



An
Bord
Pleanála

Inspector's Report ABP 303968-19

Development	House, DWWTS, stables
Location	Mongan, Kilcarra, Arklow, County Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	18/1173
Applicant(s)	Ciara Garvey/Jason Corr
Type of Application	Planning Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	Justin Byrne
Observer(s)	None
Date of Site Inspection	8 th May 2019
Inspector	Hugh Mannion

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1.0 Site Location and Description

- 1.1. The application site has a stated area of 1.43ha and is located on a minor county road at Mongan, Kilcarra, Arklow, County Wicklow. Kilcarra is a rural settlement about 5kms northwest of Arklow. The site is irregularly shaped. The southern and western boundaries are undefined, the road side boundary comprises an agricultural entrance and sheep wire that has fallen in places. The eastern boundary is shared with the houses to the north east and comprises elements of post and wire and planting. The predominant landuse in the area is agriculture. The site is part of a tillage field which was previously used to grow maize.
- 1.2. Kilcarra is a dispersed settlement which is linked to its north with the R747 to Arklow, County Wicklow.

2.0 Proposed Development

- 2.1. The proposed development comprises the erection of a house, domestic waste water treatment system, stables and associated works at Mongan, Kilcara, County Wicklow.
- 2.2. The application was amended by additional information to reduce the size of the stable block from housing 4 horses to two horses.

3.0 Planning Authority Decision

3.1. Decision

- 3.2. Grant with conditions.

Condition 2 required an agreement under the Development Plan policy in relation to rural clusters.

Condition 4 required compliance with the EPA code of practice for DWWTS.

Condition 16 referred to the spreading of manure from the stables.

3.3. **Planning Authority Reports**

3.3.1. Planning Reports

The planner's report, after submission of further information, recommended a grant of permission.

3.3.2. Other Technical Reports

3.3.3. **Environment Section** requested further information as follows;

- Demonstrate that there is sufficient storage capacity in the proposed dung stead.
- Demonstrate that there is sufficient capacity in the soiled water tank.
- Demonstrate that soiled and clean surface water will be collected separately.
- Demonstrate that the applicant can comply with the Good Agricultural Practice Regulations.

3.4. The second **Environment Section** report reviewed the further information and recommended a grant of planning permission.

3.5. The **Environmental Health Office** had no objections in relation to the DWWTS.

3.6. The **Area Engineer** reported no issues in terms of roads or drainage.

4.0 **Planning History**

No relevant planning history.

5.0 **Policy and Context**

5.1. The **National Planning Framework** provides certain objectives in relation to spatial planning policy. National Policy Objective 19 is to;

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 **Sustainable Rural Housing Guidelines for Planning Authorities (DOEHLG 2005)** advise that planning authorities should incorporate policies in relation to rural housing in their development plans. A distinction should be made between rural and urban generated housing needs. Planning authorities should have regard to the National Spatial Strategy (NSS) particularly its designation of rural areas as being under strong urban pressure for housing arising from proximity to cities and bigger towns, structurally strong areas with stable population levels, structurally weak areas demonstrating population decline and areas with clustered settlement patterns especially in western counties.

5.4. **Development Plan**

5.5. Chapter 3 of the Wicklow County Development Plan 2016-2022 sets out a settlement strategy. The plan established a hierarchy of settlements with indicative housing targets. The site is located in to a Level 9 rural cluster.

5.6. Chapter 4 in relation to single houses in rural clusters states;

- Applicant / purchaser of any new home must

(a) be a resident for at least 10 years duration in County Wicklow of a settlement / area designated as Level 7-10 in the County settlement hierarchy that is within 10km of the rural cluster in question prior to making of application / purchase of new house.

(b) demonstrate a proven need for housing, for example:

- first time home owners;
- someone that previously owned a home and is no longer in possession of that home as it had to be disposed following legal separation / divorce, the transfer

of a home attached to a farm to a family member or the past sale of a home following emigration.

5.7. Natural Heritage Designations

No relevant.

5.8. Environmental Impact Assessment Screening

5.9. Having regard to the modest scale and nature of the development comprising the erection of a dwelling house and stables, and to the foreseeable emissions therefrom 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

- There is no water supply in the area. The proposed development is too close to the boundary with the appellants site/bored well and will give rise to pollution of nearby wells.
- The development includes provision for the keeping/rearing of horses. The land available for dung arising from this activity is inadequate.
- The road network in the area is inadequate and the proposed development will increase traffic movements.
- The house design is inappropriate for a rural area.

6.2. Applicant Response

- The appellant's well should be constructed in a manner and fitted with a raised collar to prevent ingress of surface water/vermin. The paddock will be an agricultural use on agricultural land.

- Wells and septic tanks within 100m of the application site should be shown in the submitted drawings.
- The farmer who owns the field of which the site forms part has undertaken to spread manure on the remainder of the farm. The keeping/rearing of horses will comply with the Farmyard Manure (Good Agricultural Practice for Protected Waters) Regulations 2017.

6.3. **Planning Authority Response**

- No comment.

6.4. **Observations**

- None

7.0 **Assessment**

7.1. The issues in this case are; settlement strategy, domestic waste water treatment, farm affluent treatment, road safety, and visual amenity.

7.2. **Development Plan Policy.**

7.3. The County Development Plan has had regard to the Sustainable Rural Housing Guidelines in that objective HD20 seeks to distinguish between rural and urban generated housing applications and states that urban generated housing shall not be permitted in the rural areas of the County, other than in rural settlements that have been deemed suitable to absorb an element of urban generated development.

7.4. The County Development Plan sets out a core strategy which includes a settlement hierarchy. Level 9 settlements (the smallest settlements) within the hierarchy are designated rural clusters, Kilcarra is one such cluster. Map 3.06D establishes the development boundary of Kilcarra and the site is located within that boundary. Housing needs will be accommodated in rural clusters where it is demonstrated that applicants have been resident in County Wicklow for 10 years within a small settlement and are first time homeowners or where personal circumstances have led to the loss of a house previously.

- 7.5. The applicant submitted material to establish rural connections (family connection to Kilcarra, attendance at local school, statement that this is the applicant's first house) sufficient to bring the application within the scope for consideration of new houses within a 'rural cluster'.
- 7.6. Having regard to the material submitted with the application and appeal I consider that the proposed development is not contrary to the Rural Housing Guidelines or the settlement strategy set out in the County Development Plan. Furthermore, having regard to the applicant's compliance with the planning authority's rural housing policy I do not recommend attaching any similar 'occupancy' condition as the planning authority's condition 2.
- 7.7. **Domestic Waste Water Treatment.**
- 7.8. There is no public water supply or sewerage in the area. The proposed development includes a private well and a proprietary domestic wastewater treatment system. The appellant makes the point that he has had to sink a new well recently and that the proposed development may impact on that new well.
- 7.9. The relevant standard for DWWTs is the EPA Code of Practice for Waste Water Treatment and Disposal Systems Serving Single Houses (2009). The site is essentially flat and the treatment system is located to the rear of the house and the proposed stable block. The site characterisation form submitted with the application is generally accurate in its description of the site; there are no water courses within the site, there was ponding close to the gateway to the public road but I consider that was a result of recent heavy rain and the spreading of some fill immediately inside the gate. The average T for percolation test results is 3.5 which is within the range of 3 to 50 which table 6.3 in the EPA CoP and the site is deemed suitable to accommodate on-site domestic effluent disposal.
- 7.10. The Environmental Health Officer reviewed the application and concluded (see report dated 9th November 2018) that the site complies with the criteria set out in the EPA CoP and is suitable for the treatment of domestic effluent. The application should include details of the sizing of the proprietary treatment system and percolation area. However, given the relatively large area of the site, the observable conditions on site and the results of percolation tests I am satisfied that this matter may be

subject to a condition. I recommend a further condition requiring the stable be moved so that it is not built over the effluent pipe from the house to the DWWTS.

7.11. Having regard to the foregoing I conclude that the domestic effluent arising within the site will be adequately treated on site and will not give rise to surface or ground water pollution.

7.12. **Farm Effluent.**

7.13. The European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017 is the relevant standard for treating farm effluent. The planning authority sought further information in relation to

- Demonstrate that there is sufficient storage capacity in the proposed dung stead.
- Demonstrate that there is sufficient capacity in the soiled water tank that serves the stables.
- Demonstrate that soiled and clean surface water will be collected separately.
- Demonstrate that the applicant has sufficient lands for spreading farmyard to comply with the Good Agricultural Practice Regulations.

7.14. In response to the request for further information. The applicant reduced the stable block by 50% to accommodate two horses only. The storage capacity of the dungstead is 24m³ which exceeds the 19m³ which is required by the Regulations¹. The soiled water from the stable will be directed to water tank at 0.3m³, this may appear small but generally urine will be absorbed by the bedding in the stable. The adjacent landowner has agreed to take solid manure waste. The planning authority's environment section reported on the additional information and commented that the application site has a relatively low N/ha loading and that the proposed development would give rise to a minimal increase in N/ha.

7.15. The appellant states that his new well is 11ft from the site boundary and that the horse manure can potentially contaminate that well. The manure and soiled water from the stables will be dealt with in accordance with the appropriate regulations and

¹ 2 horses x 0.59m³ x 16 weeks storage =19m³.

thereby avoid ground or surface water pollution. There will be some effluent spread naturally by the horses within the paddock area but there is a natural assimilative capacity within the soil whereby potential contaminants are broken down before they reach the water table.

7.16. Having regard to the material submitted with the application and appeal, to the reports of the planning authority and the observable conditions on site I conclude that the proposed development will not be prejudicial to public health or give rise to ground or surface water pollution.

7.17. Road safety.

7.18. The proposed development will access a narrow public road which has no median line, public footpath, public lighting, cyclepath or pedestrian crossings. Nonetheless it is within a rural settlement designated in the County Development Plan where the planning authority foresees some limited housing development. The public road is not a link between settlement centres and is lightly trafficked and I consider that sightlines at the proposed entrance are adequate and I note that the Arklow Area Engineer (see report dated 15th November 2018) reported no issues in relation to road safety.

7.19. I conclude that the proposed development will not give rise to traffic hazard.

7.20. Visual amenity.

7.21. The current County Development Plan includes a landscape character assessment of the entire county and has designated areas of the County as areas of outstanding natural beauty and mapped these areas on map number 10.1313(b) attached to the Plan. Very generally, these are the mountain uplands in the centre of the county, the area around Glencree/Glencullen and most of the coastal strip outside settlements.

7.22. The application site is not designated in the plan as being of landscape importance and I concur with this view.

7.23. The appeal makes the point that the house design is sympathetic to its rural area location. The proposed house is a bungalow with render and stone finishes. There are several other bungalows in the area and I consider that the finishes and opening are acceptable.

7.24. Having regard to the foregoing I conclude that the proposed development will not seriously injure the visual or residential amenity of the area.

7.25. **Appropriate Assessment**

7.26. Having regard to the very modest scale of the proposed development and the foreseeable emissions therefrom 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 recommend a grant of planning permission.

9.0 **Reasons and Considerations**

Having regard to the location of the proposed development within a rural cluster designated in the Wicklow County Development Plan 2016-2022, to the suitability of the site for the safe disposal of domestic effluent and the lightly trafficked nature of the local road network it is considered that the proposed development will not give rise to surface or ground water pollution, endanger public safety by reason of traffic hazard and would otherwise accord with the settlement strategy set out in the current county development plan and with the proper planning and sustainable development of the area.

10.0 **Conditions**

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 7 th day of July 2019, 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
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	<p>development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Prior to commencement of development revised plans and particulars shall be submitted for the written agreement of the planning authority providing for the following:</p> <p>(a) the repositioning of the effluent pipe from the proposed dwelling house to the domestic waste water treatment system to avoid it passing under the proposed stable block.</p> <p>(b) the repositioning of the proposed surface water percolation area from within the curtilage of the adjoining site to the east to within the curtilage of the application site.</p> <p>Reason: In the interest of public health.</p>
3.	<p>(a) The roof colour of the proposed house and stables shall be blue-black, black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.</p> <p>(b) The external walls shall be finished in neutral colours such as grey or off-white.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>The water supply to serve the proposed dwelling shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details, demonstrating compliance with these requirements, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: To ensure that adequate water is provided to serve the proposed dwelling, in the interest of public health.</p>
5.	<p>Drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services. In this regard-</p>

	<p>(a) uncontaminated surface water run-off shall be disposed of directly in a sealed system, and</p> <p>(b) all soiled waters shall be directed to a storage tank. Drainage details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.</p> <p>Reason: In the interest of environmental protection and public health.</p>
6.	<p>(a)The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled “Wastewater Treatment Manual – Treatment Systems for Single Houses” – Environmental Protection Agency (2009).</p> <p>(b)Treated effluent from the septic tank system shall be discharged to a raised percolation area which shall be provided in accordance with the standards set out in “Wastewater Treatment Manual – Treatment Systems for Single Houses” – Environmental Protection Agency (2009).</p> <p>(c)Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the raised percolation area is constructed in accordance with the standards set out in the EPA document.</p> <p>Reason: In the interest of public health.</p>
7.	<p>Slurry generated by the proposed development shall be disposed of by spreading on land, or by other means acceptable in writing to the planning authority. The location, rate and time of spreading (including prohibited times for spreading) and the buffer zones to be applied shall be in accordance with the requirements of the European Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2017(SI no. 605 of 2017).</p> <p>Reason: To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and to prevent pollution of watercourses.</p>

8.	<p>The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:</p> <ul style="list-style-type: none"> (a) the establishment of a hedgerow along all side and rear boundaries of the site, and (b) planting of trees at metre intervals along the roadside boundary of the site. <p>Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In order to assimilate the proposed development into the surrounding rural landscape, in the interest of visual amenity.</p>
9.	<p>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.</p>

	<p>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.</p>
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Hugh Mannion
Senior Planning Inspector

10th May 2019