography. The ground level of the houses on the opposite side of the public road are lower than the public road and also the appeal site having regard to the local topography.
- 1.6. There is a line of two-storey houses situated on the opposite side of the public road to the appeal site. These two-storey houses are both detached and semi-detached house types.
- 1.7. The public road adjoining the appeal site is relatively narrow for two-way traffic. The roadside boundary comprises of a large mature hedgerow with an average height of approximately 2.5 – 3m.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of 4 no. 4-bedroom detached houses.
- 2.2. There are two house types proposed and this includes 1 no. of house type 1 and 3 no. of house type 2.
- 2.3. The overall floor area of house type 1 is 251 sq. metres and the floor plan comprises of living space and one bedroom at ground floor level and three bedrooms at first floor level.
- 2.4. The overall floor area of house type 2 is 184 sq. metres and the floor plan comprises of living space and one bedroom at ground floor level and 3 no. bedrooms at first floor level.

- 2.5. The private open space includes rear gardens which are terraced.
- 2.6. The proposed vehicular entrance for the proposed development is a single vehicular entrance.
- 2.7. It is proposed that the 4 no. houses will be connected to the public sewer and public water mains.

3.0 **Planning Authority Decision**

- 3.1. Wicklow County Council decided to **grant** planning permission subject to 16 no. conditions. All the conditions are standard for the nature of the proposed development.

3.2. **Planning Authority Reports**

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

Area Planner

- Appeal site is zoned residential. Proposal acceptable in principle.
- The proposal differs from previous applications as set back distance from the public road is greater and the access points onto the public road is less than that previously proposed.
- The proposal is more in character with the established development than that previously proposed.
- Insufficient information available to assess visual impact.
- It is unlikely that the proposal will result in overlooking of established houses on opposite side of public road.
- Adequate private open space is provided. Public open space not required given location.
- Proposed access different than L.A. Ref. 15/1111.
- Sightline provision inadequate.

3.3. Internal Reports;

- Transportation and Road Infrastructure; - The proposed vehicular entrance is close to a bend and adequate sightline provision has not been demonstrated. Refusal recommended.
- Area Engineer; - Site entrances do not meet minimum standards and location of entrances within close proximity of bend. Refusal recommended.

Reports following unsolicited additional response

- Transportation and Road Infrastructure; - The proposal is acceptable subject to conditions. The application site is located in an area zoned for residential use with a speed limit of 50kph.
- Area Engineer; - Refusal recommended due to inadequate sightline provision.

3.4. Third Party Observations

There is one third party submission and the issues have been noted and considered and are generally similar to the issues raised in the third-party appeal.

3.5. Submissions

There is a submission from Irish Water who have no objections to the proposed development.

4.0 Planning History

- L.A. Ref. 07/2695 – Permission **refused** by Wicklow County Council for 7 no. houses. The reasons for refusal included (a) inadequate provision of public open space, (b) traffic hazard and (c) erode the character of the landscape. Following an appeal (appeal ref. 229124) the Board **refused** permission for the following reason;

The proposed development would endanger public safety by reason of traffic hazard because the proposed development, notwithstanding its location on residentially zoned lands, is located on a narrow road and at a distance from the town centre and no provision is made for safe pedestrian movements from the town to the site.

- L.A. 15/1111 – This application was withdrawn prior to decision. Wicklow County Council recommended **refusal** for the following reasons; (1) proposal would endanger public safety by reason of traffic hazard, (2) the proposed development would be out of keeping with the established character of the area.

5.0 Policy Context

5.1. Development Plan

Wicklow County Development Plan, 2016 – 2022, is the operational Development Plan.

- Baltinglass is designated as a Level 5 Settlement in the County Settlement Hierarchy.
- In accordance with the Baltinglass Town Plan the appeal site is zoned 'RE Existing Residential'. The objective for this land-use zoning is '*to protect, provide and improve residential amenities of existing residential areas*'.

The following landscape provisions are relevant.

- The appeal site adjoins an 'Area of High Amenity'.
- BALT 9 which relates to the protection and enhancement of biodiversity.

6.0 National Policy

6.1. National Planning Framework, 2018

The recently published National Planning Framework, 2018 – 2040, recommends compact and sustainable towns / cities, brownfield development and densification of urban sites. Policy objective NPO 35 recommends increasing residential density in settlements including infill development schemes and increasing building heights.

Some other relevant policies from the NPF include the following;

- NPO 6 – Regenerate / rejuvenate cities, towns and villages
- NOP 13 – Relax car parking / building heights to achieve well-designed high-quality outcomes

6.2. Sustainable Residential Development in Urban Areas, 2009

The Guidelines promote higher densities in appropriate locations. A series of urban design criteria is set out, for the consideration of planning applications and appeals. Quantitative and qualitative standards for public open space are recommended. In general, increased densities are to be encouraged on residentially zoned lands, particularly city and town centres, significant 'brownfield' sites within city and town centres, close to public transport corridors, infill development at inner suburban locations, institutional lands and outer suburban/greenfield sites. Higher densities must be accompanied in all cases by high qualitative standards of design and layout. Chapter 6 sets out guidance for residential development in small towns and villages.

7.0 The Appeal

7.1. The following is the summary of a third-party appeal submitted by Frances Kenny resident of the immediate house to the west of the appeal site;

- The proposed development is not in keeping with protecting, providing and improving residential amenity.

- The proposal is inconsistent with the character and density of the local area.
- Proposal is located within an 'Area of High Amenity'.
- The site is visible from the N81.
- The proposal would impact on a protected prospect.
- The proposed development by virtue of its bulk and scale and location on an elevated and unscreened site in a landscape area of high amenity would form an incongruous and intrusive feature on the landscape and would be contrary to the above standards and objectives and proper planning and development.
- The proposal would result in a serious loss of privacy and loss of amenity to the appellant.
- The proposed development would result in overshadowing.
- The proposal would significantly undermine the enjoyment of the appellant's property and devalue their home.
- There is a lack of information to assess the proposed development. Information such as cross sections from the proposed houses and ridge line levels, elevations etc.
- The proposal would result in an adverse impact on the landscape given the location of an appeal site situated below Baltinglass Hill (also known as Cars Rock).
- The proposal will have an adverse impact on this semi-rural location.
- The adjoining public road is narrow.
- The proposal would pose serious traffic hazard if built, as the existing public road and pedestrian facilities are currently inadequate to cater for the scale of the proposed development.
- No footpaths as the roads are narrow.
- The lack of pedestrian facilities was pointed out in Local Authority refusal L.A 15/1111
- Construction traffic alone would cause chaos.

- The gradient descending onto the public road would also form a traffic hazard.
- It is submitted that there are gradients of 1:20 for the first 4.8 metres at the entrance and 1.8 beyond this going back through the site.
- The proposed entrance will directly face onto two existing entrances which will result in a traffic hazard.
- There is no evidence of sightline provision on the drawings. In L.A. Ref. 15/1111 it was required that the front boundary is set back by 3.3m from existing road edge.
- The proposed development is contrary to biodiversity policy objective Balt 9 which seeks to protect trees, hedgerows and watercourses.
- The removal of the roadside boundary will amount to a lot of pollution and dirt on the public road.
- There is a precedent of planning applications been refused permission for housing developments on this side of the Shroughaun Road.
- There are other pending housing developments in Baltinglass. As such there is no shortage of housing supply in Baltinglass.
- The proposal will result in an adverse impact on the landscape.
- The 1.8m wide footpath will not widen the footpath in any way for vehicles / pedestrians crossing the road.
- The flow of surface water drainage onto the public road will increase.
- The proposed development will result in overshadowing and as a result a devaluation of property.
- The planting of trees is proposed and this will result in the darkening light to the appellants and neighbouring homes.

8.0 Observations

The following is the summary of an observation submitted by Anabella Bowen.

- The area around the appeal site is semi-rural in character.
- The local road is also used by cars, trucks, tractors and trailers. It is therefore contended that the widths for rural roads should be applied.
- It is submitted that there are no standards for rural roads in the Design Manual and Urban Roads and Streets.
- It is contended that the proposed development would canalise all the surface water to a manhole beside the entrance of the observer's property.
- It is contended that a survey should be required as it would provide the basis for gradients and water drainage drawings.

9.0 Responses

The following is a summary of a first party response;

- It is submitted that the length of the road from the town to the N81 via Shroughaun is circa 2.3km. It is submitted that Wicklow County Council have no immediate plans to carry out road or pedestrian improvements.
- However, it is understood that local landowners will carry out improvements on foot of a grant of permission. As such no improvements will take place unless individual owners carry them out.
- Incremental improvements have taken place since the granting of permission in Wicklow County Council ref. 07/2695 (appeal ref. 229124). These improvements were carried out by property owners as a condition of planning permission.
- The appeal site is located approximately 0.8km from the town and within the 50kph zone.
- The proposed development will provide 200 metres of footpaths which will improve safety. This is a major planning gain and will act as a catalyst for further improvement works.
- The applicant is satisfied to complete the footpath as required should permission be granted.

- It is submitted that condition no. 2 (c) and condition 3 place an unfair burden on the applicant. These conditions combined with condition no. 4 and condition no. 5(a) will make it difficult for this development to go ahead.
- It is requested that condition no. 3 is removed and condition 2(c) should be amended to read that the footpath shall be extended from the '*southern corner of the subject site to a point of road frontage 15 metres to the front of the site to the south*'.
- A letter of agreement has been acquired from the owner of the site to the south. This letter was submitted to the Local Authority. This footpath will be 1.5m wide and the roadside ditch will be set back accordingly. The new footpath should extend as far as the wall of the neighbouring site and would overlap by 15 metres with any future path on the opposite side of the road.
- The proposed change would provide a new footpath of circa 150m long which would be of significant benefit to the area similar to the road.

10.0 **Assessment**

- Principle of Development
- Impact on Residential Amenities
- Landscape / Visual Impact
- Vehicular Access / traffic safety
- Condition no. 2 (c)
- Condition no. 3
- EIAR
- Appropriate Assessment

10.1. **Principle of Development**

- 10.1.1. The appeal site is located within the settlement boundary of Baltinglass in accordance with the provisions of the Wicklow County Development Plan, 2016 –

2022. The appeal site is zoned 'RE Existing Residential' and as such the proposed residential development is permitted in principle.

10.1.2. The recently adopted National Planning Framework¹ (NPF) recommends compact and sustainable towns / cities, brownfield development and densification of urban sites. The themes of compact and sustainable development are reinforced by policy objective NPO 35 from the NPF as this policy objective recommends increasing residential density in settlements including infill development schemes and increasing building heights. It is national policy, (i.e. Sustainable Residential Development in Urban Areas, 2009), to promote residential densities in urban areas in close proximity to services and public transport.

10.1.3. Therefore, I would consider, having regard to the zoning objective pertaining to the appeal site and national planning policy that the principle of the proposed development is acceptable provided that the proposal has adequate residential amenity, adequately safeguards the amenities of the adjoining properties, would not result in a traffic hazard, protects the environment, and would be in accordance with the provisions of the Wicklow County Development Plan, 2016 – 2022.

10.2. **Impact on Residential Amenities**

10.2.1. In considering the impact on established residential amenities I would consider that a significant issue is the contrasting site levels between the appeal site and the established housing located on the opposite side of the public road.

10.2.2. In accordance with the submitted site layout plan there is on average a 1m to 1.5m difference in levels from the from the ground level in front of the proposed 4 no. houses relative to the level of the public road adjacent to the appeal site. The established houses on the opposite side of the public road are generally two-storey in height and on average the finished floor level of these houses are approximatley 0.5m – 1m lower than the public road. As such I would estimate that there is an

¹ Adopted 16th February 2018

overall site difference of between 1.5m – 2.5m from the proposed development to the established houses.

10.2.3. The front elevations of the proposed houses are located between 30m – 33m from the opposing front elevations of the established houses. The proposed development comprises of two different house types. House no. 1 is designed as house type 1 and this house type is a detached dormer bungalow which a floor area of 251 sq. metres. The maximum height of house type 1 is 7.6 metres above ground level. The remaining houses, i.e. no's 2 – 4, are designed as house type 2 and these are detached dormer houses with a floor area of 184 sq. metres. The overall height of house type 2 is 7.6 metres above ground level.

10.2.4. I would have concerns that the proposed houses, given their scale and having regard to the difference in site levels from the proposed development relative to the established houses on the opposite side of the public road, would be imposing for established residential amenities. The proposed development would require mature site planting to ameliorate potential overlooking and until such time that mature planting is in place the proposed development will also be imposing in terms of overlooking.

10.2.5. I would consider that the proposed development, in accordance with the submitted plans, would be visually imposing and would overlook established residential amenities and as such would seriously injure established residential amenities.

10.3. **Landscape / Visual Impact**

10.3.1. I have referred to visual impacts on residential amenities above and I will now consider visual impacts on the landscape.

10.3.2. The appeal site is located effectively to the north of Baltinglass town centre in almost a semi-rural area. The local landscape is defined by hills, i.e. Baltinglass Hills, located to the immediate east of the appeal site and the River Slaney situated to the

west of the appeal site, beyond the established houses located on the opposite side of the public road from the appeal site. A defining feature in the local landscape therefore is a rising gradient from west to east.

- 10.3.3. Chapter 10 'Heritage' of the Wicklow County Development Plan, 2016 – 2022, sets out the landscape objectives in the County. The hills (Baltinglass Hills) situated to the immediate east of the appeal site are designated 'Area of High Amenity'. Section 10.3.9 of the County Development Plan describes this area as *'the rolling undulating terrain of the hills around Baltinglass, characterised by the existence of important archaeological remains and monuments. This area is of significant heritage value while also forming a key tourist attraction within this area'*.
- 10.3.4. Policy Objective N49 is relevant and this policy states *'all development proposals shall have regard to the County landscape classification hierarchy in particular the key landscape features and characteristics identified in the Wicklow Landscape Assessment (set out in Volume 3 of this plan) and the 'Key Development Considerations' set out for each landscape area set out in Section 5 of the Wicklow Landscape Assessment'*.
- 10.3.5. The Baltinglass environs is also afforded protection by a prospect and this is illustrated by map 10.15 of the County Development Plan. Prospect no. 27 of the Wicklow County Development Plan, 2016 – 2022, sets out to protect N81 north of Baltinglass, Slaney Drive Prospect of Slaney river valley, Baltinglass Abbey Rathnagree and Rathcoran hillforts.
- 10.3.6. I would consider that the 4 no. houses proposed are a significant scale given their location on a site adjoining an 'Area of High Amenity'. The proposed houses are two-storey in height and have a relatively large floor plates and in my view, would adversely impact on the landscape. Having regard to the topography of the site and surrounding landscape and the absence of a visual impact assessment, it is considered that the proposal would appear particularly visible and prominent on the landscape and would interfere with the character of the landscape.

10.4. **Vehicular Access / Traffic Safety**

- 10.4.1. The proposed development for 4 no. houses proposes a single vehicular entrance onto the public road. I noted from my site inspection that the public road adjoining the appeal site is narrow and that there is a bend on the public road situated to the north of the appeal site.
- 10.4.2. There was no drawing submitted with the original planning application which demonstrated the proposed sightline provision for the proposed development. A report from the Transportation & Roads Infrastructure division of the Local Authority, dated 20th December 2017, recommended refusal as it was considered from an inspection of the site that the sightlines at the entrances as proposed would not meet the appropriate standards. An internal report on the file from the Area Engineer outlined concerns as it was stated that the minimum sightline provision of 70m would be required. The report considers that this is not available to the north and south of the proposed entrance.
- 10.4.3. The Area Planner subsequently drafted a recommendation for refusal with refusal reason no. 1 stating that the proposed development would endanger public safety by reason of traffic hazard as the local road network is considered insufficient in terms of its width, alignment and footpath.
- 10.4.4. However, a decision to refuse permission was not issued and the applicant submitted unsolicited additional information. This included a sightline drawing with a sightline provision of 49m in either direction. This drawing also indicated a public footpath to the front of the site. A subsequent report by the Transportation & Roads Infrastructure division, dated 18th April 2018, recommended a grant of permission. This report concludes that the appeal site is located in an area with a 50kph speed limit and the stopping sight distance of 45m is required in 50kph zones.
- 10.4.5. The Area Planner having considered the unsolicited additional information submission concluded that the access arrangements are acceptable. The Area

Planner had regard to the report from the Transportation and Roads Infrastructure Section in deciding to recommend a grant of permission. There is a handwritten note by the Senior Engineer at the end of the Area Planner's report, dated 20th April 2018, which concludes that footpaths as proposed in submitted drawing no. A1-102Rev A would be required in addition to the proposed footpath on the opposite side of the public road. However, the Senior Engineer notes that the areas for these proposed footpaths are located outside the control of the applicant and therefore there is insufficient evidence that the proposed footpath can be provided and as such recommended refusal.

10.5. A further handwritten report is attached to the local authority decision. It is not clear from this report the actual seniority of the author however it is clear that the report recommends grant of permission. (I have included a typed version of this report in my attached pouch). The report accepts that the road onto which the proposed vehicular entrance faces is a rural road however considers that it is within an urban context and that the proposed vehicular entrance and sightline provision is acceptable.

10.6. On the basis of the information available and having regard to a site inspection I would conclude that the proposed development would endanger public safety by reason of traffic hazard as the local road network serving the site is considered to be insufficient in terms of its width, alignment and footpath provision.

10.7. **Condition 2 (c)**

10.7.1. Firstly, I would note that the applicant has raised concerns with conditions in their response submission rather than an appeal submission.

10.7.2. Condition no. 2 (c) requires that the proposed footpath is extended to the southern end of the neighbouring site to the south. This would effectively amount to a longer footpath than is proposed in the submitted drawings. The applicant considers

this is onerous and recommends that the footpath should extend no more than 15 metres to the front of the site to the south.

10.7.3. I would consider that subject footpath extension is beyond the red line boundary of the appeal site and therefore it would not be possible under any grant of permission in this application to facilitate its construction.

10.7.4. I would therefore recommend a special development contribution should the Board favour granting permission in accordance with the Planning and Development Act, 2000, to ensure the construction of the subject footpath beyond the red line boundary of the appeal site.

10.8. **Condition 3**

10.8.1. Condition no. 3 requires that no houses are occupied until the footpath referred to in condition 2 (c) is completed. As I have outlined above the footpath as proposed in condition 2 (c) is outside the red line boundary of the application / appeal site and as such any condition requiring the construction of a footpath beyond the red line would be ultra-vires. I therefore recommend a condition to the Board, should they favour granting permission, requiring a special development contribution for the provision of a footpath.

10.9. **EIA Screening**

10.9.1. Based on the information on the file, which I consider adequate to issue a screening determination, it is reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the proposed development and an environmental impact assessment is not required.

10.10. **Appropriate Assessment**

10.10.1. The proposed development is an urban development and will be served by public services.

10.10.2. Having regard to the nature and scale of the development proposed, to the nature of the receiving environment and the likely effluents arising from the proposed development I recommend that no appropriate assessment issues arise.

11.0 **Recommendation**

11.1. 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 reasons set out below.

12.0 **Reasons and Considerations**

1. It is considered that the proposed development would endanger public safety by reason of traffic hazard as the site is located alongside a narrow rural road with restricted sightlines and the introduction of vehicular entrance with limited sightline provision without complete pedestrian facilities would give rise to a traffic hazard and would interfere with the safety and free flow of traffic on the public road.
2. It is considered that the proposed 2 no. houses by reason of their scale, would have an overbearing impact, would be visually obtrusive, would overlook and would seriously injure the residential amenities of the properties on the opposite side of the public road. As such the development would detract from the amenities of adjoining properties, would be out of character with, and fail to respect the established pattern of development in the vicinity, and would set an undesirable precedent for similar type of development in the area. The proposed development would, seriously injure the residential amenity of the

area and would, therefore be contrary to the proper planning and sustainable development of the area.

3. The site of the proposed development is located on a site adjacent to lands designated as part of an Area of High Amenity in the Wicklow County Development Plan, 2016 – 2022, where it is the policy of the planning authority to control development in an order to protect the amenities and assets of the landscape. Having regard to the topography of the site and surrounding landscape and the absence of a visual impact assessment, it is considered that the proposal would appear particularly visible and prominent on the landscape and would interfere with the character of the landscape.

Kenneth Moloney
Planning Inspector
26th October 2018