



An
Bord
Pleanála

Inspector's Report ABP-303017-18

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| Development | Construction of house, garage, site entrance, bored well, proprietary treatment system and associated percolation area, all ancillary site works and services |
| Location | Brockna , Kiltegan, Co. Wicklow |
| Planning Authority | Wicklow County Council |
| Planning Authority Reg. Ref. | 18/516 |
| Applicant(s) | Paul Francis Byrne |
| Type of Application | Permission |
| Planning Authority Decision | Refuse |
| Type of Appeal | First Party |
| Appellant(s) | Paul Francis Byrne |
| Observer(s) | None |
| Date of Site Inspection | 25 th January 2019 |
| Inspector | Emer Doyle |

1.0 Site Location and Description

- 1.1. The appeal site, with a stated area of 0.4ha is located in the townland of Brockna c. 2.5km to the north of the settlement of Kiltegan and 200m to the south of Talbotstown, Co. Wicklow.
- 1.2. The appeal site is a rectangular shaped site within a large field. There was a 'For Sale' sign on the site to the south on the day of the site inspection. A lane serving an adjoining farmyard and agricultural buildings is located to the north of the site.
- 1.3. The site is on one of the main approach roads to the small village of Talbotstown which has a 60kph speed limit and contains a church, primary school, and GAA grounds. There is a notable concentration of housing on the approach road and it is clearly under pressure for one off housing.

2.0 Proposed Development

- 2.1. The development is described on the site notice as a single storey dwelling, garage, new site entrance, bored well, proprietary treatment system and associated percolation area and all ancillary site works and services. The dwelling has a floor area of c. 250m² and a ridge height of c. 5.8m.

3.0 Planning Authority Decision

3.1. Decision

Permission refused for 2 No. reasons as follows:

1. The proposed development would not represent a necessary dwelling in this Landscape designated Rolling Lowlands, contrary to the provisions of Section 4.4 of the County Development Plan 2016-2022. These provisions are required to maintain scenic amenities, recreational utility, existing character, and to preserve views of special amenity value and special interest and to

conserve the attractiveness of the county for the development of tourism and tourist related employment.

The Council's settlement strategy is to encourage further growth of existing settlements and to restrict rural housing development to cases where there is a bona fide necessity to live in the rural area instead of in existing settlements. It is considered that the applicant does not come within the scope of the housing need criteria as set out under Objective HD23 of the County Development Plan. The proliferation of non-essential housing in rural landscape areas eroded the landscape value of these areas and seriously detracts from views of special amenity value.

2. The proposed development would endanger public safety by reason of serious traffic hazard because inadequate sightlines are available at the proposed entrance and the applicant has not indicated sufficient consent/legal interest on the necessary lands required to achieve adequate visibility at the proposed site entrance.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planner noted that the applicant was from Kiltegan which is a level 7 settlement but the subject site is located in a level 10 settlement. The applicant has not shown sufficient connection with the rural area. It was considered that the sightlines were inadequate. Refusal was recommended by the planner.
- The applicant sought an extension of time and submitted unsolicited Further Information in relation to housing need and sightlines. A second report from the planner considered the information submitted but recommended refusal for two reasons relating to housing need and sightlines.

3.2.2. Other Technical Reports

- Environmental Health Officer: No objection subject to conditions.
- Area Engineer: Requires Further Information in relation to sightlines. Following the unsolicited Further Information, the Area Engineer recommended refusal.

3.3. Prescribed Bodies

- No reports.

3.4. Third Party Observations

- None.

4.0 Planning History

PA 17/861

Application withdrawn by same applicant on this site.

PA 17/63

Permission refused to applicant for 4 No. reasons relating to housing need, design, public health, and traffic.

Adjacent site to south:

PA 16/1237

Permission refused to David and Aisling O' Neil for 3 No. reasons relating to housing need, house design and public health.

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative development plan is Wicklow County Development Plan 2016-2022. Relevant policies include:

Section 4.3.6: Relates to the *Design of New Developments* and it is stated that all new housing including rural housing shall achieve the highest quality of layout and design.

Appendix 2: Sets out guidelines regarding single rural house design.

Housing in the Open Countryside Policy HD23: 16 criteria are set out which relate to the circumstances that will be considered regarding residential development in the countryside. The most relevant is no. 1:

“A permanent native resident seeking to build a house for his/her own family and not as speculation. A permanent native resident shall be a person who has resided in a rural area in County Wicklow for at least 10 years in total including permanent native residents of levels 8 and 9 or resided in the rural area for at least 10 years in total prior to the application for planning permission.”

The Plan sets out 10 levels of settlement and the subject site is located in Level 10 – The Rural Area. It is stated in the plan regarding Level 10 areas that:

“Development within the rural area should be strictly limited to proposals where it is proven that there is a social or economic need to locate in the area. Protection of the environmental and ecological quality of the rural area is of paramount importance and as such particular attention should be focussed on ensuring that the scenic value, heritage value and/or environmental/ecological/conservation quality of the area is protected.”

Appendix 5: Landscape Assessment: The subject site is located in an area designated as Rolling Lowlands.

5.2. Natural Heritage Designations

5.2.1. The appeal site is located c. 2.6km to the north of the Slaney River Barrow SAC (Site Code 000781).

6.0 The Appeal

6.1. Grounds of Appeal

- The applicant is a permanent native resident of the area who has never lived more than 1km from the site.
- The applicant is from the main street of Kiltegan.
- There was an error in suggesting that the site is a listed or a protected view nor is the site located in an area of special interest as outlined in the County Development Plan and as such reason No. 1 is not applicable.
- There are adequate sightlines available at the entrance and a letter from the landowner is attached giving consent to alter the roadside boundaries outside the site boundaries in order to achieve sightlines.

6.2. Planning Authority Response

- The site is within a landscape designation - Rolling Lowlands. It is not within a listed or prospective view or protected view.
- The applicant is ignoring the report on file from the Area Engineer relevant to the area and is referring to an on site meeting with a different Area Engineer for another area.

7.0 Assessment

Having inspected the site and reviewed the file documents I consider the main issues can be addressed under the following headings:

- Rural Housing Policy

- Traffic Safety
- Appropriate Assessment
- Environmental Impact Assessment

7.1. Rural Housing Policy

- 7.1.1. The application site is in an area designated as being under strong urban influence. The Sustainable Rural Housing Guidelines advise that houses in such areas may be provided to meet the housing needs of the local rural community, but that urban generated housing should be directed to zoned and serviced lands within settlements.
- 7.1.2. The policy in the Wicklow County Council Development Plan 2016-2022 is to discourage rural housing, especially when relatively close to towns and residentially serviced zoned lands. The exemptions are set out in detail in policy HD23, essentially allowing for people with strong local connections with a demonstrated need to live in the area.
- 7.1.3. The application site is located in a rural area between the two villages of Kiltegan and Talbotstown. In the County Development Plan, Talbotstown is designated as a Level 8 small village, whilst Kiltegan is designated as a Level 7 large village. The applicant is from the main street of Kiltegan c. 2.5km to the south of the site. The appeal sets out the following information:
- The application is for an essential house in a rural area as it is directly employment related.
 - The applicant is living in this rural area for 34 years fully qualifies and is entitled to such reliance for social and economic needs as outlined in the County Development Plan in Section HD19.
 - His employment is rurally generated and is sustainable employment as it provides electrical skills for agricultural employment.
 - The applicant is proposing to build within 100m of his brother.
 - He is proposing to build within 50m and 150m of his cousins.

- He is unable to buy lands in the villages of Talbotstown or Kiltegan as all the land is owned by one landowner.

7.1.4. The planning authority refer in their report to his brothers' application on a site in proximity to the site c. 15 years ago and point out that this was granted on the basis of his partners connections with the rural area.

7.1.5. It is clear from the information submitted that the applicant is from the main street of Kiltegan (Level 7 – Large Village) and not a rural area as identified by Development Plan policy. In my view, there is no evidence on the file to demonstrate that his employment as an electrician would require him to build a new dwelling in a rural area. Furthermore, the site is located within an area designated as 'Rolling Lowlands' in the Landscape Category Map of the Plan. Section 5.3.15 states that 'development proposals within this area should aim to locate within existing clusters of structures/ trees stands and avoid locating new development in open fields.' As such, the proposed development would be contrary to this policy.

7.1.6. Having regard to the information submitted, I do not consider that the applicant has demonstrated that he comes within the scope of the housing need criteria set out in the Sustainable Rural Guidelines or the Development Plan for a house at this location in open countryside.

7.2. Traffic Safety

7.2.1. The second reason for refusal by the Planning Authority was as follows:

'The proposed development would endanger public safety by reason of serious traffic hazard because inadequate sightlines are available at the proposed entrance and the applicant has not indicated sufficient consent/ legal interest on the necessary lands required to achieve adequate visibility at the proposed site entrance.'

7.2.2. A letter from the landowner was submitted with the appeal which stated that he has no objection or issue to the removal or modification to the roadside boundary in order for the applicant to achieve the necessary sightlines as may be required by Wicklow County Council.

7.2.3. The site is located on a relatively straight stretch of road and I consider that satisfactory sightlines can be achieved by minor modifications to the roadside boundary outside of the site. The letter submitted with the appeal gives permission for the modifications necessary to achieve adequate sightlines. As such I am satisfied that the second reason for refusal can be addressed by condition should the Board be minded to grant permission.

7.3. Appropriate Assessment

7.3.1. The appeal site is located c. 2.6km to the north of the Slaney River Barrow SAC (Site Code 000781). The qualifying interests include Sea Lamprey, River Lamprey, Brook Lamprey, Atlantic Salmon, Freshwater Pearl Mussel and Otter.

7.3.2. The Planning Authority does not appear to have carried out a screening for Appropriate Assessment as there is no evidence of such on file. In any event, having regard to the nature and scale of the proposed development, a single house, and the distance of the site 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 either 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 minor nature and scale of the proposed development and the location of the site some distance from any sensitive locations or features, 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.

8.0 Recommendation

I recommend that the Board refuse permission based on the following reason:

1. Having regard to the location of the site within an area under strong urban influence as identified in the "Sustainable Rural Housing Guidelines for Planning Authorities"

issued by the Department of the Environment, Heritage and Local Government in April, 2005, wherein it is policy to distinguish between urban-generated and rural generated housing need, and in an area where housing is restricted to persons demonstrating a definable social or economic need to live in the open countryside, in accordance with the Wicklow County Development Plan 2016 - 2022, it is considered that the applicant has not demonstrated that he comes within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location in the open countryside. In addition, it is a specific objective of the National Planning Framework, adopted by the Government, in rural areas under urban influence, to “facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area...having regard to the viability of smaller towns and rural settlements”. Furthermore, the Board is not satisfied that the applicant/appellant’s housing needs could not be satisfactorily met in an established smaller town or village/settlement centre. The proposed development, in the absence of any definable or demonstrable need for the house, would contribute to the encroachment of random rural development in the area, and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, contravene the Ministerial Guidelines, be contrary to national policy and conflict with the provisions of the current County Development Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Emer Doyle

Inspector

19th of February 2019