



An  
Bord  
Pleanála

## Inspector's Report ABP 303650-19

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<b>Development</b>	Extension/alterations to house.
<b>Location</b>	Ardanairy, Brittas Bay, County Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	18767
<b>Applicant(s)</b>	Richard & Noelle Conroy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Nigel McConnell
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	15 <sup>th</sup> April 2019
<b>Inspector</b>	Hugh Mannion

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## 1.0 Site Location and Description

- 1.1. The application site has a stated area of 0.181ha and is located in Ardairry, Brittas Bay, County Wicklow. The application site is on the east/seaward side of the R750/coast road which links Arklow town in the south to Wicklow in the north. The site is generally flat and overlooks the Irish sea but to the rear of the house the land drops towards the coastline. There is a footpath through the site to an access down to the beach. There is a free-standing shower immediately before the path drops to the beach.
- 1.2. About a kilometre to the north the R750 has a junction with the R773 which links it to the M11 motorway. Most of the caravan park development associated with Brittas bay is north of this junction. There is a caravan park immediately opposite the application site, Ardairry caravan park. The road fronting the site is single lane and without a median line.

## 2.0 Proposed Development

- 2.1. The proposed development comprises extensions and alterations (144m<sup>2</sup>) to an existing cottage (52m<sup>2</sup>) including partial demolition (25m<sup>2</sup>), new side entrance, effluent treatment system at Ardairry, Brittas Bay, County Wicklow.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant with conditions. Condition 7 required compliance with the EPA code of practice for domestic effluent disposal.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

Initially further information was requested in relation to;

- the use of the public shower between the road and the beach and what impact it may have on the adjoining SAC.

3.3. The **Environmental Health Office** reviewed the domestic wastewater treatment proposal and reported no objection.

3.4. The **Area Engineer** reported no objection.

3.4.1. Other Technical Reports

The Minister for Culture, Heritage and the Gaeltacht raised the potential for impacts on the adjoining SAC.

## 4.0 **Planning History**

4.1. PL09/393 Permission refused for replacement house for reasons impact on a prospect of special amenity value which it is necessary to preserve, potential effects on the adjoining SAC and inadequate water supply and waste water treatment.

4.2. PI10/2043 Permission refused for a replacement house because of the potential to impact on the SAC.

## 5.0 **Policy and Context**

### 5.1. **National Housing Policy Objective 19**

5.2. Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, 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 and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

- 5.3. The **Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses (EPA 2009)** is the appropriate standards for the disposal of effluent from domestic dwellings.
- 5.4. **Development Plan**
- 5.5. **The Wicklow County Development Plan 2016-2022** is the relevant county development plan for the area.
- 5.6. Objective NH52 in relation to Views and Prospects;
- To protect listed views and prospects from development that would either obstruct the view /prospect from the identified vantage point or form an obtrusive or incongruous feature in that view /prospect. Due regard will be paid in assessing development applications to the span and scope of the view / prospect and the location of the development within that view / prospect.
- 5.7. The plan provides General Coastal Zone Management Objectives as follows:
- 5.8. **CZM1** To ensure that there is no removal of sand dunes, beach sands or gravels through application of the provisions of the Foreshore (Amendment) Act (1992), in close co-operation with the Department of Communications, Climate Action and the Environment and the Department of Agriculture, Food and the Marine.
- 5.9. **CZM2** To ensure that no reclamation of estuary land or coastal marshland occurs, which would damage coastal habitats.
- 5.10. **CZM3** To protect both public and private investment by prohibiting any new building or development (including caravans and temporary dwellings) within 100m of 'soft shorelines' i.e. shorelines that are prone to erosion.
- 5.11. **CZM4** To prohibit the development of habitable structures below 3m (OD Malin), in the interest of public safety and the protection of property and residential amenity.
- 5.12. **CZM5** To protect the character and visual potential of the coast and conserve the character and quality of seascapes.
- 5.13. **CZM6** To facilitate an Integrated Coastal Zone Management approach to ensure the conservation, management and protection of man-made and natural resources of the coastal zone.

5.14. **CZM7** To facilitate the provision of new or the reinforcement of existing coastal defences and protection measures where necessary along the full coastline of the County and in particular to support the implementation of the measures identified in the Murrough Coastal Protection Study and any other similar studies that are produced during the lifetime of the plan.

#### 5.15. **Natural Heritage Designations**

5.16. The application site is adjacent to the Buckronev-Brittis Dunes and Fen (SAC000729).

### 6.0 **The Appeal**

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

- The proposed development will seriously injure the Buckronev-Brittis Dunes and Fen (SAC000729).
- The AA report submitted to the planning authority was inadequate.
- The proposed development is contrary to the Coastal Zone Management Objectives of the planning authority.

#### 6.2. **Applicant Response**

- The application site is located on the R750 south of Brittis and is related to the operation of the Ardairv Caravan Park. The existing building was always habitable albeit in poor condition.
- The appeal is vexatious and made by a person occupying the cottage without the owner's permission.
- Previous applications were refused but these are now irrelevant in the light of the information submitted with this application. The appropriate assessment screening report dealt with the concerns raised in the previous decision.

- Development Plan objective CZ9 is a broad objective in relation to coastal zone management, the proposed development does not contravene that objective.
- There is a private water supply to the site. This also supplies water to a shower which is used by residents of the Ardairy Caravan Park when returning from swimming nearby.

### 6.3. **Planning Authority Response**

- No comment.

### 6.4. **Observations**

- No observations.

### 6.5. **Further Responses**

No further responses.

## 7.0 **Assessment**

7.1. The principal issues in this case are; coastal zone management policy, domestic effluent disposal, impacts on the SAC.

### 7.2. **Coastal zone Management/Visual Amenity**

7.3. The appeal makes the case that the proposed development will conflict with the Development Plan policies in relation to coastal zone management. The applicant makes the case that the proposed ridge height of amended house will be very low and consequently will not be visually intrusive.

7.4. The Wicklow County Development Plan includes an objective (Objective CZM5) in relation to coastal zone management “to protect the character and visual potential of the coast and conserve the character and quality of seascapes”. Furthermore, the plan includes Objective NH52 in relation to Views and Prospects which seeks the protection of views and prospects of highest amenity value in the County. These views and prospects are listed in schedule 10.14 and schedule 10.15 and mapped

on maps 10.14 and 10 10.15 included in the Plan. The prospect from the R750/coast road from Wicklow to Arklow towards the sea is included as number 30 in schedule 10.15 and mapped on map 10.15. Objective NH52 in relation to Views and Prospects states that the planning authority will protect listed views and prospects from development that would either obstruct the view /prospect from the identified vantage point or form an obtrusive or incongruous feature in that view /prospect.

- 7.5. There is an existing single storey cottage on the site which has been subject to some extension/amendment. The original façade facing the public road is about 7m long and the gables were about 5.2m deep. The kitchen to the north added about 2.5m the roadside façade for a total original roadside facade length of 9.2m. Relying on the material submitted with the application the original cottage was 27m<sup>2</sup> in floor area and the additions (that are proposed for demolition) comprise 25m<sup>2</sup>.
- 7.6. The application proposes to demolish the kitchen and rear bedroom extensions and replace them with 170m<sup>2</sup> floor area comprising three bedrooms, utility room, living/dining and kitchen. For a total roadside façade of 21m and total depth of about 15m. There are no houses on the seaward side of the R750 near the application site. There are three or four north of the site close to the R750/R773 junction but these are well set back from the road and screened with dense mature planting. There are 3 houses about 500m south on the R850 where the road turns at Mizen Heads and these illustrate the significant visual impact of even single storey houses in open coastal landscapes.
- 7.7. The application includes a landscape and visual impact assessment. There is no screening cover on the site and both the gable facades and the main road-facing facade will so significantly intrude on the prospects available from the R750 in the area of the application site so as to seriously injure the visual amenity of the area and materially contravene two objectives set out in the County Development Plan to protect the to protect the character and visual potential of the coast and conserve the character and quality of seascapes and the visual amenity of this coastal route from Wicklow to Arklow.



**7.8. Water Supply/Wastewater Treatment.**

- 7.9. The application states that there is an existing connection to a potable water supply on the caravan park site opposite.
- 7.10. The application makes no case that there was a waste water treatment system on this site and shows a 'dry toilet' at the rear of the original house. The application includes a site suitability assessment for the disposal of foul domestic effluent to a domestic waste water treatment system (DWWTS) generally in accordance with the EPA Guidance. The trial hole is stated to have been dug to 2m deep and but there is no record of either bedrock or a water table. The soil types are recorded only to a depth of 0.3m and is sandy silt. While this discrepancy is unexplained the T and P tests recorded extremely fast infiltration (T= 1 minute) within the site which would be expected in this coastal location with no surface water ponding and sparse ground cover. Therefore, the site is unsuitable to the safe disposal of domestic effluent and would give rise to ground water pollution.
- 7.11. The solution proposed is to treat effluent by way of a proprietary treatment system followed by a sand polishing filter. The EPA Code of Practice comments that packaged tertiary treatment systems are required in nutrient sensitive areas or where discharge to surface water is proposed. The submitted drawings show three double bedrooms in the house but the site suitability assessment states that there are two double bedrooms and two single bedrooms, the application states that the pe for the system should be 6. Having regard to the size of the proposed development this pe appears to be a conservative.
- 7.12. Although the site is not within the SAC it adjoins the SAC and is therefore particularly sensitive to impacts on ground water. The proposed proprietary treatment system appears to require electrical connection and will require significant maintenance over the full lifetime of the proposed extended house. Having regard to the fundamental unsuitability of the site for waste water treatment and on-going maintenance and costs associated with the proposed system I conclude that the DWWTS is not a sustainable form of development in the specific context of an unsuitable site in close proximity to a European site where the proposed development would give rise to an unacceptable risk of ground water pollution and be prejudicial to public health.

**7.13. Traffic hazard.**

7.14. While recognising that there was an original one-bedroom habitable house on site the present application proposes a development about 5 or 6 times the floor area of that original structure. There is no car parking at present on the application site. The proposed development will generate materially different and greater a traffic impacts than pertain at present. The public road fronting the site has a speed limit of 80kph, is narrow and without a median line, there are no footpaths or cycleways, there is no public lighting. There are several signs in the immediate vicinity warning motorists not to park.

7.15. The application proposes to make use of an existing agricultural gate to accommodate vehicular entrance to the site and a pedestrian entrance to the beach from the caravan park across the road (see drawing PP/03-04). Some of this infrastructure appears to exist at present by the present application would regularise the arrangement.

7.16. Having regard to the narrow road, the absence of footpaths, cycle path or public lighting and the foreseeable conflict between residential traffic turning movements into/out of the application site, traffic accessing the caravan park, pedestrian movements over the road to the beach and general traffic using this stretch of narrow regional route I recommend refusal for endangerment of public safety by reason of traffic hazard.

**7.17. Ecological Impacts.**

7.18. In a submission to the planning authority the Minister for Culture, Heritage and the Gaeltacht raised (a) the potential for impacts on the aquifer underlying the site from the abstraction of water to feed the public shower on site, (b) the potential for importation of alien species in the fill for the percolation area for the DWWTS, (c) an absence of detailed measures to prevent disturbance of the SAC which is not physically separated from the application site and the potential for impact on the adjoining SAC and, in particular, water dependent qualifying interests.

7.19. The application conflated the water supply of the caravan park on the lands on the opposite side of the R750 road with the proposed water supply for the proposed house and the public free-standing shower which is at the top of the path which leads down to the beach from the application site. The Department of Culture,

Heritage and the Gaeltacht was concerned that this shower would create a demand on the groundwater regime in the area such as to impact on the qualifying interests of the adjoining SAC. I consider that it is reasonable when considering this application to distinguish between the Ardarairy caravan park which is not the subject of this application and the application for the extended house. The applicant proposes to remove this shower so as to deal with the concerns on this point. On my site visit the shower was still in place but not operable. I conclude that this matter could be dealt with by a condition requiring the removal of the shower.

7.20. In reply to the query in relation to the potential for the importation of invasive species with the fill for the constructed percolation area for the DWWTs the applicant states that such material will be sourced from registered quarries and will be free of invasive plant species. I conclude that this is an operable precaution against the spread of invasive species and could be addressed by way of a planning condition.

#### 7.21. **Appropriate Assessment**

7.22. A revised AA screening report was submitted in response to the further information request. The boundary of the Buckroneys-Brittias Dunes and Fen (SAC000729) is drawn around the application site to the east but is undefined on the application site (see attached NPWS maps for the SAC). The conservation objectives for the SAC are the maintenance of habitats and species within the Natura 2000 site at favourable conservation condition which will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level. The qualifying interests for the SAC are;

- Annual vegetation of drift lines
- Perennial vegetation of stony banks
- Mediterranean salt meadows (*Juncetalia maritimi*)
- Embryonic shifting dunes
- Shifting dunes along the shoreline with *ammophila arenaria* (white dunes)
- Fixed coastal dunes with herbaceous vegetation (grey dunes)
- Atlantic decalcified fixed dunes (*Calluno-Ulicetalia*)
- Dunes with *salix ripens* ssp. *argentea* (*Salicion arenariae*)

- Humid dune slacks, and
- Alkaline fens

7.23. The AA screening reports that there are no pathways to the two groundwater dependent features; Humid dune slacks about 500m to the north and the Alkaline fens about 750m to the west. This conclusion references, inter alia, the percolation tests submitted with the site characterisation but these percolation test indicate a fundamental unsuitability of the site for effluent disposal.

7.24. The Screening report furthermore addresses in-combination affects and concludes that there are no identifiable significant in-combination effects. Immediately to the east of the site is an area mapped by the NPWS as fixed coastal dunes with herbaceous vegetation (grey dunes). These dunes are sensitive to human activity and the provision of a substantial house in very close proximity will bring additional anthropogenic activity closer to this qualifying interest. As stated in the application the nearby caravan park connects with the beach through the site and I consider that it cannot be concluded on the basis of the information available that in-combination effects with the caravan park can be excluded in this case.

#### 7.25. **Environmental Impact Assessment Screening**

7.26. Having regard to nature of the development comprising alteration of an existing structure 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**

8.1. I recommend permission be refused.

## 9.0 Reasons.

1.	<p>The planning authority has set out objectives in the Wicklow County Development Plan 2016-2022 to protect the character and visual potential of the coast and conserve the character and quality of seascapes and to protect of views and prospects of highest amenity value in the County. The proposed development comprises a significantly enlarged residential building on the seaward side of the R750 coast road which is designated a scenic route in the Plan and listed for protection. Having regard to the location of the amended building between the public road and the coast, the scale and bulk of the proposed development, the lack of screening on the site and the proximity of the building to the public road it is considered that the proposed development would comprise an intrusive feature in the landscape and in prospects in the area, would materially contravene objectives set out in the County Development Plan and would be contrary to the proper planning and sustainable development of the area.</p>
2.	<p>Having regard to the soil conditions on site, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the development can be satisfactorily treated and disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health.</p>
3.	<p>The site is located on a regional road which is seriously substandard in terms of width and alignment, where there is no median line, footpaths, cycle path, public lighting of pedestrian crossings. The proposed development would give rise to additional traffic turning movements on this regional route and conflict with pedestrian and other vehicular traffic accessing nearby developments. The proposed development would endanger public safety by reason of traffic hazard and obstruction of road users.</p>

4.	On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the Buckroney-Brittis Dunes and Fen (SAC000729) in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.
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Hugh Mannion  
Senior Planning Inspector

26<sup>th</sup> April 2019