



An
Bord
Pleanála

Inspector's Report 302546-18.

Development	Detached house, site entrance, ancillary works.
Location	21 Kilmantin Road, Wicklow, County Wicklow.
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	18595.
Applicant	Niall O'Rourke.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellants	1. Erica and Mary Hussey 2. 2. Michael Healy.
Observer	None.
Date of Site Inspection	1 st December 2018.
Inspector	Mairead Kenny.

1.0 Site Location and Description

- 1.1. The site comprises the side garden of 21 Kilmantin Road, which is in an established centrally located part of Wicklow town. The pattern of development established in this area, which is stated to be an older local authority residential estate is characterised by short terraces of two-storey housing with reasonably generous front and rear garden spaces. The area is elevated above Wicklow and there are occasional glimpsed views of the sea, which I surmised are also available from the upper floor levels of some of the houses. The roads which provide access to the site are in general fairly narrow and quite steep. There is a pedestrian lane which joins Kilmantin Road close to the site.
- 1.2. The site is at Kilmantin Road and to the south (rear) is Glenview Road. The adjacent road is narrow and there is no restriction on parking on the street. There are some ramps along the road.
- 1.3. The site is a triangular shaped plot which is of stated site area of 0.02 hectares. It is elevated above the public road in line with the topography which falls towards the roadside. The site frontage onto Kilmantin Road is 30 m. The site has a boundary of similar length to the south, which adjoins number 22 Kilmantin Rd for a length of 20 m and the remainder adjoins part of the L-shaped rear garden of number 23 Kilmantin Road. There are relatively unobstructed views from the site to the upper floor of houses the rear at Glenview Road – photograph 4 refers.
- 1.4. Photographs of the site and surrounding area which were taken by me at the time of inspection are attached.

2.0 Proposed Development

- 2.1. The proposed development provides for:
 - A two-storey two-bedroom detached house
 - Connection to public services
 - Site entrance

- Ancillary works.

2.2. The stated floor area of the proposed house is 93.23 m².

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to conditions including:

- to be in accordance with documents lodged including revised submission received on 20th of August 2018
- financial contributions (general contribution and supplementary)
- surface water details and opening mechanism of gate
- finished floor level to be as detailed on site layout unless otherwise agreed with the planning authority in writing prior to commencement of development
- floor slab level to be certified and details submitted to planning authority prior to further development on the site
- external finishes
- written agreement of Irish Water to be obtained for provision of water services
- hours of construction.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The final planner's report responding to the further information submission notes that:

- Ridge level of proposed house at 109.14 and finished floor level of 101.04 will be slightly below numbers 21 and 22 and from the details submitted satisfied that dwellinghouse can be successfully integrated within streetscape.
- Width of entrance which is reduced to 4 m wide and details of entrance walls and piers are acceptable subject to gates not opening onto public road.

- Permission recommended.

The original report noted:

- Site location and size, the nature of the proposed development and the planning history.
- Infill site set within an urban residential context in the context of proximity to town centre. Principle accepted subject to normal planning criteria.
- Overlooking or overshadowing not considered to arise.
- Streetscape, siting of building and respecting of established building heights and levels required to be demonstrated.

3.2.2. Other Technical Reports

Wicklow Area Engineer

No objection – surface water to be addressed on site and gates not to open onto public road.

3.3. Prescribed Bodies

Irish Water

No objections to the proposal based on the details of the application submission.

3.4. Third Party Observations

Erica Hussey and Mary Hussey (43 Glenview Rd).

The issues raised relate to obstruction of view, noise, construction phase impacts, health and safety, traffic, overlooking and details of site notice.

Michael Healy (46 Glenview Rd).

This refers to obstruction of view from front door and from upstairs windows. Parking activity in the area noted to include persons bringing children to school. Site entrance will not be 100 m from the bend on the road.

4.0 Planning History

Under PL 86.233640 the Board upheld the decision of the planning authority to refuse permission for the development of 2 no. houses at this site for the reasons below:

- Having regard to configuration of site, pattern of development in vicinity, proposed development of two dwellings on the site would result in a substandard and cramped form of residential development and would detract from privacy and amenities of existing and future residents.
- Board is not satisfied that the proposed development by reason of accumulation of vehicular entrances close to the corner of Kilmantin Road would not endanger public safety by reason of traffic hazard.

5.0 Policy Context

5.1. Wicklow Town – Rathnew Development Plan 2013-2019

The site zoning is Existing Residential RE, the objective of which is to protect and preserve existing residential uses and provide for infill development. The detailed policy in relation to infill / backland sites is that the design of the new house should complement the area. Where an area has an established unique or valuable character worthy of preservation particular care is required. In other areas more flexibility can be applied.

5.2. Natural Heritage Designations

The nearest Natura 2000 sites are:

- The Murrough SAC and The Murrough SPA to the north of Wicklow Town
- Wicklow Head SPA and Wicklow Reef SAC to the south of Wicklow Town.

6.0 The Appeal

6.1. Grounds of Appeals

Erica and Mary Hussey

The main points of this appeal are:

- concerns relating to construction phase including excessive noise, intrusion of private property, health and safety, odours gases and fumes and dust
- traffic disturbance
- obstruction of view and overlooking of private property
- inappropriate site
- proposal is a source of stress and anxiety to elderly persons in the immediate area
- issues related to site notice.

Michael Healy

The main points of this appeal are:

- proposed house will take my light and view
- entrance will not be 100 m from corner in Kilmantin Road
- concerned about safety of other people
- enclosed drawing shows location of my house (46 Glenview Rd) in relation to proposed house.

6.2. Applicant Response

No valid response was received on behalf of the applicant.

6.3. Planning Authority Response

The planning authority has not provided a detailed response.

6.4. Observations

None.

7.0 Assessment

I consider the main issues in this case relate to:

- principle
- impact on residential amenity of third party property
- residential amenity for occupants of existing and proposed houses
- traffic safety
- other matters.

7.1. Principle

In terms of the principle of development of this site for an additional house in an urban serviced area, there is no objection to the proposal subject to normal planning considerations. I note that the previous decision of the Board to refuse permission specifically cited the number of houses which was proposed under that application. There is no indication that the decision of the Board was related to an objection in principle.

7.2. Impact on existing residential amenity – third party houses

I respond below to the matters raised in the appeals.

The proposed rear elevation provides for ground floor windows only. There are no proposed first floor windows at the rear of this house and as such there is minimal **potential for overlooking**. A high level velux window is shown in a section drawing. This would function to provide light into the landing and stairs area. Due to its elevated position within the house there is no possibility of overlooking. The bathroom rooflight is similarly positioned and although it is not shown in the section drawing the same conclusions arise. There is no possibility of overlooking from either of these windows and no windows at all are proposed at first floor level at the rear. In addition to the elevation treatment of the rear facade I note that the finished floor

level of the proposed dwelling house would be lower than that at the existing house at 21 Kilmantin Road (based on the drawing submitted with further information) and from site inspection I can confirm that it would also be lower than the houses at Glenview Road. As such no overlooking can arise.

In relation to the alleged **obstruction of view**, I accept that the proposed dwelling house is likely to reduce the open aspect which is currently enjoyed by some of the houses at Glenview Road. However this is an urban area and in the context of the zoning of the site, the availability of services and the general suitability of the site, this minor impact on existing residential property does not warrant a refusal of permission or an amendment of the design of the proposed house. In this regard I also note the separation distance between the appellant's houses (number 46 and number 43 Glenview Rd) is in both cases 20 m from the site boundary. In this context and taking into account the orientation, significant overshadowing would not result and I note that the likelihood of such potential impacts was dismissed by the planning authority.

Regarding **construction phase disruption** I consider that this can be addressed by conditions to mitigate any adverse effects and the attachment by the planning authority of condition regarding construction hours is appropriate. I consider that any construction phase impacts including noise, dust and general nuisance would not be deemed to be detrimental to the residential amenities of the area. This is not a large-scale development and the types of impacts arising are readily capable of being mitigated.

7.3. **Residential amenity - future occupants and for existing house**

Regarding open space provision, while the overall area reserved is generous, amenity value is reduced by the subdivision into different spaces. On balance however I consider that this is acceptable having regard to the size of the dwelling house.

I would draw similar conclusion in relation to the amount of open space which would be reserved in association with the existing dwelling house at number 21. I therefore considered that in terms of open space provision, the proposal is acceptable.

Regarding the future residential amenity for future occupants of the proposed house I consider that the dwellinghouse layout and the floor area provides suitably for the residential needs of the future occupants.

I conclude that the development is acceptable in terms of residential amenity for the existing and proposed houses.

7.4. Traffic safety

The appellant's raise issues in relation to the vehicular entrance and the use including by children of the pedestrian laneway which is near to the site as well as the pattern of traffic which emerges at times of school drop-off. While the proposed entrance is within 30 m of the corner and as such is marginal in terms of the provisions of the relevant standards under DMURS, I am unconvinced that there is any traffic safety arising which would warrant a refusal of permission in this case. In this regard I take into account the unregulated nature of on street parking which prevails at present. Furthermore the proposal and the resulting traffic levels are of low scale.

Following inspection of the site and area and taking into account the points made in the appeals, I consider that the development is acceptable in terms of traffic safety. The provisions for on-site parking are acceptable.

7.5. Other issues

I note third party concerns relating to the adequacy of the site notice. I do not consider that the absence of a signature led to any undermining of public consultation.

A certificate of exemption in relation to section 96 of the Planning and Development Act is on file. As such there is no requirement to comply with social and affordable housing provisions.

In the event that the gate swing encroached onto the public road I consider that there would be other provisions to address this matter and I do not consider that a planning condition is warranted.

As the finished floor level is specified the onus is on the applicant to construct the development in accordance with the levels shown. The Board may wish to consider the requirement that the floor slab be certified once put in place. In my opinion these standard requirement set out in condition 1 is sufficient in this case.

7.6. Environmental impact Assessment Screening

The project falls within the class of development which requires EIA. Based on the nature, size and location of the proposed development there is no real likelihood of significant effects on the environment. No EIAR is required.

7.7. Appropriate Assessment

Having regard to the nature and scale of the proposed development, the nature of the receiving environment, the likely emissions arising from the proposed development, the availability of public water and sewerage in the area, and proximity to the nearest European sites, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommended that the decision of the planning authority to grant permission be upheld for the reasons and considerations on subject to conditions below.

9.0 Reasons and Considerations

Having regard to the residential zoning objective for the area and the pattern of development in the area, it is considered that, subject to compliance with conditions in set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience. The proposed development 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 in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 20th day of August 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. The external material, colours and finishes on the proposed development shall match/harmonise with existing house on the site.

Reason: In the interest of visual amenity.

3. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution

5. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 09.00 to 13.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

6. The developer shall pay to the planning authority a financial contribution

in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

7. The developer shall pay to the planning authority a financial contribution in respect of Wicklow Port Access and Town Relief Road in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Mairead Kenny
Senior Planning Inspector

3rd December 2018