



An
Bord
Pleanála

Inspector's Report ABP-304435-19.

Development	Construction of dwelling and garage
Location	Glencullen, County Dublin
Planning Authority	DLRCC.
Planning Authority Reg. Ref.	D19A/0051.
Applicants	Jana Keane and Stuart Thompson.
Type of Application	Permission.
Planning Authority Decision	Refusal.
Type of Appeal	First Party
Appellants	As above.
Observer	Brian Mulvey. James Mulvey John Mulvey
Date of Site Inspection	30 th September 2019.
Inspector	Philip Davis.

Contents

1.0 Introduction.....	3
2.0 Site Location and Description	3
3.0 Proposed Development	4
4.0 Planning Authority Decision.....	4
4.1. Decision	4
4.2. Planning Authority Reports	4
4.3. Prescribed Bodies.....	5
4.4. Third Party Observations	5
5.0 Planning History.....	5
6.0 Policy Context.....	6
6.1. Development Plan.....	6
6.2. Natural Heritage Designations	6
7.0 The Appeal	6
7.1. Grounds of Appeal	6
7.2. Planning Authority Response.....	7
8.0 Assessment.....	9
9.0 Recommendation.....	16
10.0 Reasons and Considerations	16

1.0 Introduction

This appeal is by the applicants against the decision of the planning authority to refuse permission for a rural dwelling just south of Dublin near Glencullen. Three local observers have written to support the decision of the planning authority.

2.0 Site Location and Description

2.1. Glencullen

The appeal site is located within the Glencullen Valley which runs west from the village of Glencullen in the Dublin Mountains to Tibbradden. This narrow valley is mostly around 400 metres AOD at its base, is narrow with low grade grazing at the valley floor, and conifer plantation and heathland on the higher ridges on each side – these include Tibbradden and Cruagh mountains. The Glencullen River runs along the base of the valley – this river rises in Glendoo Mountain, eventually joining the Dartry River west of Bray. The R116 regional road runs the base of the valley connecting Rathfarnham to Glencullen and Kiltiernan. The Wicklow Way runs for a short way along the R116. A small number of minor roads run south from the R116, including the Boranoraltry Lane about 1.5 km west of Glencullen village, which runs down to the valley base, crosses the river, and terminates up Glencullen Mountain – the Wicklow Way follows the lane, continuing further up the mountain through conifer plantation as a walkers trail.

2.2. Appeal site

The appeal site is an irregularly shaped area of farmland on the south side of the Boranoraltry Lane just south of the R116. Site area is given as 0.84 hectares on the application form. The site is sheep grazing and is bounded with low ditches. It is just south of the road as it runs down to the village. The site slopes to the south-east. There is a farm complex and a loose cluster of dwellings to the west and north of the site, and another loose cluster of dwellings further north-east around the R116 close to the road junction.

3.0 Proposed Development

The proposed development is for a dwelling of just over 180 sqm floor space with 3 bedrooms with ancillary works including a wastewater treatment system.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to refuse permission for two reasons – the first relates to the zoning objective relating to high amenity areas, the second relates to the impact on identified views and prospects.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- Outlines planning policy with regard to high amenity areas and rural housing.
- A previous refusal for five reasons was noted, and outlines how the proposed development seeks to overcome those stated reasons.
- Notes copious correspondence submitted with regard to the applicant's connection to the local area and economy.
- It notes that the proposed development is a simple single storey design and is designed to integrate with the existing cluster of housing in the vicinity.
- It is stated that it is not considered that the applicants business (stone working) is integrally linked to the need for a rural dwelling. It is stated that contrary to the submitted documentation, the applicant appears to be an estate agent living in Sandyford village
- It is noted that the LAP is expired, but it is still considered that the proposed development contributes to a ribbon of development.
- With regard to the Glencullen River Protection Area, it is noted that it is not clear that the revised proposals would reduce an impact, so additional information is considered necessary following a memo from the EHO.

- While it is acknowledged that the impact of the proposed development is likely to be significantly less than the previous application, it is not considered acceptable having regard to the sensitivity of the landscape.
- It is considered that there is no issue now with sight lines at the proposed entrance.
- It is considered that while no screening was attached, having regard to the small scale of the proposed dwelling, it is not considered that an NIS is necessary.
- Refusal was recommended for two reasons.

4.2.2. Other Technical Reports

Transportation: No objection.

EHO: Requested further information with regard to run-off and the design of the proposed wastewater treatment area.

4.3. Prescribed Bodies

None on file.

4.4. Third Party Observations

None on file.

5.0 Planning History

A previous application for a dwelling on the site (**D16/0891**) was refused permission for five stated reasons – contrary to the zoning designation, and policy in the Glencullen LAP with regard to protecting the village core and the local water supply and the river protection area, landscape issues, and sightlines at the proposed entrance.

6.0 Policy Context

6.1. Development Plan

The appeal site is within an area zoned '*Objective G: To protect and improve high amenity areas*' under the DLRCC Development Plan 2016-2022. There are protected views on either side of the Boranaraltry Lane – this lane in its entirety is part of the Wicklow Way. The area was covered by the Glencullen LAP which is now considered expired by the planning authority. Relevant extracts of the development plan are attached in the appendix to this report.

6.2. Natural Heritage Designations

The site is about 1km north of two upland designated areas – the Wicklow Mountains SPA site code 002122 and the Wicklow Mountains SAC site code 004040. The Glencullen River flows through the Knocksink Woods SAC site code 000725, approximately 2 km south-east of the site and downriver.

7.0 The Appeal

7.1. Grounds of Appeal

An appeal was submitted on behalf of the applicants by Frank Ó'Gallachóir Associates Ltd. Key points are as follows:

- It is submitted that the design is materially different than that previously refused.
- In support of a detailed argument of an argument that the applicants qualify for a rural dwelling under housing need criteria, the National Planning Framework (objective 19 and 21) 'objectives to strengthen local economies' are emphasised.
- It is argued that the applicant is a local person with a demonstrated housing need – it is stated that she is a part time farmer and works in local crafts and industry, and Boranaraltry Lane is an identified cluster in the LAP.

- A very significant and voluminous appendix is submitted in support of the applicant's local status.
- With regard to the planning authority statement that the applicant is an estate agent, it is explained that she works part time in her sister's business (documentation attached in support of this argument).
- A number of Board decisions, including PL06D.23542 and PL27.243838 are referred to in support of the argument that there are planning precedents for such rural residential permissions in generally restricted areas.
- It is argued that the revised plans fully address the issue of visual amenity impacts.
- There are 10 no. attachments to the appeal letter supporting the arguments submitted.

7.2. Planning Authority Response

In response to the points raised:

- It is noted that the applicants occupation as 'a part time auctioneers assistant' was not raised in the planning application, and appears only to be a response to this having been brought up in the planners report.
- The planning authority does not accept that the applicant is compliant with the rural housing policy. It is noted that the auctioneer business is called 'Keane Thompson', and the other applicant is called Thompson. It is noted that the rural housing policy is essentially restrictive and precautionary.
- It is not accepted that the site is part of a rural cluster, it is considered residential sprawl. It is denied that the area was so identified in the LAP proposals map.
- It is noted that if LAP policies were applied, there are further restrictions on development in this area.

7.3. Observers

Brian Mulvey of Boranaraltry Lane

- It is argued that it will have a strongly negative visual impact on residents and walkers on the Wicklow Way.
- It is argued that it is contrary to policy RES 16 and to policies protecting views and prospects in the area.

Photos are enclosed in support of his observations.

James Mulvey of Boranaraltry Lane

- It is submitted that the area is not a designated residential cluster and it is inappropriate to build in farmland in such an area.
- It is argued that it will seriously impact on the Wicklow Way and its scenic qualities.
- It is argued that 'working with stone' can be done anywhere – it is argued that only farmers need to live in this locality.
- It is submitted that the potential impact on Enniskerry's water supply was not addressed.
- It is denied that the immediate neighbours support the application (contrary to statements in the original application)
- The Board is requested to uphold the decision to refuse.

John Mulvey of Boranaraltry Lane

- States that he is the owner of adjoining lands.
- Writes to concur with his father (James Mulvey, above) in his objections.
- Objects specifically to trying to develop a new 'cluster' in the area.

7.4. Further responses

The applicant responded to the planning authority as follows:

- Letters and attachments are submitted in support of a restated argument that the applicant has only part time work attachment to the auctioneer company

and is a full-time resident of the local rural area who is employed in a traditional stone-based rural enterprise.

- It is stated that she did not outline these details at application stage as this was only occasional and part time work. It is denied that her partner has any connection with Keane Thompson.
- Section 3, part 3.2.2 of the Glencullen LAP is quoted with regard to clusters – it notes that Boranaraltry Lane is listed – it is noted that in an appeal (PL06D.235242), the Board stated that it was an established cluster.
- It is acknowledged that policy identifies the site as part of the Frontage Development Exclusion zones in the LAP, but argues that these apply on most road frontages and it is further argued that the proposed development does not constitute ribbon development.

There are a number of enclosures in support of these arguments.

In a letter in response to the above, the Planning authority responded thus:

- The PA position on the applicant's compliance is as set out in the Planning Report and notes that the Council's position with regard to one off rural housing 'is essentially restrictive and precautionary'.
- It is denied that the site represents a 'gap' site in the location.
- It is stated that no boundary for the Boranaraltry Lane 'cluster' is shown in the proposals map in the 2008 LAP.
- It is denied that 'frontage development exclusion areas' have been applied to every road in the area.
- The Board is requested to uphold the decision to refuse.

8.0 Assessment

Having inspected the site and reviewed the file documents, I consider that the issues raised in this appeal can be addressed under the following general headings.

- Principle of development
- Pattern of development

- Visual impacts
- Access and parking
- Public health
- Pollution
- Appropriate Assessment and EIA
- Other issues

8.1. Principle of development

The proposed development is in an area zoned 'G' for 'High Amenity', a designation which applies to much of the most rural and attractive areas of the council area. The area is close to the boundary of the Glencullen LAP which is considered by the planning authority to be expired (as of 2018) and the policies no longer apply.

Policy on Rural housing is set out in policy RES16:

It is Council policy to restrict the spread of one off housing into the rural countryside and to accommodate local growth into identified small villages subject to the availability of necessary services. It is recognised that much of the demand for one-off housing is urban-generated and this can result in an unsustainable pattern of development, placing excessive strain on the environment, services and infrastructure. However, it is recognised that one-off housing may be acceptable where it is clearly shown that it is not urban-generated, will not place excessive strain on services and infrastructure, or have a serious negative impact on the landscape and where there is a genuine local need to reside in a rural area due to locationally-specific employment or local social needs (subject to compliance with the specific zoning objectives).

Specifically, for areas zoned objective 'G':

Within areas designated with zoning Objective ‘G’ - “To protect and improve high amenity areas” , dwellings will only be permitted on suitable sites where the applicant can demonstrate to the satisfaction of the Planning Authority that:

- There is genuine requirement for housing in the area because their principal employment is in agriculture, hill farming or a local enterprise directly related to the areas amenity potential.*
- The proposed development will have no potential negative impact for the area in such terms as visual prominence or impacts on views and prospects, or the natural or built heritage.*

In such areas, residential development is ‘open to consideration’ subject to policy on rural housing, as are ‘rural Industry-cottage’.

I would consider these policies to be in accordance with the Sustainable Rural Housing Guidelines 2005. I would consider the area around Glencullen to be ‘under strong urban pressure’ and so I would consider zoning objective G to be reasonable, along with its particularly strict criteria on new housing.

I note that in the previous decision and the applicants appeal letter there are references to the Glencullen LAP – it appears that this is now considered to be expired and the policies in the development plan only apply.

The planning authority state that they consider policy to be essentially restrictive and precautionary – or put another way, there is a very strong presumption against rural development in ‘G’ zoned areas unless the applicant can demonstrate clear social and economic needs and local ties. I consider such a very strong stance to be justified in the context of the Sustainable Rural Housing Guidelines and the particular nature of the area, which has both a very high level of amenity and is very close to the main Dublin urban area.

The planning authority do not consider that the applicant qualifies under local criteria, and despite the voluminous information submitted with the application, I would concur with this assessment. I do not doubt that the applicant is from the local area originally, and has a craft type business, but I see no particular reason from the submitted information to justify that there is an economic or social need to live in an isolated area some distance west of the village of Glencullen. I do not

consider that the question of whether the applicant has a significant stake in the urban based business is particularly relevant to this question – it is clear from the overall policy context (both in the development plan and in the NPA and Guidelines) that only in exceptional circumstances should new dwellings in such areas be permitted.

8.2. Pattern of development

There is a loose cluster of mostly quite recent houses at the junction of the main road and Boranaraltry Lane. The houses are scattered quite randomly so don't quite constitute a distinct historic cluster, or a sprawl as defined in the guidelines. However, it is quite clear that this area does not constitute a village as such, and further development would extend the sprawl of development which seems to have no particular economic or social justification. I would therefore concur with the general point by the planning authority that the proposed development would result in an inappropriate pattern of development within a rural area.

8.3. Design issues and amenity

The proposed design is significantly improved on the previously refused dwelling and is generally subtle and low key and in accordance with design guidelines in the development plan. Notwithstanding this, it is hard to imagine a more sensitive site as this, located on a key point as the Wicklow Way proceeds into county Wicklow and into some of the most dramatic parts of the route. The route here is designated in the development plan as a prospect for protection, and I consider this wholly justified, in particular as the south to south-east facing slope presents fine views down Glencullen valley. Any residential development on this site could not but impact on local scenic amenities and the general qualities of the Wicklow Way and such would in my opinion be inappropriate, notwithstanding other planning issues.

8.4. Access and traffic

The site is accessed via a proposed new gate onto the minor L-road. While this road is very narrow and twisty it is a dead-end road so there is minimal through

traffic apart from walkers. The planning authority consider that the sight lines are acceptable and there is sufficient parking on the site.

8.5. Public health

A proprietary wastewater treatment plant is proposed for use in association with the proposed dwelling. A site assessment was submitted with the application which indicated that the site is on relatively shallow deposits of granite till, over a poor quality aquifer of high vulnerability – the underlying geology is of granite and other igneous rock types. It is within a groundwater protection scheme. The site chosen for the treatment plant – which is on the northern and highest corner of the site (which would require pumping from the proposed dwelling), is around 240 metres from the Glencullen River. The trial hole indicated the water table is 1.3 metres below the surface. The subsoil is gravel till with quite low percolation characteristics.

Having regard to the sensitivity of the nearby river, which flows through an SAC (see below for further discussion), I would not be convinced that the information submitted is sufficient to demonstrate it can be served by a proprietary system with discharge to groundwater. There are a significant number of other such septic tank/proprietary systems in an area with an apparent very high water table and poor percolation characteristics, on a steep slope discharging ultimately to the river. I would particularly be concerned at the choice of location for the plant/percolation area – as it is upslope from the house then active pumping would be required which could result in significant problems if there were power supply issues.

I would concur with the memo from the EHO on file that further information on the details of the submission would be required to demonstrate that the proposed system is appropriate having regard to the environmental sensitivities of the site.

The site is served by a group scheme for potable water.

8.6. Appropriate Assessment and EIA

Appropriate assessment

The site is about 1km north of two upland designated areas – the Wicklow Mountains SPA site code 002122 and the Wicklow Mountains SAC site code

004040. The Glencullen River flows through the Knocksink Woods SAC site code 000725, approximately 2 km south-east of the site and downriver.

The Wicklow Mountains SPA has a conservation objective to maintain or restore the favourable conservation condition of two raptor species, the Merlin and Peregrine Falcon.

The Wicklow Mountains SAC has a conservation objective to maintain or restore the favourable conservation condition of a range of habitats including wet, dry and alpine heaths, *calaminarian* and *nardus* grasslands, blanket bogs, siliceous scree, calcareous and siliceous rocky slopes, old sessile oak woods, oligotrophic waters and natural dystrophic lakes and ponds, in addition to the habitat of the otter.

The Knocksink Woods SAC has a conservation objective to protect or restore the favourable conservation condition of two habitats – petrifying springs with tufa formation and alluvial forests with *Alnus Glutinosa* and *Fraxinus Excelsior* (alder and ash).

The site is upslope and some 150 metres from the Glencullen River, which flows directly through the Knocksink Woods SAC. There appears to be a ditch connecting the site directly to the river. There is therefore a potential pathway for pollution to Knocksink SAC. There is therefore a potential for both construction activities, and potentially run-off from the wastewater treatment system having an impact on the watercourse. The question with regard to appropriate assessment is whether there is a likely to be a significant effect on the conservation interest of the designated habitat. The Screening carried out by the planning authority concluded that there is not.

However, with regard to the particularly high hurdle set by a number of court decisions, it is not clear to me that the potential impact of a new house with wastewater treatment system, in combination with the other dwellings in the area, all apparently with their own wastewater treatment plants, could not potentially be significant. The lands have poor quality geology for absorbing waste water and appear to be in hydraulic continuity with the groundwater that supplies the tufa springs and the surface and ground water flows to the alluvial forests, which are intrinsically linked ecologically to the local ground and surface water quality. I do not consider therefore that there is sufficient information available to definitively rule out

a significant impact on the designated habitat, so I would consider that an NIS is necessary.

The site is across the river and separated somewhat from the Wicklow Mountains SAC and SPA, and having regard to the type of habitats listed within the conservation objectives, I do not consider that there are any likely pathways for pollution or other direct or indirect impacts on the listed habitats for those two designated habitats.

Therefore, 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 European site No. 000725, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

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Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the immediate vicinity, 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.

8.7. Other issues

There are no protected structures on the site or immediate vicinity, no indication of archaeological sensitivities to the site and no other planning issues. There are a number of recorded ancient monuments in the general area, but there are no indications of archaeological remains on the site.

The proposed development would be subject to the standard development contribution scheme under S.48 of the Act.

I do not consider that there are any other planning issues raised in this appeal

9.0 Recommendation

I recommend that the proposed development be refused for generally the same reasons as the planning authority – but in addition I consider that the Board is precluded from granting permission as there is insufficient information available to definitively rule out a significant impact on the Knocksink SAC.

10.0 Reasons and Considerations

1. Having regard to the location of the site within and area zoned Objective G (to protect and improve high amenity areas' and in an area where housing is restricted to persons demonstrating local need in accordance with the current Dun Laoghaire-Rathdown Development Plan 2006-2022, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based 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, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development by reason of its prominent position on the Wicklow Way along a road where there is an objective to preserve views along Boranaraltry Lane, as identified on Map 12 of the Dun Laoghaire-Rathdown Development Plan 2016-2022, would interfere with a prospect of special amenity value which it is necessary to preserve and would thus conflict with the policies in the development plan and would seriously injure the visual amenities of this scenic area.
3. 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 European site No. 000725, or

any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

Philip Davis
Planning Inspector

1st October 2019