



An
Bord
Pleanála

Inspector's Report ABP. 302214-18

Development	Construction of 6 no. dwellings and associated works.
Location	Cookstown, Church Hill, Enniskerry, Co. Wicklow.
Planning Authority	Wicklow Co. Council
Planning Authority Reg. Ref.	17/1456
Applicant	Catherine O'Laoire
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant	Gabrielle Landseer
Observers	None
Date of Site Inspection	16/11/18
Inspector	Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.954 hectares is situated within the village of Enniskerry, Co. Wicklow. The site which includes an existing 380m laneway is located on the eastern side of Church Hill Road. There are four existing detached properties served by the laneway.
- 1.2. The main section of the site is situated circa 230m to the east of Church Hill Road. The site levels rises from 85m in the north-eastern corner to 102m in the south-western and has a gradient of 1:5. The existing access road loops around the site. The site boundaries are defined by mature trees and hedging. The land to the north of the site contains mature deciduous woodland which is situated within the valley of the Glencullen River.
- 1.3. Blundell Hill (Protected Structure) formerly a hotel, is now three separate houses which includes the appellant's property lies to the south of the site. Summerhill House Hotel including a separate apartment block is situated to the south-east of the site. These properties are access from the Cookstown Road to the south.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of 6 no. detached dwellings.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted permission subject to 19 no. conditions.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

- Report dated 30/1/18 – Further Information was requested on the following;
 - (1) Address the height, design and proposed finished floor levels of the proposed dwellings to ensure that the dwellings would not appear incongruous and visually obtrusive.

Submit details of floor, eaves and ridge heights of the two existing properties adjoining the western boundary of the site. Demonstrate that there is appropriate transition in the dwelling levels and heights across the site.
 - (2) Submit a geotechnical report in relation to ground conditions on the site and the impact on slope stability of proposed construction. Details should include ground and surface water flows and construction of the attenuation tank at the edge of the embankment should also be analysed.
 - (3) Investigate the capacity of the public sewer to accommodate the discharge from the proposed development.
 - (4) Provide details as to the reason for raising the ground levels on plots 3 and 4. The FFL's are between 2m and 4m higher than the existing ground level.
 - (5) The areas indicated as public open space are not usable open space. Submit revised plans showing those areas incorporated into the individual house plots.
 - (6) Condition 3(e) of (PA Reg. Ref. 15/802 & ABP Ref PL 27.246219) requires that the road be widened along the edge of plot 3 to allow two-way traffic movements on the curved section of the road. Demonstrate that there is sufficient space for two-way traffic movements on that section of the road.

3.2.2. Other Technical Reports

Roads Section – No objection subject to conditions.

Environment Section – Refusal recommended due to concerns of risk to groundwater, lack of capacity in existing storm sewers and suitability of siting of the proposed attenuation tank on the edge of a steep embankment.

3.3. Prescribed Bodies

Irish Water – No objection

3.4. Third Party Observations

- 3.4.1. The Planning Authority received two observations/submissions the main issues raised are similar to those set out in the appeal.

4.0 Planning History

There are a number of previous applications pertaining to the site and adjacent sites which are detailed in the report of the Planning Authority. The most recent relevant cases are as follows;

PA Reg. Ref. 17/901 – Permission was refused for the development of 8 no detached, two storey dwellings, vehicular and pedestrian access from Church Hill as permitted under Wicklow County Council Ref Number 15/802, ABP Ref PL 27.246219, including widening and alteration of access gateway on Church Hill and upgrading of driveway from Church Hill to site, site distributor roadway, provision of new surface water sewer in site distributor road and driveway, to connect to existing surface water sewer in Church Hill, rerouting of existing foul sewerage on site and in site distributor roadway, site surface water infiltration ditches and underground attenuation tank, all ancillary site works and landscaping works on 0.84 ha site (0.954 ha inclusive of access driveway)

1. Having regard to:
 - the location of the proposed development on an elevated backland site,
 - the pattern of existing development in the area,

- the inadequacies of the road infrastructure serving the development including an access road which is deficient in width and an associated inadequate junction with the public road,
- the height, size, scale and floor levels of the proposed houses,
- the layout of the proposed sites wherein the houses occupy a substantial part of the sites resulting in a lack of circulation and quality private amenity space around the proposed dwellings,
- the lack of information regarding whether the development may intrude on the listed view from Summerhill House Hotel towards the Cookstown Valley and Ballyman Glen

it is considered that the proposed development would represent haphazard development, would be out of character with the existing pattern of development in the area in terms of site layout and design, would be overdevelopment of this restricted site in the context of the overall area and would fail to integrate in the overall area. The proposed development would therefore be injurious to the visual amenities of the area and would be injurious to the amenity of future residents, and would be contrary to proper planning and development.

PA Reg. Ref. 15/802 and ABP Ref PL 27.246219 – Permission was granted for site development works to serve 6 no. Houses and outline permission was granted for 6. no. Houses.

- Condition no. 2 of the outline permission, referred to the vehicular access and laneway serving the site and required that the upgrading works shall be carried out prior to the construction of any dwellings on the site.
- Condition no. 3 of the outline permission, referred design details to be supplied at permission consequent stage to comply with the following;
 - (a) The ridge height of the dwelling shall not exceed 7.5 metres.

(b) Full details of finished floor levels and grounds levels of individual sites including measures to ensure slope stability.

(c) Full details of external finishes.

(d) Full details of boundary treatment for individual dwellings.

(e) The estate road shall be widened along the edge of Plot 3 to allow for two way traffic movements on the curved section of the road.

5.0 Policy Context

5.1. Bray Municipal District Local Area Plan 2018 – 2024 including the settlements of Bray, Enniskerry and Kilmacanogue

5.1.1. The site is zoned 'RE' – Existing Residential with a stated objective 'to protect, provide for, and improve residential amenities of existing residential areas'.

5.2. Wicklow County Development Plan 2016 – 2022

5.2.1. Appendix 1 – refers to Development Design Standards

5.2.2. Protected Structure REF. No. 03-31 - Blundell Hill, Enniskerry former Hotel (now three separate houses) is situated to the south of the site.

5.2.3. Schedule 10.14 of Development Plan – Views of Special Amenity Value or Special Interest

- View No. 6 – Origin from Summerhill House Hotel north towards the Cookstown Valley and Ballyman Glen.

5.3. Natural Heritage Designations

5.3.1. The nearest Natura 2000 sites are;

- Knocksink Wood SAC is located 290m to the north of the site.
- Ballyman Glen SAC is located 1.1km to the north of the site.
- Wicklow Mountains SAC is located 3.4km to the west of the site.

- Wicklow Mountains SPA is located 4km to the west of the site.
- Bray Head SAC is located 4.6km to the east of the site.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal was submitted by Gabrielle Landseer. The main issues raised are as follows;

- The appellant highlighted that the order to grant permission was dated 10/07/2017. It is submitted that the order is invalid and that permission should be refused by the Board.
- The south-east boundary of the site adjoins the appellants property Blundell Hill. Blundell Hill is a Protected Structure built circa 1800. The appellant has expressed concern in relation to the impact of the proposed development upon Blundell Hill in terms of the visual and residential amenities.
- The appellant stated that the report of the Planning Officer did not address the location of the Blundell Hill in relation to the application site and proposed development.
- The access road proposed to serve the scheme is off Church Hill. There are 3 no. existing houses located on the road with 6 no. new houses proposed. If each household had two cars then there would be twenty vehicles using the entrance. Traffic has increased significantly in Enniskerry since 2007. It is contended that the additional traffic generated would exacerbate existing traffic problems.

6.2. Applicant Response

A response to the third party appeal was submitted by Auveen Byrne Associates on behalf of the applicant Catherine O'Laoire. The main issues raised are as follow;

- The first party requests that the Board consider the use of its discretion to dismiss the appeal under Section 138 of the Planning and Development Act 2000 (as amended).
- The first party sets out that the appeal is without substance and that the site has the benefit of planning permission for similar development. Under PA Reg. 15/802 and ABP Ref. PL 27.246219 permission was granted for an access gateway from Church Hill, Enniskerry, driveway from the gate to the site, service roadway and piped infrastructure to serve the development of 6 no. dwellings. Outline permission was granted for 6 no. dwellings on the site.
- The current application is for full permission for the same access gateway and driveway from Church Hill. Permission is sought for 6 no. dwellings with ground to floor levels not materially different from those granted outline permission. The proposed dwellings are slightly higher than those permitted. Condition no. 6 of the grant of permission from the Planning Authority limited the heights of the houses to 7.5m ground to ridge.
- The appeal refers to the grant of permission issued by Wicklow Co. Council dated 10.07.2017 and states that it should have read 10.07.2018. This misdating is a clerical error on the decision to grant permission and is not a ground for a refusal of permission by the Board.
- The appellant states that there was no mention in the Planning Officers report of her property Blundell Hill and the potential impact the development would have in terms of views and privacy.
- However, it is noted in the first party response that the report of the Planning Officer refers to Blundell Hill, Protected Structure as being located to the southern site boundary. It is also stated in the report that the proposed dwellings are distant from neighbouring residences and that no overlooking would arise.

- The appellant refers to the proximity of the septic tank serving her property and the site boundary. It is considered that this issue has previously been assessed.
- The appeal raises the matter of the traffic generated by the proposed development and that it would have a significant impact on the capacity of roads within the village. It is put forward that there is extent permission for an access gateway and driveway serving the 6 no. dwellings.
- It is contended that the grounds of appeal are without substance.
- Condition no. 3(a) of the Boards decision to grant outline permission under ABP Ref. PL 27.246219 limits the height of the dwellings to 7.5m ridge line over ground level.
- Under the current application permission is sought for 6 no. dwellings. Permission consequent could have been sought however there are some differences between the proposed scheme and what was permitted. The positioning of the houses has been revised, there is an increase in the ground floor level of the houses and an increase in the ridge height of the house with a reduction in the height of the retaining wall.
- The access and piped services were permitted under PA Reg. 15/802 and ABP Ref. PL 27.246219. Therefore, it is suggested that the issues of concern in relation to the current application refer to the house types proposed, layout of houses on site, compliance with development standards, potential overlooking and visual impact.
- It is contended that the currently proposed scheme does not differ significantly from the scheme which received outline planning permission.
- A Visual Impact Study was submitted which indicates that the proposed development would not be visible from any relevant vantage points including the protected view from the car park of the Summerhill House Hotel.

- The scale of the proposed dwellings would not differ significantly from that of the inferred ground area which indicated with the plans for the outline permission which was granted.
- The proposed dwellings have floor areas of 247sq m (House type B) and 290sq m (House type C). The proposed ridge levels of the dwellings are stepped which reduces the bulk and scale of the elevations.
- The Planning Authority in the grant of permission conditioned that the ridge height of the dwellings shall be no more than 7.5m. It is argued in the submission that there is no basis for this limitation as the proposed dwellings would not be visible from the surrounding area. The applicant has not appealed the conditioned however the visual impact assessment submitted with the additional information indicates that no visual impact would arise. It is suggested to the Board that condition no. 6 as attached by Wicklow Co. Council in their grant of permission is not warranted.

6.3. Planning Authority Response

- None received

7.0 Assessment

Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Design and impact upon amenity
- Access and traffic
- Appropriate Assessment
- Environmental Impact Assessment
- Other issues

7.1. Design and impact upon amenity

- 7.1.1. The proposal development provides for the construction of 6 no. detached dwellings. There is extant outline permission for 6 no. detached two-storey dwellings on the site. The appeal refers to potential impact upon visual and residential amenity in relation to the appellant's property Blundell Hill (Protected Structure). Blundell Hill is situated to the south of the site. The building itself lies a minimum distance of 30m from the southern site boundary. Regarding any potential visual impact upon Blundell Hill (Protected Structure) or indeed Summerhill House to the south-east of the site, I note that there is existing mature tree planting which provides a buffer and screening between the boundary of the appeal site and the adjoining properties to the south.
- 7.1.2. While, I note that Summer Hill House itself is not a Protected Structure there is a listed view from the property. View No. 6 with the origin from Summerhill House Hotel north towards the Cookstown Valley and Ballyman Glen is designated under Schedule 10.14 of Development Plan – as a View of Special Amenity Value or Special Interest.
- 7.1.3. The Planning Authority in their assessment of the applicant sought further information concerning design aspects of the scheme including submission of revised plans to address the height, design and proposed finished floor levels of the proposed dwellings to ensure that the dwellings would not appear incongruous and visually obtrusive. In response to this the applicant submitted a Visual Impact Assessment prepared by ARC Architectural Consulting Limited. A total of 9 no. viewpoints were taken from locations in the surrounding area towards the site. Viewpoint no. 9 was taken from the grounds of Summerhill House Hotel north towards the site and towards the Cookstown Valley and Ballyman Glen. As indicated on the photomontage the proposed dwellings would not be visible within the listed view. Furthermore, I note that the proposed development would not be visible within any of the viewpoints provided in the Visual Impact Assessment.

- 7.1.4. The Planning Authority had concerns in relation to the proposed heights and finished floor levels of the dwellings and particular those proposed on the upper section of the site. Drawing No: 17-101-P003 indicates the proposed contextual elevations of the dwellings relative to the two existing dwellings adjoining the site to the west. As indicated on the drawing the proposed ridge heights of the dwellings on the upper section of the site would be below the existing ridge height of adjacent two-storey property which has a ridge height of 107.94m. I note that the ridge heights proposed to the three houses on the lower section of the site would be higher than the neighbouring property on the adjoining lands to the west. On the basis of the information and details contained in the Visual Impact Assessment which indicates that the subject dwellings would not be visible from surrounding viewpoints on the road network to the north, south, east and west and having regard to the extensive tree screening, I consider that the proposed dwellings can be satisfactorily assimilated into the site. Therefore, I am satisfied that the proposed dwellings with ridge heights ranging between 7.97m and 8.32m would not appear visually obtrusive.
- 7.1.5. Regarding the issue of overlooking or loss of privacy of the appellants property, having regard to the separation distance of over 30m between the site boundary and the appellants dwelling and the extensive mature screen planting, I am satisfied that the proposed scheme would not result in any undue overlooking of the neighbouring residential property to the south.

7.2. **Access and traffic**

- 7.2.1. Vehicular access to the scheme is proposed via the existing access road which runs east from the public road at Church Hill. The appellant has raise concerns in relation level of additional traffic which the development would generate and the capacity of the existing road network in Enniskerry to accommodate the increase.
- 7.2.2. Under PA. Reg. Ref. 15/802 and ABP Ref. PL 27.246219 permission was granted for the widening of the access gateway on Church Hill and the upgrading of the access road. Outline permission was also granted for 6 no. dwellings. The current application for full permission for 6 no. dwellings if granted would supersede the outline permission with the same number and type of dwellings permitted. Therefore,

the subject proposal would not result in an increase in traffic levels beyond that assessed under the outline permission.

- 7.2.3. The report of the Roads Section of Wicklow Co. Council has no objection to the proposal. The Planning Authority sought further information in relation to a number of issues including that plans/proposals be submitted to demonstrate that sufficient space is provided for two-way traffic movements on the curved section of the access road. The report received from Barrett Mahony Consulting Engineers in response to the further information stated that an auto track assessment was carried out for a car and a bin lorry going in opposite directions on the curved section of the road. This scenario is indicated on drawing C1250. As illustrated on the drawing a 5.5m section road can accommodate these two vehicles passing including on the curved section of road.
- 7.2.4. I note that the Planning Authority are satisfied with the proposal in relation to roads and access considerations subject to upgrading works to the vehicular access and laneway being carried out prior to the construction of any dwellings on site. Should the Board decide to grant permission, I would recommend the attachment of a similarly worded condition to ensure that the road is upgraded and is fully in compliance with the Council's requirements prior to the development of the dwellings.
- 7.2.5. The appellant referred to the increase in traffic levels experienced in Enniskerry in the past ten years. While, I would acknowledge this has occurred due to the limited planned expansion of settlement, having regard to scale of the proposed development and the location of the site within the village centre, I would consider that the level of traffic likely to be generated by the proposed development to be modest in level and in keeping with existing traffic generated at this location. Furthermore, I am satisfied having regard to the details contain on file including the reports of the Planning Section and having inspected the site and road network in the vicinity I would consider that such is of sufficient capacity to deal with level of traffic likely to be generated by the proposed development.

7.2.6. Accordingly, I consider the proposed development is acceptable in terms of access and traffic considerations.

7.3. **Appropriate Assessment**

7.3.1. Having regard to the nature and scale of the proposed development, and the location of the site within an established urban area, and its distance 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.

7.4. **Environmental Impact Assessment**

7.4.1. Having regard to the nature and scale of the development which consists of a scheme of dwellings in a fully serviced urban location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.5. **Other issues**

Validity of appeal

7.5.1. The first party has requested that the Board consider the use of its discretion to dismiss the appeal under Section 138 of the Planning and Development Act 2000 (as amended). They contend that the appellant has not provided adequate grounds of appeal. In response this I would consider that the appellant has cited the matters of visual and residential amenity and traffic generation in the third party appeal. Accordingly, I consider that adequate grounds of appeal have been submitted.

7.5.2. The appellant highlighted in the appeal that the decision order issued by the Wicklow Council in relation to the application Reg. Ref. 17/1456 was dated 10/7/2017. The application was lodged on the 8/12/2017 therefore it is clear that this is a clerical error where the year of the decision was mistakenly written as 2017, whereas it should have been recorded as 2018. I would concur with the response from the first party on the matter that the misdating is a clerical error on the decision to grant permission and therefore is not a ground for a refusal of permission by the Board.

8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the residential zoning of the site, to the pattern of development in the area, to the planning history of the site and to the design and scale of the proposal, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particular lodged with the application, as amended by the further plans and particulars submitted on the 18th day of June, 2018, 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. Upgrading works to the vehicular access and laneway serving the site shall be carried out prior to the construction of any dwellings on site.

Reason: In the interest of orderly development and traffic safety.

3. 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 visual amenity.

4. 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. This shall include the submission of final design details of the surface/storm water drainage in accordance with the requirements of Greater Dublin Strategic Drainage Study (GDSDS) for the written agreement of the planning authority.

Reason: In the interest of public health.

5. Details of the proposed landscaping and site boundary treatment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

6. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to

commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

7. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

8. Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays, Bank or 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 other to safeguard the residential amenities of property in the vicinity.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual amenity.

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

11. A plan containing details for the management of waste and recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and recyclable materials and for the ongoing operation of these facilities within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and recyclable materials, in the interest of protecting the environment.

12. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other

security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

13. 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 phase 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.

Siobhan Carroll
Planning Inspector

30th of November 2018