



An
Bord
Pleanála

Inspector's Report ABP.302395-18

Development	Erection of house, upgrade to existing entrance, connection to all services together with all ancillary works.
Location	Newcourt Avenue, Bray, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	18140
Applicant(s)	Ryan Davis
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	As above
Observer(s)	None
Date of Site Inspection	29 th November 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. Internal Reports;.....	5
3.4. Third Party Observations	6
3.5. Submissions.....	6
4.0 Planning History.....	6
5.0 Policy Context.....	6
6.0 The Appeal	7
7.0 Observations.....	8
8.0 Assessment	10
9.0 Recommendation.....	15

1.0 Site Location and Description

- 1.1. The appeal site is located within Bray, Co. Wicklow.
- 1.2. The appeal site itself is located between two established houses which are located off Newcourt Avenue. Newcourt Avenue is typical of a suburban development with both single storey and two-storey houses with front and back gardens.
- 1.3. The house situated to the immediate east has an elevated single storey extension to the rear.
- 1.4. The majority of the appeal site is situated to the rear garden of no. 197 Newcourt Road. The rear garden for no. 197 Newcourt Road is a long and split-level garden with the very rear of the garden tipping Newcourt Avenue.
- 1.5. The appeal site also includes part of the front garden of the adjoining property to the immediate east and part of the front, side and rear garden of the adjoining property to the immediate west.
- 1.6. The size of the appeal site is 0.029 ha (0.07 acres) and the shape is irregular.
- 1.7. The gradient of the subject site falls gradually from Newcourt Avenue to the rear of the site.
- 1.8. A significant feature of appeal site and that of the adjoining property no. 197 Newcourt Road is that no. 197 is situated at a lower level than the appeal site.
- 1.9. The rear garden of no. 197 Newcourt Road is accessible from the appeal site by approximately a dozen steps.

2.0 Proposed Development

- 2.1. The proposed development is for the construction of a new dwelling.
- 2.2. The proposed house is a contemporary in design and the floor plan expands over three floors. The total floor area of the proposed house is 119 sq. metres.
- 2.3. The design of the proposed house includes a flat roof design.
- 2.4. The proposed house is a split-level design and the proposed floor plan provides for a lower ground floor, a ground floor and a first-floor level.

- 2.5. The front elevation is two-storey in height and the rear elevation is three-storey in height.
- 2.6. The height of the two-storey elevation is 5.9 metres above ground level and the height of the three-storey elevation is 8.7 metres above ground level.
- 2.7. The proposed development also includes a first-floor balcony situated to the rear.
- 2.8. The proposal includes provision for 2 no. car parking spaces.
- 2.9. The proposed development will be connected to public services.

3.0 Planning Authority Decision

3.1. Wicklow County Council decided to **refuse** permission for the following reason;

1. Having regard to:

- the location of the site within an existing residential area where the objective is to allow for infill residential development that protects the amenity of adjoining properties and the general character of the area (as per the Bray Municipal District Local Area Plan 2018 – 2024 and Wicklow County Development Plan 2016 – 2022);
- the location of the development on a seriously restricted site;
- the existing character and pattern of development in the vicinity;
- the design and location of new windows and balconies which will result in direct intrusion into the private living areas of existing dwellings and will create new overlooking of the private areas of adjacent residences and
- the lack of detail provided to demonstrate that a safe entrance is available to serve the proposed dwelling;

it is considered that the development would be contrary to the development plan objectives of the area, would result in overdevelopment of the site, would seriously injure the amenities of properties in the vicinity and would not be

acceptable in terms of traffic safety. The development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

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

Area Planner

- The proposal is located in an urban area where all house designs are not the same.
- The proposal would not represent suitable infill development having regard to the restricted size of the site.
- The proposal would be injurious to the amenities of the local area.
- There are concerns about overlooking to the rear given the local topography.
- The applicant's arguments to overcome overlooking have not been adequately demonstrated.
- Insufficient information is available with regard to the entrance.
- Reference to previous planning permission at no. 87 Newcourt Road, Bray is noted. However, this site is zoned RE Infill where infill housing is encouraged.
- The proposed development would not represent appropriate infill development.

3.3. Internal Reports;

None

3.4. **Third Party Observations**

There are four third-party submissions and I have noted and considered the issues raised. In summary the issues raised are broadly similar to those issues raised in the submitted observations.

3.5. **Submissions**

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

4.0 **Planning History**

None

5.0 **Policy Context**

5.1. **Wicklow County Development Plan, 2016 – 2022,**

The following policies are relevant;

- Policy HD 9 'In areas zoned / designated 'existing residential', house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity will normally be permitted (other than on lands permitted or designated as open space, see Objective HD11 below). While new developments shall have regard to the protection of the residential and architectural amenities of houses in the immediate environs, alternative and contemporary designs shall be encouraged (including alternative materials, heights and building forms), to provide for visual diversity.

- Policy DH 10 'In existing residential areas, infill development shall generally be at a density that respects the established character of the area in which it is located, subject to the protection of the residential amenity of adjoining

properties. However, where previously un serviced, low density housing areas become served by mains water services, consideration will be given to densities above the prevailing density, subject to adherence to normal siting and design criteria.

Appendix 1 of Volume 3 sets out guidance in relation to 'infill / backland development in existing housing areas'.

5.2. **Municipal District Local Area Plan, 2018 – 2024.**

5.2.1. The appeal site is zoned 'Existing Residential'. The zoning objective is '*to protect, provide and improve residential amenities of existing residential areas*'.

6.0 **The Appeal**

6.1. The following is the summary of a first-party appeal.

- The applicant has enlarged his site by acquiring adjoining plots to ensure his proposed house meets the appropriate standards. The appeal site is made up of three plots.
- There is a complete mix of design standards locally comprising of single storey, two and three storey houses. Some of the houses include balconies and excess glass features.
- It is considered that the additional information submission to the local authority has addressed third party concerns.
- It is contended that some of the objections are not valid.
- The design proposed uses the existing contours on the site.
- The rear first floor is equivalent to the ground floor level of the neighbouring property.
- Window locations are carefully chosen to minimise overlooking.
- The parapet wall of the proposed balcony has been increased by 500mm.

- The rear boundary wall is increased to 1.8m and the proposal includes rear planting which will prevent overlooking.
- A submitted traffic report demonstrates that the proposal will not cause any traffic hazard.
- A series of photographs are attached which demonstrate the variety of house designs locally.

7.0 Observations

7.1. The following is the summary of an observation submitted by **Gerry & Clare Dornan** (no. 86 Newcourt Avenue);

- Inappropriate scale. Not in keeping with single storey character.
- Observer's property will be overlooked by balcony and large glass plate windows.
- The drawings do not illustrate the height of adjoining buildings.
- The rear facing sitting room which has large window openings will be closer to Newtown Road than existing buildings.
- The properties on the appeal site already have rear extensions as such the proposal is an infill development within a site already infilled.
- The proposal will sit approximately 11 metres above the observer's house.
- The proposed development will compromise residential amenity.
- The proposal is inconsistent with Section 4.3.4 and Section 3.4.3 of the Bray Development Plan, 2016 – 2022.

7.2. The following is the summary of an observation submitted by **Alison Evans**;

- It is contended that the applicant proposes an upgrade of an existing extension whereas there is no extension in place.
- It is submitted that the proposed design changes will not prevent overlooking of neighbouring properties.

- Some glazed areas to the rear of the proposed design are located less than 45 metres from the observer's property.
- No drawings are available to illustrate that the parapet wall is raised by 500mm. Not possible to assess impact.
- It is contended that the images submitted in the appeal submission are not reflective of an infill site.

7.3. The following is the summary of an observation submitted by **Lucy & Fergal McGovern** of no. 89 Newcourt Road;

- The proposal will result in overlooking. The large plate glass windows at level 3 of the proposed rear elevation will cause significant overlooking into the observer's rear kitchen and bedroom area.
- Overlooking concerns have been addressed towards the applicant's parents' house but not the observer's property.
- The proposed development is located 28 metres from the rear of the observer's property.
- No plans submitted to demonstrate a higher parapet height and rear boundary wall.
- It is submitted that there is no existing entrance as such the planning application is void.

7.4. The following is the summary of an observation submitted by **Stephen O'Kelly** of no. 88 Newcourt Road;

- The proposed 3-storey house is located between two 1-storey houses. This is not in keeping with the existing character.
- It is contended that the images submitted in the appeal submission are not reflective of new builds.

- The restricted nature of the site prohibits sufficient space for a turning circle as such parked cars must reverse out onto the public road.
- There is no existing entrance to the proposed site.
- The redesigned building will only prevent overlooking towards the applicant's parent's house.
- The rear glazing is set back 27 metres from the observer's rear windows.
- The submission does not include all relevant elevations and cross-sections.

8.0 Assessment

The main issues for consideration are as follows;

- Principle of Development
- Impacts on Established Residential Amenities
- Residential Amenities
- Design
- Traffic / Access
- Appropriate Assessment
- EIA Screening

8.1. Principle of Development

- 8.1.1. In accordance with the provisions of the Bray Municipal District Local Area Plan, 2018, the appeal site is zoned RE 'Existing Residential'. The zoning objective is '*to protect, provide and improve residential amenities of existing residential areas*'.
- 8.1.2. The zoning objective provides for '*house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity. In existing residential areas, the areas of open space permitted, designated or dedicated solely to the use of the*

residents will normally be zoned 'RE' as they form an intrinsic part of the overall residential development; however new housing or other non-community related uses will not normally be permitted'.

- 8.1.3. As such the proposed development on the appeal site would be acceptable in principle having regard to the zoning objective of the appeal site. I would also note relevant objectives in the Wicklow County Development Plan, 2016 – 2022, and these include Section 5.4.3.1 'Sustainable Communities' and Section 5.4.3.4 'Densities'.
- 8.1.4. The proposed development is effectively an infill development in a built up residential area and within reasonable walking distance of Bray dart station which is essentially a quality public transportation corridor.
- 8.1.5. 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. Furthermore, the recently published National Planning Framework (NPF), 2018 – 2040, recommends compact and sustainable towns / cities, brownfield development and densification of urban sites. Policy objective NPO 35 of the NPF recommends increasing residential density in settlements including infill development schemes and increasing building heights.

Overall, I would consider that the principle of a proposed residential development on the appeal site is acceptable given the zoning objectives pertaining to the site and national policy to promote higher densities on well-serviced infill sites however any development would need to have regard to established residential amenities.

8.2. **Impact on Established Residential Amenities**

- 8.2.1. A significant feature of the site is the falling levels. The levels fall from the the south-eastern tip of the appeal site, where it adjoins Newcourt Avenue, towards the north-west of the appeal site.

- 8.2.2. The levels of the site have influenced the design of the proposed development. The proposed development is a split-level design providing for two-storey to the front and three-storey to the rear. The overall floor area of the proposed house is 119 sq. metres.
- 8.2.3. The revised front building line is set behind the neighbouring house to the immediate west and slightly behind the front building line of the established single storey house situated to the immediate east of the appeal site.
- 8.2.4. There are 3 no. first floor windows situated on the western elevation of the ground floor level. These windows would be located directly opposite the rear garden on the neighbouring property and in my view, would introduce overlooking to that same property.
- 8.2.5. The proposed balcony, in my view, would introduce a level of overlooking particularly to the house situated to the immediate west of the appeal site. I would also acknowledge that the balcony would offer sea views and therefore form an attractive amenity to potential future occupants but this would have to be balanced with the loss of established residential amenities due to overlooking.
- 8.2.6. I would be less concerned with the potential overlooking implications towards the existing properties onto Newcourt Road having regard to the separation distances. The rear elevation of the proposed house is set back approximately 33-34 metres from the rear elevations of no. 88 and 89 Newcourt Road. The rear elevation of the proposed house is set back approximately 40 metres from the rear elevation 197 Newcourt Road. As such the proposed house would be set back in excess of the 22 metres between opposing rear windows which is a standard planning guideline.
- 8.2.7. In terms of visual impact, I would consider that the scale of the proposed house would have a definite visual impact on the house to the immediate east and west of the appeal site. The proposal would extend approximately 5.6 metres behind the rear elevation of the existing house to the immediate east and 10 metres behind the rear

elevation to the immediate west. This visual impact would have an overbearing impact and in my view, would seriously injure established residential amenities.

8.2.8. The proposed development would be visible from the rear elevations of established properties which face onto Newcourt Road however allowing for the separation distance the proposal would not have a significant adverse impact on established residential amenities.

8.2.9. The proposed development, due to its orientation, would have an overshadowing impact on the established residential amenities to the immediate east which would further reduce established residential amenities.

8.3. **Residential Amenities**

8.3.1. The floor area of the proposed house is 119 sq. metres which would represent a good standard of residential amenity. The rear garden for the proposed house is approximately 80 sq. metres and this would offer a good standard of residential amenity for the proposed 3-bedroom house. The proposal also includes a reasonably sized front garden, although narrow, which would enhance the residential amenities for future occupants.

8.3.2. The proposal provides for two car parking spaces to the front which is consistent with development plan standards.

8.3.3. I would conclude that the proposed development would offer an acceptable level of residential amenities for future occupants.

8.4. **Design**

- 8.4.1. The design of the proposed house is contemporary in nature. I noted from my site inspection that there is generally a mix of house types in the immediate area of the appeal site and there is no consistent pattern of design. Notwithstanding the mixed local character, I note that there is no precedent for flat roof designed houses.
- 8.4.2. The design and character of the proposed house is a departure from the established design character however in my view the proposed design would not be detrimental to the local character nor would the proposal be seriously injurious to the visual amenities of the local area.

8.5. **Traffic / Access**

- 8.5.1. The appeal site currently has no vehicular access onto Newcourt Avenue. It is proposed to widen the front of the site by acquiring some of the front gardens to the east and west of the appeal site.
- 8.5.2. The submitted drawings illustrate that the vehicular access provides for 57 metre sightline in both directions. The traffic generation from the proposed development would not be significant.
- 8.5.3. I would conclude based on a visual observation of the local area and the submitted documentation supporting the application that the proposed development is acceptable in terms of traffic.

8.6. **Appropriate Assessment**

- 8.6.1. 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.

8.7. **EIA Screening**

- 8.7.1. 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.

9.0 Recommendation

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

REASONS AND CONSIDERATIONS

It is considered that the proposed house by reason of its scale and proximity to adjoining residential properties, would have an overbearing impact, would be visually obtrusive, would overlook and would seriously injure the residential amenities of the adjoining properties. 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 house would, seriously injure the residential amenity of the area and would, therefore be contrary to the proper planning and sustainable development of the area.

Kenneth Moloney
Planning Inspector
5th December 2018