



An  
Bord  
Pleanála

## Inspector's Report ABP-302938-18

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<b>Development</b>	8 detached houses and 2 semi-detached houses, connection to mains sewer, connection to mains water and associated site works.
<b>Location</b>	Ballinacor East, Kilbride, Co. Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	171515
<b>Applicant(s)</b>	Andrew Gaffney
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	To Refuse Permission
<b>Type of Appeal</b>	First Party v. Decision
<b>Appellant(s)</b>	Andrew Gaffney
<b>Observer(s)</b>	No observers
<b>Date of Site Inspection</b>	29.01.2019
<b>Inspector</b>	Erika Casey

## 1.0 Site Location and Description

- 1.1. The subject site, with a stated area of 1.1527ha is located within the defined development boundary of Barndarrig Village. Barndarrig is located approximately 8km from Wicklow town and has a population of c. 260 persons. The site is located approximately 0.3km to the east of the village centre and is accessed from the old N11 (which is to be classified as Regional Road R772-388). The southern boundary of the site abuts the L5656-0 local road for a limited extent. The L5656-0 has a narrow carriageway with no road markings or public lighting.
- 1.2. The site is greenfield in character and undeveloped. There is an existing one off dwelling house located to the north. To the south east, are 2 dwellings and a car sales facility. To the west, are further undeveloped agricultural lands. The front boundary of the site along the N11 is bound by mature vegetation and trees. The field boundaries to the north and south are defined by hedgerows.

## 2.0 Proposed Development

- 2.1. The proposed development comprises 10 no. dwellings consisting of 8 no. detached houses and 2 no. semi-detached houses. Three different house types are proposed with 3, 4 and 5 bed units. The dwellings range in size from 129 sq. metres to 245 sq. metres and all are two storey. The overall density is 15 units per hectare.
- 2.2. Access to the site is via a new vehicular entrance from the N11. The development also provides for connection to the mains sewer and all associated site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

#### 3.1.1 To Refuse Permission for 3 no. reasons:

1. *Having regard to:*

- *The location of the site on the periphery of Barndarrig, removed from the core of village;*

- *The undeveloped/underdeveloped lands between the site and the village core;*
- *The location of the proposed entrance on the regional road (old N11);*
- *The lack of pedestrian facilities between the site to the village core.*

*It is considered that, the proposed development would:*

- (a) represent haphazard development that would not strengthen the established structure of the village,*
- (b) be premature pending the development of lands closer to the village,*
- (c) be premature pending the provision of adequate pedestrian facilities,*
- (d) be contrary to the policies and objectives of the Wicklow County Development Plan 2016-2022, which state that the development of zoned/designated land should generally be phased in accordance with the sequential approach.*

*It is therefore considered that the proposed development would be contrary to the proper planning and sustainable development.*

**2. Having regard to:**

- *The location of the proposed development within the development boundary of Barndarrig;*
- *The population targets for this settlement set out in the Wicklow County Development Plan 2016-2022;*
- *The extant permission within Barndarrig, which when implemented would exceed the population target;*
- *Objective HD6 of the Wicklow County Development Plan 2016-2022 which states that: "Notwithstanding the zoning designation of land for residential purposes, the Development Management process shall monitor and implement the population targets of this plan and shall phase and restrict, where necessary, the granting of residential permission to ensure these targets are not exceeded."*

*It is considered that the proposed development would be contrary to the core strategy and the settlement strategy of the Wicklow County Development Plan 2016-2022 and to proper planning and sustainable development.*

3. (a) *The proposed development would be premature because of the existing deficiency in water supply and because this deficiency is unlikely to be made good within the lifetime of a permission.*

(b) *The proposed development would be prejudicial to public health because the abstraction of water from the well, as proposed, would negatively impact on the quantity of the water supplying the Barndarrig regional/local water supply.*

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports (14.02.2018 and 26.09.2018)**

- Of particular concern is the location of the development on the periphery of Barndarrig and the lack of public water services in the area. The planning authority is of the opinion that the development of this site would be premature pending the development of lands closer to the village. The development of this site would not comply with the principles of the sequential approach.
- The extant permission under PRR18/1233 (extended under PRR14/1051) for 21 no. units would when implemented result in the indicative growth figure for Barndarrig to be met.
- Note that neither the Municipal District Engineer nor Transport Infrastructure Ireland have raised any technical issues in relation to the proposed entrance. However, it is considered that if this site is accessed from the regional road as proposed, it would result in the creation of a standalone development that is removed from the village core.
- An internal footpath has been provided within the scheme to connect to the proposed public footpath on the local road (L5656). However, it would appear from the plans submitted that this footpath is to be bounded on both sides by a 2m high block wall which would prohibit passive surveillance and would result in the creation of an unlit and unsupervised alleyway that is unlikely to

encourage pedestrian activity. Pedestrian facilities from the application site to the village core are seriously deficient.

- The layout of the development and proposals for public open space are generally considered acceptable.

### 3.2.2. Other Technical Reports

**Area Engineer (08.01.2018 and 05.09.2018):** Recommend installation of a footpath linking the development to Barndarrig. Satisfied with proposal to install street lighting.

**WCC Water Services (14.02.2018):** Concern that the interim well proposal may impact negatively on the existing public supply and notes that previous attempts to enhance existing supply failed due to inadequate source capacity. State that any interim supply is more likely to become a longer term supply as the Mid Wicklow Scheme has not progressed and is currently under review. Consider that scheme will not be completed within the lifetime of the planning application.

**Housing Directorate (30.01.2018):** Not satisfied with the Part V proposal.

### 3.3. Prescribed Bodies

**Irish Water (10.10.2018):** Recommends Refusal on the basis that there is no capacity in the existing network to support the proposed development: Report states: *“Irish Water are currently undertaking investigative works with regard to the provision of water for existing and proposed development in this area. The solution identified as part of these investigative works would need to be constructed in order to facilitate a water connection for this 8 unit development.”*

**Transport Infrastructure Ireland (17.01.2018):** No comment.

### 3.4. Third Party Observations

#### **Seamus and Caroline Murphy, Ballinacor East, Kilbride, Wicklow**

- Concerns regarding the impact of the development on their well which has not been indicated on the planning application drawings.
- Consider the design of the development is out of character with the area.

## 4.0 Planning History

### **Planning Authority Reference 16/823**

- 4.1 Permission refused in December 2016 for a development comprising 10 dwellings. Reasons for refusal related to the peripheral location of the site and lack of connectivity to the village centre and prematurity due to deficiency in water supply.

### **Planning Authority Reference 15/901**

- 4.2 Application for 10 dwelling withdrawn. Prior to its withdrawal, the Planning Authority had recommend refusal for the similar to reasons to the current application.

### **Planning Authority Reference 04/1895/Appeal Reference PL27.212832**

- 4.3 Outline permission for 16 dwellings refused by the Board in December 2005. Reasons for refusal were that the development would constitute urban generated residential development in a rural area; that traffic generated by the development would endanger public safety by reason of a traffic hazard having regard to inadequate visibility and that the development would be premature pending the N11 route being downgraded.

### **Planning Authority Reference 90/5935**

- 4.4 Site development works for 10 houses refused.

### **Other Relevant Decisions**

### **Planning Authority Reference 08/1233 and 14/1051**

- 4.5 Permission granted in April 2009 and extended until August 2019 for a development on a site to the west of the subject site comprising 21 no. dwellings, a two storey neighbourhood building comprising a crèche and 2 no. retail/office/community units and ancillary site development works.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1 The operative Development Plan is the Wicklow County Development Plan 2016-2022. Under the core strategy Barndarrig is identified as a level 7 centre – large

village. The growth target for the settlement set out in the core strategy is 20 units over the period 2011-2022.

5.1.2 With regard to Level 7 settlements the plan states:

*“In these settlements it is essential that growth is supported while also strictly controlled so that development is undertaken in a manner that is respectful to the character of these villages and the environmental sensitives of the rural area. It is of utmost importance to ensure that the design of development is appropriate to the rural setting within which these villages are situated.”*

5.1.3 Regarding phasing the plan under section 4.3.3 states:

*“The development of zoned/designated land should generally be phased in accordance with the sequential approach:*

- *Development shall extend outwards from centres with undeveloped land closest to the centres and public transport routes being given preference i.e. ‘leapfrogging’ to peripheral areas shall be restricted;*
- *A strong emphasis shall be placed on encouraging infill opportunities and better use of underutilised lands and*
- *Areas to be developed shall be contiguous to existing developed areas.*

*Only in exceptional circumstances should the above principles be contravened, for example, where a barrier to development is involved. Any exceptions must be clearly justified by local circumstances and such justification must be set out in any planning application proposal.”*

5.1.4 The following objectives are of particular relevance:

**HD6:** *Notwithstanding the zoning/designation of land for residential purposes, the Development Management Process shall monitor and implement the population targets of this plan and shall phase and restrict, where necessary, the granting of residential planning permissions to ensure these targets are not exceeded.*

**HD7:** *The development of zoned land should generally be phased in accordance with the sequential approach as set out in this chapter. The Council reserves the right to refuse permission for any development that is not consistent with these principles.*

5.1.5 With regard to new access points to Regional Roads, the plan states under **Policy TR27:**

*“New means of access onto regional roads will be strictly controlled and may be considered if one of the following circumstances applies:*

- *The regional road passes through a designated settlement and a speed limit of 50km/h or less applies;*
- *where the new access is intended to replace an existing deficient one;*
- *where it is demonstrated that the entrance is essential and no other means of access is available.”*

## 5.2. Other Guidelines

### **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009**

5.2.1 These guidelines set out specific guidance regarding the sequential approach to development and state:

*“Zoning shall extend outwards from the centre of an urban area, with undeveloped lands closest to the core and public transport routes being given preference, encouraging infill opportunities, and that areas to be zoned shall be contiguous to existing zoned development lands.”*

*New development should contribute to compact towns and villages. Through planning and design, walking and cycling should be preferred over travel by car for local trips. Ireland’s small towns and villages have benefited from investment over many years in areas such as water services, schools, shops, libraries, health centres, childcare facilities and other physical and social infrastructure. It is appropriate that the investment in such services is utilised properly through the prioritisation of development that either re-uses brown-field development land such as central area sites and backlands or through the development of acceptable “green-field” sites at suitable locations within the immediate environs of the small town or village concerned.”*

5.2.2 Section 6.7 of the guidelines further notes:



*“Above all, the overall order and sequencing of development of small towns and villages must avoid significant so called “leap-frogging” where development of new residential areas takes place at some remove from the existing contiguous town/village and leading to discontinuities in terms of footpaths lighting or other services which militates against proper planning and development.”*

5.2.3 Section 6.8 sets out Layout and Design Considerations noting in particular that *“development should provide for connectivity especially by pedestrians and cyclists so that over time, small towns and villages become especially amenable to circulation by walking and cycling rather than building up reliance on the car.”*

### **5.3 Natural Heritage Designations**

5.3.1 The nearest Natura 2000 sites are the Buckronev-Brittis Dunes and Fen SAC located c. 4.2 km to the south east of the site and the Magherabeg Dunes SAC located c. 4.7km to the east of the site.

### **5.4 EIAR Screening**

5.4.1 Having regard to nature of the development comprising 8 dwellings 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.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- States contract for sale of the land stated that favourable consideration would be given for the erection of housing on the subject site.
- Considers the development more sustainable than dispersed one off rural housing.
- The extant permission referenced by the Planning Authority (08/1233 and 14/1051) has not been implemented and is unlikely to be constructed before its expiration (August 2019). It is unacceptable that one developer can land bank a permission that uses up the entire housing allocation for the settlement. The

extant permission is dormant whereas, the subject development can be constructed immediately.

- There is a housing crisis and an urgent need for housing and inward investment in Barndarrig. The scheme would support the local economy of the village. Notes reduction in school numbers and closure of local businesses. Applicant willing to comply with Part V requirements.
- The site is located within the boundary of Barndarrig Village. The development plan does not contain a phasing drawing indicating the order which sites should be developed. The site is not isolated and adjoins two dwellings and a car sales business. The development would contribute to the consolidation of Barndarrig by making it clear that the village's development boundary is the old N11. Barndarrig maintains a dispersed village structure. The location of the site passes the sequential test as it appears to be the only site currently being brought forward in Barndarrig for development which is located within the village boundary.
- Notes that the existing core of Barndarrig is on a steep hill. The subject lands due to their topography can be more easily developed. Cost of development has not been considered by the Planning Authority.
- States that the councils concerns regarding the lack of footpaths is unfounded and the rural roads in the vicinity have never had footpaths yet have served as routes to the church and school in the village for decades. Acknowledges that a pedestrian access route to the village across lands in the ownership of others cannot be provided. Notes however, that a footpath will be provided along the eastern boundary of the site and between the development and the L5656 road to the south west and that a contribution towards public lighting would be made.
- States that there is a disconnect between Irish Water and Wicklow County Council regarding the development and that recent correspondence from Irish Water states that there is now a plan in place to increase security of supply in the Barndarrig area and that connection to mains water is deemed feasible.

## 6.2. **Planning Authority Response**

- No response received.

## 6.3. **Observations**

- No observations.

## 7.0 **Assessment**

### 7.1 **Introduction**

7.1.1 The main issues are those raised in the grounds of appeal and it is considered that no other substantive issues arise. The issues can be dealt with under the following headings:

- Principle of Development
- Water Supply
- Access
- Appropriate Assessment

### 7.2 **Principle of Development**

7.2.1 The principle reasons for refusal set out in the Planning Authority's decision relate to the peripheral location of the site and its lack of connectivity to the village core. It is considered the scheme would represent a haphazard development and is contrary to relevant guidance regarding the sequential approach to development. It is set out by the applicant in their appeal that the site is located within the defined development boundary of the village and that no other sites have come forward for development.

7.2.2 The subject site is located on agricultural lands to the east of Barndarrig village centre. Barndarrig is designated a level 7 'Large Town' in the settlement hierarchy set out in the Wicklow County Development Plan 2016-2022. The village currently has a population of c. 260 persons and future housing allocation for the settlement is 20 no. units by 2022 under the core strategy set out in the County Development Plan. Map 03.04A of the County Development Plan sets out a development

boundary for the village. The subject site is located within the development boundary.

7.2.3 Notwithstanding its location in the development boundary, the County Development Plan specifically sets out under Policy HD7 that lands should generally be developed in accordance with the sequential approach. In this context, the designation of the land within the development boundary does not predicate its suitability for housing development. I also note that the applicant's submission regarding a previous contract of sale in 2004 which outlined the potential suitability of the lands for housing development. I consider such a legal contract to be outside the remit of this planning assessment. Each planning application must be considered on its merits in the context of National and regional policy, the policies and objectives of the County Development Plan and the proper planning and sustainable development of the area.

7.2.4 The site is physically and functionally separated from the village centre. It is submitted by the applicant that the village has a dispersed structure, but is evident from aerial photos and as observed during the site visit that the bulk of development is clustered to the west of the site, primarily adjacent to the existing cross roads adjacent to the church. Existing estates in the village including Ard Rua, Stonehaven, The Red Gap, The Field and St. Marys Crescent are all located to the south and south west of the church. Whilst some development is located to the north and south of the subject site, comprising one off dwellings and a car sales business, these are clearly peripheral from the main concentration of development in the settlement.

7.2.5 It is noted by the planning authority that there is an extant permission for a development comprising 21 units to the west of the site that is closer to the village centre. If developed this would absorb all of the proposed housing allocation set out in the core strategy of the County Development Plan. Permission for this development was granted in 2008 and extended in 2014. It is due to expire in August 2019. It is contended by the applicant that it is unlikely that this permission will be implemented and that there is no phasing plan set out in the plan which indicates the sequential development of sites. It is considered unfair that one land owner should be permitted to land bank all future housing allocation. It is also

submitted that the proposed development will consolidate the village and provide much needed housing.

7.2.6 Whilst I acknowledge that the extant permission referenced by the Planning Authority may not come to fruition, this does not negate the fact that the subject site is fundamentally unsuitable due to its separation and lack of connectivity to the village centre. I also note there are a number of other sites within the development boundary that are sequentially preferable and closer to the village centre that would be appropriate for infill development and that would consolidate and reinforce the existing village structure.

7.2.7 The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009 sets out specific guidance regarding the sequential approach to development noting that preference should be given to infill opportunities and areas contiguous to existing developed lands. Section 6.7 of the guidelines states:

*“Above all, the overall order and sequencing of development of small towns and villages must avoid significant so called “leap-frogging” where development of new residential areas takes place at some remove from the existing contiguous town/village and leading to discontinuities in terms of footpaths lighting or other services which militates against proper planning and development.”*

This policy is also reflected in section 4.3.3 of the County Development Plan regarding phasing.

7.2.8 In this instance, the proposed development would constitute such ‘leapfrogging’ and would result in a haphazard, uncoordinated development removed and unconnected to the village centre. Furthermore, it has been explicitly acknowledged by the applicant that it not within their remit to provide a full footpath connection from the site to the village centre. The provision of same would require land outside the control of the applicant. The applicant has committed to providing a footpath and public lighting along the boundaries of the site. However, there would be no continuous connection. This arrangement is unlikely to encourage circulation by walking and cycling and future residents of the estate are likely to be car dependent. Furthermore, I also have significant concerns regarding the proposed pedestrian connection from the development to the L5656 to the south west of the site. The

route will be located to the rear of the estate and will be flanked by a 2 metre high wall, creating an uninviting and unsupervised pedestrian route.

7.2.9 In conclusion, I do not consider that there are any exceptional circumstances that would warrant the development of the subject lands in such a peripheral location relative to the village centre. The development in my opinion would do little to reinforce or consolidate the urban form and structure of the village and would be an isolated piecemeal development on the edge of the village without any adequate pedestrian and cyclist connectivity. The development is considered contrary to the proper planning and sustainable development of the area.

### 7.3 Water Supply

7.3.1 Concerns were raised by the Planning Authority regarding water supply in Barndarrig and that the development would be premature due to the deficiencies in supply. Irish Water in their report dated the 10<sup>th</sup> of October 2018 recommended that permission be refused on the basis that there is no capacity in the existing network to support the proposed development.

7.3.2 As part of their appeal submission, the applicant has submitted further correspondence from Irish Water dated the 2<sup>nd</sup> of November 2018. This acknowledges that in the past there were known constraints in the form of water yield issues within the existing Borehole at Barndarrig. It is confirmed that upgrade works to the Barndarrig water supply are now included in a capital investment project and it is proposed to install a supplemental borehole which will increase water yield to meet future demands. These upgrade works are due to be completed by Q3 in 2019. It is stated in the correspondence that upon completion of these works and subject to a connection agreement being put in place, a connection is considered feasible. With regard to wastewater connection, it is stated there are no known constraints in the area.

7.3.3 I am satisfied based on the information submitted with the appeal, that it is likely that current water supply deficiencies in Barndarrig are likely to be resolved in the short term. In this context, I am satisfied that a refusal on the basis of prematurity pending the necessary upgrade to the local water supply network is not warranted. If the Board are minded to grant permission for the development, I would recommend a

condition is attached that no dwelling be occupied until the necessary Barndarrig water supply infrastructure has been upgraded and is operational.

#### **7.4 Access**

7.4.1 Access to the site is via the regional road (former N11) to the east of the site. A detailed technical report is submitted with the application outlining that access to the L5656 is not feasible due to inadequate sightlines and vertical alignment. I note under Policy TR27 of the County Development Plan that an access to a regional road may be considered where it is demonstrated that the entrance is essential and no other means of access is available. TII and the Municipal District Engineer have raised no objections to the proposal. In this context, I am satisfied that the proposed access arrangement to the site is appropriate from a traffic perspective. I would concur with the planning authority however, that the access from the regional road as opposed to the L5656 further exacerbates the sites peripheral location and lack of connectivity to the village.

#### **8.0 Recommendation**

8.1. It is recommended that permission be refused permission for the reason set out below.

#### **9.0 Reasons and Considerations**

1. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009 recommend a sequential and coordinated approach to residential development, whereby lands should be developed so as to avoid a haphazard and costly approach to the provision of social and physical infrastructure and where undeveloped lands closest to the core and public transport routes be given preference. Section 4.3.3 and objective HD7 of the Wicklow County Development Plan 2016 also promotes the development of land in accordance with the sequential approach. It is considered that the site is located in an area which is remote and isolated from other areas of consolidated residential development and not in line with the orderly expansion of the settlement. Having regard to the scale of residential development proposed and the absence of good pedestrian and cyclist linkages, it is

considered that the proposed development would be excessively car dependent and represents a haphazard, uncoordinated development that would not strengthen the established structure of the village. The development would, therefore, be contrary to the Guidelines and the Wicklow County Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

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**Erika Casey**  
**Senior Planning Inspector**  
**29th January 2019**