



An
Bord
Pleanála

Inspector's Report

ABP-306519-20

Development	House, demolition of shed, new vehicular entrance and associated site and boundary works.
Location	Rocky Valley Drive , Kilmacanogue , Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	19603
Applicant(s)	Adrienne Quinn
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Declan & Susan O'Leary Timothy & Sharon Owen
Observer(s)	None
Date of Site Inspection	14/03/2020
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1.1. The site is located at the outskirts of Kilmacanogue village. Rocky Valley Drive is a narrow local road and the site is positioned at a bend in the road and opposite the entrance to two other dwelling houses. The adjacent local road rises from a level of 112.3m at the site frontage to 118.1 at the northern end of the overall holding.
- 1.1.2. The site is generally of crescent shape. The roadside part of the site is steep and is heavily planted with trees. The inner part of the site includes a relatively large flat portion of land which is presently under grass.
- 1.1.3. The adjacent lands are all developed for residential use. To the south is Annacurra, a cottage which is positioned close to the site boundary and at a lower level. To the north-west is a large detached two-storey house, Grantham Place.

2.0 Proposed Development

- 2.1.1. On the 4th June 2019, planning permission was sought for the construction of a part one, part two storey dwelling of 210sq.m., the demolition of a shed (7sq.m.) and the creation of a new vehicular entrance.
- 2.1.2. The application was accompanied by a cover letter and a Traffic and Transport Assessment.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 21st January 2020, the Planning Authority issued a notification of their intention to GRANT permission subject to 14 no. conditions. Condition no.2 refers to occupancy, condition no.s 6 and 7 refer to the treatment of the entrance and roadside boundary.

3.2. Planning Authority Reports

- 3.2.1. Email from **District Engineer**: Proposed development would create a traffic hazard. No access provided for stream that has been covered. Inadequate drainage in the area. Further information required.
- 3.2.2. **Senior Roads Engineer**: No objection if conditions of 14/1343 are met.

3.2.3. **Planning Report:** Principle of infill development is acceptable, in accordance with policy R4 of the Bray LAP. Site is greater in size than previously refused so allows the proposed dwelling to be located further east, closer to the road and providing a larger area of amenity space. Design of proposed dwelling is acceptable. Proposed access is acceptable provided improvements required under PPR14/1343 have been undertaken. Traffic and transport assessment submitted showing low speeds on the road. No impact on residential amenity of surrounding properties. Applicant complies with settlement policy. Further information required regarding drainage and the proposed access road which is at a higher level than the adjoining dwelling

3.3. **Prescribed Bodies**

3.3.1. **Irish Water:** Further information required as proposed development may not be IW complaint,

3.4. **Third Party Observations**

3.4.1. Issues raised that reflect those raised in the two third-party appeals.

3.5. **Response to FI**

3.5.1. On the 16th December 2019, the applicant submitted the following FI response:

- 1 amended drainage layout to include for an attenuation proposal. Clear separation of foul and surface water drainage.
- 2 Survey of local drainage system submitted.
- 3 Topographical survey undertaken.

3.6. **Reports on File following submission of FI**

3.6.1. **Planning Report:** Information submitted is acceptable. Recommendation to grant permission.

4.0 **Planning History**

4.1.1. **PL27.244809:** Planning permission for a house was refused for the following reasons:

- 1 Having regard to the prevailing speed limit in the area, it is considered that the proposed development would endanger public safety by reason of traffic hazard because the proposed development is substandard in terms of sightline distances, is located in close proximity to a number of other entrances which are similarly deficient and the traffic turning movements generated by the development would interfere with the safety and free flow of traffic on this narrow local road.
 2. Having regard to the size and configuration of this restricted site, it is considered that the proposed development would constitute an incongruous and congested form of development which would be out of character with the existing pattern of development in the area, would constitute overdevelopment of the site and would seriously injure the residential amenities of the area. the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 4.1.2. Under Planning Reg. Ref. **14/1343** permission was granted for a dormer extension to the rear of the existing house. The site layout shown also proposed revisions to the front boundary of the site to provide improved sightlines.
 - 4.1.3. Under Planning Reg. Ref. **13/8896** permission was refused for the sub-division of an existing dwellinghouse to provide two separate dwelling houses with extensions, both of which were to be to the rear of the existing dwellinghouse. The site subject of the current application was unaffected by the proposal. The reasons for refusal related to traffic hazard and character.
 - 4.1.4. Under Planning Reg. Ref. **07/1887** outline permission was sought for the demolition of the existing dwellinghouse and for construction of a new entrance for 2 no. houses. The application was withdrawn.

5.0 Policy Context

- 5.1.1. Under the **Bray Municipal District Local Area Plan 2018 – 2024**, the site is located within Kilmacanogue which is defined as a Level 6 Settlement – Rural Town. These are settlements with a good range of infrastructural services and have ‘the potential to consolidate rural development needs’ such as schools, shops etc. The following is relevant to this application/ appeal:

'Single house development: Applicant / purchaser of any new home must be either a resident for at least 3 years duration in County Wicklow or in permanent employment for at least 3 years duration in County Wicklow prior to making of application / purchase of new house'.

5.1.2. Policies of note include: **R4** To encourage in-fill housing developments, the use of under-utilised and vacant sites and vacant upper floors for accommodation purposes and facilitate higher residential densities at appropriate locations, subject to a high standard of design, layout and finish.

5.1.3. **R12** In the Secondary Development Zone, to promote densities in the order of 15 dwelling units per hectare. A higher or lower density may be considered appropriate, having regard to the context of the site and the prevailing density in the vicinity of the site.

5.2. **Kilmacanogue Settlement Plan 2016 – 2022** forms part of the Wicklow County Development Plan. The subject site is located within a 'Secondary Development Area'. The Secondary Zone Vision is 'To provide for the sustainable development of a mix of uses including residential, employment, community and recreational uses that provide for the needs of the existing settlement and that allows for the future growth of the settlement'. Relevant Objectives are:

- Allow for the limited extension or 'spill-over' of the primary lands onto the secondary lands which immediately adjoin the boundary of the primary lands. New development of this type should be compatible with or reinforce the function of the primary lands and shall be visually and physically linked with the primary core. No development will be permitted that prejudices the viability and function of the primary lands.
- In existing residential areas, it shall be an objective of the Council to protect existing residential amenity and to provide for infill residential development at a density and design that reflects the established character of the area in which it is located.
- Allow for new residential developments, including a mix of residential options within an attractive and accessible setting, at appropriate locations which have safe access to the public road network, which have pedestrian links to the primary lands, and which are served by appropriate water and sewerage

infrastructure, and which, if possible are in proximity to community and public services.

- Promote densities in the order of 15 dwelling units per hectare. A higher or lower density may be considered appropriate, having regard to the context of the site and the prevailing density in the vicinity of the site.

5.3. EIA Screening

- 5.3.1. Having regard to nature of the development comprising the construction of a single dwelling on the outskirts of a village, it is considered that 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. Declan & Susan O’Leary, Annacurra, Rocky Valley, Grounds of Appeal

- Proposed access is to the rear of their property. Proposed driveway is on a steep slope which is not suitable for traffic.
- The applicants caused damage to the appellants property.
- The subject site is not suitable for such a large dwelling. The proposed dwelling will be out of proportion.
- Adequate sightlines are not available.
- The proposed dwelling will overlook Annacurra.
- Inadequate drainage proposals.

6.2. Mr & Mrs Owen, Grantham Place, Rocky Valley Drive, Grounds of Appeal

- The subject site adjoins land that is boggy in nature and supports a diverse natural habitat. Photos submitted.
- The images in the traffic and transport assessment do not seem accurate. Figure 3.3 must have been taken from the middle of the road. Appellants photo shows lack of visibility from the driveway to the main road.

- Figure 3.1 showing the newly installed gully, makes little difference to the water flow on the road.
- The road is used as a short cut with cars using entrances to pull in as there are limited passing points.
- Figure 3.2 is taken from the far entrance kerb and not the actual view that would be seen from a vehicle existing and turning right. Photo submitted.
- The footpath serves only the first two houses at the R755 junction and ceases before the subject site. This is a danger to walkers and cyclists.
- Two dwellings using the same entrance would likely lead to congestion at the same points every day.
- The speed limit is 80kph. The TTA's observation of slow traffic is not accurate. As noted by the TTA there are bends either side of the proposed entrance.
- It is reasonable to assume that the traffic assessment was not undertaken at peak time. The increase in traffic speeds at these times would reduce the sightlines and would show a danger to traffic.
- The impact on local traffic would be significant.
- The Board has previously refused permission for this development.
- The Planning Authority's senior engineer stated that the proposed development would be a serious traffic hazard. With a speed limit of 80kph, narrow width and a blind hair pin bend, visibility is limited. Two cars cannot pass safely and the erection of the solid stone wall has removed the margin.
- The changes undertaken to the boundary wall were in response to non-compliance with planning permission
- The Board is requested to refuse permission.

6.3. Applicant Response to Appeal of Declan & Susan O'Leary

6.3.1. The applicants response to the third-party appeal can be summarised as follows:

- It is proposed to open a new 4m wide entrance, set back from the existing shared access. Traffic safety will be ensured by the provision of footpaths, road markings and boundary treatments to ensure visibility.
- The proposed entrance is not to the rear of the appellants property.
- The proposed access route is suitable for traffic. The Planning Authority condition no 5 requires a site investigation survey.
- Sightlines are available as demonstrated in the Traffic and Transport Assessment.
- Irish Water have no objection to the proposed drainage system.
- The proposed dwelling is considerably smaller than the surrounding dwellings. With a low site coverage, 75% of the site is dedicated to private open space, considerably in excess of the development plan requirement.
- The proposed predominantly single storey dwelling will not overlook adjoining properties. There is extensive screening, no principal first floor windows within 22m and obscure glazing on the secondary windows.
- The suggestion of damage to neighbouring properties is rejected.
- The Board is requested to grant permission.

6.4. Applicant Response of Mr & Mrs. Owen

6.4.1. The response to the third-party appeal can be summarised as follows:

- The distance between the properties, the lack of windows and the topography of the area are such that the concerns regarding overlooking and loss of privacy are unfounded.
- The proposed development was designed to integrate with the surrounding built and natural environment. Concerns over visual impact are unfounded.
- Photos in the ILTP traffic & transport assessment are for context and information purposes.
- No new access is proposed, the proposed development will use an existing access.
- Current arrangements have been agreed with the Planning Authority as part of reg. ref. 14/1343.

- The traffic & transport assessment provides a planning history. The proposed development allows adequate sightlines.
- More traffic generally produces lower speeds. The narrowness of the road forces cars to travel at a low speed.
- The proposed new gate will be sufficiently set back to allow safe access from both sites. The proposed development is not a material intensification.

6.5. **Planning Authority Response**

6.5.1. None on file.

7.0 **Assessment**

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Impact on Adjoining Properties
- Traffic
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. The subject site is located within the settlement boundary of Kilmacanogue. The development plan seeks to consolidate residential development in the existing built-up area. The intensification of the existing plot to accommodate further residential development is an efficient and appropriate use of the subject serviced lands. The applicant complies with the development plan requirement of having lived in the county for a minimum of three years. Should the Board decide to grant permission, it is recommended that an occupancy clause be attached.

7.3. **Impact on Adjoining Properties**

7.3.1. The proposed dwelling is sufficiently far from Grantham Place and Bellevue Lodge to avoid overlooking. Annacurra is approx. 8m to the south. Drawing no. 6 shows three

obscure glazed windows on the south-east elevation at first floor level. This combined with the separation distance and the lower ground level of Annacurra is sufficient to prevent overlooking of the appellants dwelling.

7.3.2. The proposed dwelling will not impact the boggy habitat on the appellants property.

7.3.3. The proposed dwelling at 210sq.m. is not excessive given the size of the site and the pattern of development in the immediate area. The design of the proposed dwelling is acceptable. Notwithstanding that the overall height is greater than the adjoining properties, the set back from the road, the extent of tree coverage in the area and the use of split-level accommodation a is such that the property will be integrated into the receiving environment.

7.4. Traffic

7.4.1. The subject application was accompanied by a Traffic and Transport Assessment. The report notes that in addition to undertaking an assessment of the proposed development, it also details compliance on condition no.s 3 & 4 of Wicklow County Councils planning reg. ref. 14/1343. The two conditions referred to the setting back of the entrance and treatments to the entrance. Section 2.5.5 of the report notes that the Council confirmed that the conditions had been complied with. The report states that the current access arrangements and roadside boundary treatment works include the access to the subject site, materially improving the access layout on to Rocky Valley Drive.

7.4.2. TTA photos show generous visibility to the left and reasonable visibility to the right. Speed limit of 80kph, reducing to 50kph to the south of the access. The proposed development seeks to replace the existing pedestrian entrance with a 4m wide vehicular access and share the drive that serves Bellevue Lodge. A new gate will be set back to not obstruct vehicular access from Bellevue Lodge. The existing permitted stone wall will be extended to meet the proposed vehicular entrance gate and piers. A yield line and road markings will formalise vehicular movement. Available sight lines to the north 48m and to the south 24.5m. Traffic surveys undertaken demonstrated average speeds of 30.8kph. With an expected traffic generation of 6 no. trips per day, the report concludes that the proposed development is acceptable.

- 7.4.3. I note that there appears to be differing assessments of the proposed arrangement from the District and SE Engineers of the Planning Authority, with one approving and one recommending refusal. I further note that the Board has previously refused permission for an additional house at this location on traffic grounds.
- 7.4.4. It is clear from the alignment of the road, as evidence by my site visit that speeds of 80kph are not achievable on the subject road. The incremental changes to the road undertaken as part of the previous application at Bellevue Lodge and the multiplicity of entrances along Rocky Valley have changed the character of the road. It is no longer a rural road, but one that is emerging in accordance with the settlement zoning of the area. Going to the first principles of DMURS, section 28 national guidance of placing vulnerable road users at the top of the hierarchy, all road interventions that naturally slow vehicular traffic are welcomed. The proposed design interventions such as extending the stone wall and providing a paved concrete pedestrian refuge area will assist in slowing vehicular traffic, thereby making the road safer for all users. The creation of a footpath along the grass verges of the subject site would further this demarcation of a pedestrian safe zone and additionally preserve the sightlines from obstruction. Should the Board decide to grant permission, this could be achieved by way of condition. The subject site is zoned, is serviced and is a suitable location for an infill residential development. It is considered that the creation of an additional entrance, with likely relatively low levels of traffic generated, will not cause a traffic hazard.

7.1. **Appropriate Assessment**

- 7.1.1. Having regard to the nature and scale of the proposed development in a fully serviced area, no appropriate assessment issues arise, and it is considered that the proposed development would not 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 that permission be GRANTED for the following reasons and considerations and subject to the following conditions:

9.0 Reasons and Considerations

- 9.1.1. Having regard to the nature, extent and design of the proposed development and the provisions of the Wicklow County Development Plan 2016 – 2022 and the Bray Municipal District Local Area Plan 2018-2024, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area and would not cause a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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 16th of December 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 development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity</p>
2.	<p>(a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 as amended, to this effect.</p> <p>(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of</p>

	<p>confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.</p> <p>This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.</p> <p>Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted in the interest of the proper planning and sustainable development of the area.</p>
3.	<p>Prior to the commencement of development, the developer shall submit for the written approval of the Planning Authority, plans showing the provision of a footpath along the entire road boundary of the subject site</p> <p>Reason: In the interest of preserving sightlines, providing pedestrian facilities and avoiding traffic hazard.</p>
4.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.</p> <p>Reason: In the interest of public health and to ensure a proper standard of development</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity</p>
6.	<p>All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be</p>

	<p>provided to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interest of orderly development and the visual amenities of the area.</p>
7.	<p>The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.</p> <p>Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development</p>
8.	<p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Classes 1, 3 and 5 of Schedule 2, Part 1 to those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.</p> <p>Reason: In the interest of orderly development, and to allow the planning authority to assess the impact of any such development on the amenities of the area through the statutory planning process</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</p>

	<p>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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Gillian Kane
Senior Planning Inspector

19 March 2020