



An
Bord
Pleanála

Inspector's Report ABP-304713-19

Development

Amendments to previously granted planning permission for dwelling house (PI Ref 17/687) to include a) revised site boundary; b) new entrance onto Ballydonerea Lane in place of originally permitted entrance via shared access onto Lott Lane; c) relocation of dwelling on site and re-orientation to front onto Ballydonerea Lane.

Location

Lott Lane, Kilcoole, Co. Wicklow.

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

19/370

Applicant(s)

Denis O'Donovan

Type of Application

Permission

Planning Authority Decision

Refusal

Type of Appeal

First Party v. Decision

Appellant(s)

Denis O'Donovan

Observer(s)

Ralph Tindal

Date of Site Inspection

6th September, 2019

Inspector

Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located along the southern side of Ballydonarea Lane in the village of Kilcoole, Co. Wicklow, where it occupies a position between a recently developed nursing home to the east and the rear of housing (i.e. Rockchapel Mews & Rockchapel House) which fronts onto Lott Lane further west. Ballydonarea Lane is a narrow private laneway which extends south-eastwards from its junction with Lott Lane to serve a small number of individual dwelling houses and adjacent agricultural lands before terminating in a cul-de-sac. Despite the absence of public footpaths and street lighting, the laneway also serves as a marked walking route to the beach / sea with a pedestrian track continuing beyond the main carriageway towards same.
- 1.2. The site itself has a stated site area of 0.06 hectares, is generally rectangular in shape, and comprises a vacant parcel of land that would appear to have previously formed part of the wider curtilage of the property known as Rockchapel House (a conventionally designed, two-storey dwelling house) prior to its subdivision to accommodate the construction of 2 No. front-gabled, dormer-style dwellings to each side of same. The site perimeter is defined by concrete post and panel fencing although a section of the south-eastern site boundary is supplemented by mature hedgerow. Whilst the property retains frontage onto Ballydonarea Lane, it is presently accessed from Lott Lane via an existing entrance arrangement shared with Rockchapel House.

2.0 Proposed Development

- 2.1. The subject proposal involves the modification of the development previously approved on site under PA Ref. No. 17/687 to provide for the following:
- The revision of the site boundary to exclude that area comprising the existing access arrangement from Lott Lane serving Rockchapel House.
 - The provision of a new vehicular entrance onto Ballydonarea Lane in place of the permitted entrance arrangement via a shared access onto Lott Lane.
 - The relocation and re-orientation of the permitted dwelling house to front onto Ballydonarea Lane.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 23rd May, 2019 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following single reason:

- The proposed development would endanger public safety by reason of traffic hazard because it has not been demonstrated to the satisfaction of the Planning Authority that:
 - a) Adequate sight distances can be achieved at the junction of Ballydonarea Lane and Lott Lane to accord with DMURS Guidelines standards,
 - b) Ballydonarea Lane is capable of accommodating a residential access at this point due to its restricted width,
 - c) The applicant has sufficient legal entitlement to access / exit the site from Ballydonarea Lane.

The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

States that whilst the proposed alteration and reorientation of the dwelling house previously approved on site under PA Ref. No. PRR17/687 will not have a detrimental impact on the visual or residential amenities of the area, the proposal to access same from Ballydonarea Lane is unacceptable due to the narrow width of the existing laneway and the inadequacy of the sightlines available both onto the laneway itself and at the junction with Lott Lane. The report thus concludes by recommending that permission be refused for the reason stated.

3.2.2. *Other Technical Reports*

Roads: States that Ballydonarea Lane is not a public road and proceeds to query if the applicant has been given permission to use this private road.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

- 3.4.1. A total of 3 No. submissions were received from an interested third party, however, in the interests of conciseness, and in order to avoid unnecessary repetition, I would advise the Board that the principle grounds of objection / areas of concern raised therein can be derived from my summation of the contents of the observation lodged by Mr. Ralph Tindal with respect to this appeal.

4.0 **Planning History**

4.1. *On Site:*

PA Ref. No. 05/3285. Was granted on 12th October, 2005 permitting James Curtin permission for a single storey extension to the side of the existing house including the demolition of the existing boiler room/store together with a garage/store.

PA Ref. No. 17/311. Application by Denis O'Donovan for permission for the construction of 1 No. detached dwelling (156.3 sqm) with entrance onto Ballydonarea Lane and all associated site works and services. This application was withdrawn.

PA Ref. No. 17/687. Was granted on 18th September, 2017 permitting Denis O'Donovan permission for 1 No. detached dwelling (total floor area 156.3 sqm) sharing existing Rockchapel House access onto Lott Lane, and all associated site works and services.

4.2. *Other Relevant Files:*

PA Ref. No. 19148. Application by Wicklow County Council for permission for 156 No. mixed tenure units (social, affordable and private - approximately 60 - 70% private and remaining 30 - 40% social / affordable) and all associated works. The accommodation would consist of: 14 x 1 bed apartments, 4 x 2 bed duplex apartments, 50 x 2 bed houses, 66 x 3 bed houses and 22 x 4 bed houses, all at Lott Lane, Ballydonarea, Kilcoole, Co. Wicklow. This application was withdrawn.

5.0 Policy and Context

5.1. Development Plan

5.1.1. *Wicklow County Development Plan, 2016-2022:*

Chapter 3: Settlement Strategy:

Section 3.2: County Wicklow Settlement Strategy:

Level 5 – Small Growth Towns: Kilcoole

Chapter 4: Housing:

Section 4.3: Key Housing Principles

Section 4.3.6: Design of New Developments

Section 4.4: Housing Objectives

HD9: In areas zoned / designated ‘existing residential’, house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity will normally be permitted (other than on lands permitted or designated as open space, see Objective HD11 below). While new developments shall have regard to the protection of the residential and architectural amenities of houses in the immediate environs, alternative and contemporary designs shall be encouraged (including alternative materials, heights and building forms), to provide for visual diversity.

Chapter 9: Infrastructure:

Section 9.1: Roads and Transportation

Appendix 1: Development and Design Standards

Section 1: Mixed Use and Housing Developments in Urban Areas

Section 7: Roads and Transportation

5.1.2. **Greystones – Delgany & Kilcoole Local Area Plan, 2013-2019:**

Land Use Zoning:

The proposed development site is located in an area zoned as ‘RE: Existing Residential’ with the stated land use zoning objective ‘To protect, provide for and improve residential amenities of adjoining properties and areas while allowing for infill residential development that reflects the established character of the area in which it is located’.

Other Relevant Sections / Policies:

Section 2: *Overall Vision and Development Strategy*

Section 8: *Transport and Service Infrastructure:*

TS7: Promote the development of safe and accessible pedestrian and traffic routes.

TS8: To implement the objectives as set out in Table 7.1, for:

- i. the development of new roads within the lifetime of the plan (indicated in purple on Map A),
- ii. the development of new roads beyond the lifetime of the plan (indicated in pink on Map A), and
- iii. the improvement/upgrading of existing roads, including for example new footpaths/cycleways, public lighting, road realignments / widening, re-surfacing etc., within the lifetime of the plan (indicated in peach on Map A).

Roads Objectives:

RO9: Provision of a local access road to facilitate the development of zoned lands at AP8: Ballydonarea Action Plan, in the form of a link road *between Sea Road and Lott Lane.*

RO13: Upgrading of Lott Lane, Kilcoole.

5.2. Natural Heritage Designations

5.2.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The Murrough Wetlands Special Area of Conservation (Site Code: 002249), approximately 900m east of the site.
- The Murrough Special Protection Area (Site Code: 004186), approximately 1.4km southeast of the site.

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, 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

- It is the applicant's understanding that the Local Authority intends to widen Ballydonarea Lane from its junction with Lott Lane as per PA Ref. No. 19148 as it is proposed to use this laneway as a temporary access point (with a new entrance from Ballydonarea Lane to serve lands owned by the Council) and in order to ensure its continued safe usage by existing road users i.e. the 5 No. residences and agricultural lands served by same.
- Following discussions with the Roads Department of the Local Authority, it was ascertained that a new entrance at the location proposed would have to comply with the design standards set out in the '*Design Manual for Urban Roads and Streets*'.

The accompanying site layout drawings (Drg. Nos. PL-02 & TD-01) show the visibility splay available at the proposed entrance from a point set back 2m from the near edge of the carriageway as provided for in Section 4.4.5 of the Design Manual as follows:

'In difficult circumstances this may be reduced to 2.0 metres where vehicle speeds are slow and flows on the minor arm are low'.

From this position, the forward sight visibility is measured to the centreline of Ballydonarea Lane due to its limited carriageway width (which poses an obvious constraint to overtaking) as per Figure 4.6.3 of the Design Manual.

Under these parameters, it is apparent from Drg. No. PL-02 that the visibility splay will extend to the junction of Ballydonarea Lane with Lott Lane to the northwest and c. 60m along Ballydonarea Lane to the southeast provided the roadside vegetation is trimmed back. A 60m visibility splay allows for consideration of a road design speed of 60kph which is deemed reasonable for the type of local access road in question.

Therefore, it is evident that the proposed entrance arrangement complies with the relevant standards for junctions within a village settlement.

- It is apparent from Drg. No. PL-02 that the roadside boundary of the subject site will be set back 3m from the near edge of the carriageway in order to provide for possible future road widening.
- The accompanying land registry and folio details, as supplemented by legal advice received from the applicant's solicitor, clearly demonstrate that the section of Ballydonarea Lane between the proposed site access and the junction with Lott Lane is owned by 'Rockchapel House' (i.e. the applicant) and Wicklow County Council (whose lands are proposed for development pursuant to PA Ref. No. 19148).
- No evidence has been provided to disprove the applicant's ownership of that part of Ballydonarea Lane onto which it is proposed access the subject site.

6.2. Planning Authority Response

None.

6.3. Observations

6.3.1. *Ralph Tindal:*

- The sightlines available from the relocated entrance onto Ballydonarea Lane are seriously deficient.
- Due to the very restricted sight distance at the junction of Ballydonarea Lane with Lott Lane, vehicles exiting the minor laneway are forced to encroach onto the main carriageway in order to view oncoming traffic.
- Ballydonarea Lane is a private laneway and there is no automatic entitlement to open a new entrance onto same. In this regard, it should also be noted that permission has already been granted under PA Ref. No. 17/687 for an entrance with adequate sightlines onto Lott Lane to serve the proposed dwelling house.
- Ballydonarea Lane provides access to a number of dwelling houses whose residents manage and maintain the laneway.
- The property known as 'Rockchapel' (which encompasses the application site) has always been accessed from Lott Lane and not via Ballydonarea Lane.
- Given the narrow width of Ballydonarea Lane, which is insufficient to allow two vehicles to pass side-by-side, it is incapable of sustaining the additional traffic consequent on the proposed development.
- Although Ballydonarea Lane is a private road, it is known as a right of way for persons to walk between Lott Lane and the sea.
- The Planning Authority has consistently refused permission for the construction of new dwellings or the renovation of existing buildings along the laneway on the basis that the egress onto Lott Lane is dangerous.
- Having regard to the existing levels of traffic using the laneway and its deteriorating condition, Ballydonarea Lane does not have the capacity to accommodate additional traffic volumes consequent on the proposed development.

- Given the absence of any footpaths / kerbing etc. along Ballydonarea Lane and its popularity as a walking route between Lott Lane and the sea, the safety of pedestrians must be considered in the assessment of the proposed development.
- Contrary to correspondence submitted in support of the subject application, the planned development of 156 No. dwelling houses to the rear of Ballydonarea House (please refer to PA Ref. No. 19148) was to have been accessed off Lott Lane at Laurel Lodge and not via Ballydonarea Lane. Moreover, the aforementioned development is presently 'on hold' due to legal issues.
- The decision of the Planning Authority to refuse permission should be upheld in the interest of public safety and in an effort to maintain the ethos and integrity of the existing laneway.

6.4. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Traffic implications
- Impact on residential amenity
- Appropriate assessment

These are assessed as follows:

7.2. The Principle of the Proposed Development:

7.2.1. The proposed development is described in the public notices as comprising '*Amendments to previously granted planning permission for dwelling house (PI Ref 17/687)*' and effectively amounts to the revision of the site layout previously

approved on site under PA Ref. No. 17/687. Accordingly, I am satisfied that the subject application can be reasonably described as amending an extant grant of permission and, therefore, there is no need to revisit the wider merits and overall principle of the development of a dwelling house on the site. Indeed, it is clear that the subject proposal is intrinsically linked to the grant of permission issued in respect of PA Ref. No. 17/687 and that the amendments detailed in the subject proposal are reliant on the implementation of that extant grant of permission and cannot be carried out in isolation of same. Therefore, as the overall principle of the development of a dwelling house on this site has already been established under PA Ref. No. 17/687, it would be inappropriate to revisit any issues of principle which have already been considered in the assessment of PA Ref. No. 17/687.

7.3. Traffic Implications:

- 7.3.1. The proposed development includes for the provision of a new vehicular entrance onto Ballydonarea Lane in place of the shared access previously approved under PA Ref. No. 17/687 which would have involved the use of an existing entrance arrangement serving Rockchapel House (the applicant's dwelling house) onto Lott Lane. In this respect, particular concerns have been raised as regards the capacity of the laneway to accommodate the additional traffic volumes consequent on the proposed development, the adequacy of the sightlines available from the proposed entrance onto the laneway and at the junction of Ballydonarea Lane with Lott Lane, and the applicant's entitlement to avail of access via Ballydonarea Lane given that it is in private ownership.
- 7.3.2. Following a review of the available information, and having conducted a site inspection, in my opinion, it is clear from the outset that whilst the proposal to amend the access arrangement serving the dwelling house previously approved on site under PA Ref. No. 17/687 would likely be desirable from the applicant's perspective as regards the simplification of any subsequent disposal / sale of that property, the primary consideration must be whether the proposed revision represents an improvement in terms of traffic safety over the development as originally permitted. In this regard, I would have serious reservations as regards the overall suitability of the revised access arrangements when compared to those already approved under PA Ref. No. 17/687.

- 7.3.3. At present, the permitted dwelling house is to be accessed from Lott Lane via an existing entrance arrangement shared with the applicant's neighbouring dwelling known as Rockchapel House. This is an established access arrangement onto the public road where clear and unobstructed sightlines are available in both directions whilst the carriageway itself is of a high standard with pedestrian footpaths along both sides and street lighting.
- 7.3.4. In contrast, Ballydonarea Lane is a narrow private laneway which extends south-eastwards from its junction with Lott Lane to provide access to 4 No. individual dwelling houses and surrounding agricultural lands. It has limited capacity to accommodate the additional traffic movements associated with any further unwarranted development whilst the carriageway width in the vicinity of the relocated entrance is particularly restricted and unable to allow two cars to pass side-by-side. The substandard nature of the laneway is further evidenced by the absence of any footpaths or street lighting (despite its use by pedestrians as a walking route from Lott Lane to the sea / beach) and the lack of a defined turning bay for vehicular traffic at the end of the cul-de-sac. However, of particular concern are the seriously deficient sightlines at the junction of Ballydonarea Lane with Lott Lane for traffic exiting onto the main carriageway. The existing roadside embankment and vegetation at this junction serves to severely restrict the visibility of on-coming south-bound traffic with the result that any vehicle attempting to exit Ballydonarea Lane will likely be required to edge into the main carriageway in order to gauge the presence of approaching traffic. Such a scenario is clearly unacceptable and would pose a risk to public safety by reason of traffic hazard. Whilst it is the applicant's understanding that the Local Authority intends to widen Ballydonarea Lane from its junction with Lott Lane as part of the development proposed under PA Ref. No. 19148, and although any such works may serve to improve the available sight distance, I would advise the Board that the aforementioned planning application has been formally withdrawn and thus there would not appear to be any immediate prospect of the necessary road improvements being carried out.
- 7.3.5. With regard to the sightlines available from the relocated entrance onto Ballydonarea Lane, I would also have concerns that these have not been adequately demonstrated in the submitted plans and particulars and would seem to be reliant on the trimming back of roadside vegetation on lands outside of the applicant's control.

7.3.6. By way of further comment, I note that additional concerns have been raised by both the Roads Dept. of the Local Authority and an interested third party as regards the applicant's entitlement to open a new entrance onto Ballydonarea Lane given that the laneway itself is in private ownership with the applicant's interest limited to the centreline of the carriageway along that section of the laneway between the easternmost extent of the application site and the junction with Lott Lane. Whilst it is not the function of the Board to adjudicate on such matters with Section 34(13) of the Planning and Development Act, 2000, as amended, stating that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*', it would be preferable if greater clarity could be provided on this issue in the event of any subsequent application.

7.3.7. Therefore, on the basis of the foregoing, I would concur with the assessment by the Planning Authority that the proposed development would endanger public safety by reason of traffic hazard given the substandard nature of Ballydonarea Lane and the inadequacy of the available sightlines, with particular reference to those at the junction of Ballydonarea Lane with Lott Lane.

7.4. Impact on Residential Amenity:

7.4.1. Having reviewed the proposed relocation and re-orientation of the permitted dwelling house, I am satisfied that the subject proposal will not give rise to any significant additional impact on the residential amenity of neighbouring properties by way of overlooking or overshadowing etc.

7.5. Appropriate Assessment:

7.5.1. Having regard to the nature and scale of the development under consideration, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the proposed development for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. It is considered that the proposed development would endanger public safety by reason of traffic hazard and the obstruction of road users because of the additional traffic turning movements the development would generate along a minor road, which is substandard in terms of its width and construction, and at the junction of Ballydonarea Lane and Lott Lane where sightlines are severely restricted to the north. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

11th September, 2019