



An
Bord
Pleanála

Inspector's Report ABP-306754-20

Development	Permission for widening of access road, removal of sheds and car parking spaces and the construction of six houses.
Location	Clonbur & Derrymore, Killincarrig, Delgany, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	19/952
Applicant(s)	Derrymore & Clonbur HX Properties Ltd
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third party -V- Decision
Appellant(s)	Hugo Hynes
Observer(s)	None
Date of Site Inspection	11th May 2020
Inspector	Fergal O'Bric

1.0 Site Location and Description

- 1.1. The appeal site is located to the side (south) and rear (east) of a pair of semi-detached two storey dwellings, known as Derrymore and Clonbur on the eastern side of the R761 Regional Road, linking Bray to the north with Greystones and Kilcoole to the south, all within the development boundary of Delgany.. To the north, east, west and south of the site are established two storey residential properties. To the north-west is a commercial premises (hair salon). Access to the property is via an existing access road to the north of the Derrymore and Clonbur properties which serves the Adare Close residential development, north of the site.
- 1.2. The appeal site is u-shaped, wrapped around the Derymore and Clonbur residential properties and it extends to an area of approximately 0.277 hectares. This site is presently overgrown. Site levels vary significantly, with approximately a five-metre fall from the north-west to the south-east of the site. The northern boundary comprises of two-metre high walls, the southern and western site boundaries comprise of dense shrubbery, hedging and trees, and the eastern boundary along the R761 comprises of hedging and walls. with heights varying between 1.8 metres and 2.2 metres.
- 1.3. The Killincarrig Architectural Conservation Area (ACA) is on the opposite side of the street and the terrace of four dwellings opposite the appeal site are included within the National Inventory of Architectural Heritage (NIAH). The appeal site is not located within an area of conservation status, and the two dwellings on site are not identified as protected structures within the Development Plan.

2.0 Proposed Development

- 2.1. The proposal would comprise the construction of a terrace of five two-storey townhouses to the rear (east) of the site and a detached single townhouse immediately south of the Derrymore and Clonbur residences, the widening on an existing access road serving the Adare Close development, removal of two sheds and three car parking spaces serving existing commercial premises, car parking,

revised boundaries, pedestrian access and ancillary works. The proposed dwellings would be orientated on a north-south axis. The terrace of dwelling houses would all be of similar design with the detached dwelling being designed to be more consistent with the neighbouring residential properties that front onto the street. Each of their footprints would be rectangular and their designs would incorporate box dormer windows within the front roof slope and a ground floor glazed angled projection on the rear elevation.

- 2.2. The proposed dwelling houses would be served by the widening of an existing service road that presently serves the Adare Close development and commercial premises to the north of the appeal site.
- 2.3. Further Information submitted to Wicklow County Council on the 20th day of January 2020 included: Modification of proposed layout and revised dwelling design for the detached dwelling unit, including the submission of a design statement; Boundary treatment detail along the front roadside regional road boundary along the eastern and southern boundaries including details of proposed retaining structures, cross-sections and how the retaining structures may impact upon existing trees and vegetation: Revisions to boundary treatment around the area of public open space: Revised car parking for the terrace of 5 units, revision to the existing access road and revised storm and surface water proposals.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information, permission was granted subject to twenty conditions. The relevant conditions are noted below: -

Condition 1: Clarified that permission was granted for the scheme submitted by way of further information.

Condition 3: Requires the submission of a Construction Management Plan to be submitted and agreed in writing with the Planning Authority prior to the commencement of development. provision of a ramp in lieu of the existing steps on the footpath immediately north of the proposed access point.

Condition 6: Required the written agreement of Irish Water for the provision of Water Services for the proposed development.

Condition 7: Requires the submission of a public lighting layout for the proposed development for the written agreement of the Planning Authority.

Condition 9: Requires the submission of detailed design of junction of R761 and Adare Close services road.

Condition 12: Requires that wayleave for Wicklow County Council and Irish Water be registered on the property folio.

Conditions 14 & 15: Boundary treatment details to be agreed in writing prior to the commencement of development.

Conditions 16 & 17: Landscaping and Open space

Condition 20: Archaeological Monitoring.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer recommended that planning permission be granted following clarification on the matters raised within the further information request.

3.2.2. Other Technical Reports:

- Roads Design: No objection, subject to conditions.
- Greystones Municipal District Engineer: No objections, subject to conditions
- Irish Water: No objections, subject to conditions

4.0 Planning History

The following is the relevant planning history pertaining to the site:

Planning Authority reference number 19/157-In 2019, Wicklow County Council refused planning permission for the widening of the access road serving Adare Close to provide access to the lands to the rear of Derrymore and Clonbur, provision of three car parking spaces to serve existing commercial premises, removal of two

sheds, and provision of nine residential units comprising a mix of single storey bungalow, six two storey terraced dwellings and 2 two-storey apartments and fourteen car parking spaces, setting back of roadside boundary, revised access and car parking for Derrymore and Clonbur dwellings, new pedestrian accesses to Derrymore and Clonbur, connection to public services. The reasons for refusal related to that the design and layout would unduly impact upon the character of the existing streetscape and detract from the historical and architectural merit and setting of the existing adjacent dwellings and that the development would provide for a sub-standard quality of amenity for future residents and seriously injure the amenities of adjoining properties by reason of overbearing.

Planning Authority reference number 17/333-In the year 2017, Wicklow County Council refused planning permission for the demolition of two existing houses and the construction of seven houses, sixteen car parking spaces, provision of internal access road and footpaths with junction onto R761. The reasons for refusal related to that the design and layout would unduly impact upon the architectural character of properties in the vicinity, would detract from the setting and character of the area, result in the creation of highly incongruous features out of character with the area and contrary to the objectives of the Greystones, Delgany and Kilcoole LAP 2013 and establish an undesirable precedent for similar forms of inappropriate development. Having regard to the established pattern, character and scale of existing residential development in the area, the height, design and scale of proposed development, the location of public open space which is not adequately overlooked, it is considered that the proposed development would provide for a sub-standard quality of amenity for future residents and seriously injure the amenities of adjoining properties by reason of overbearing. The applicants have failed to demonstrate that the proposed new entrance is necessary given the existence of an existing entrance/junction serving Adare Heights., that the proposals would result in the creation of an excessive number of entrances onto the R761 and would endanger public safety by reason of a traffic hazard.

Planning Authority reference number 16/141, An Bord Pleanála reference number PL27.246530. In 2016, the Board refused planning permission for the demolition of 2 no. houses, construction of 7 no. three-storey houses, access road and paths

and ancillary site works. The two reasons for refusal were set out as follows:

1. Having regard to the bulk, height, scale, orientation and design of the proposed development, to the established pattern and scale of existing development in the area, and to the proximity of the site to a number of buildings of architectural and historic merit, it is considered that the proposed development would be out of keeping with the character of development in the area and would seriously injure the visual amenities of the area. Furthermore, the Board considered that the proposed development would seriously injure the residential amenities of adjoining properties to the north and south of the site by reason of overbearing impact and loss of privacy through overlooking. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

5.0 Policy and Context

5.1. Greystones-Delgany & Kilcoole Local Area Plan 2013-2019

Within the Greystones-Delgany & Kilcoole Local Area Plan 2013-2019. the appeal site is split between two zonings. The majority of the site is zoned Small Local Centre, SLC with a stated objective: To protect, provide for, and improve a mix of neighbourhood centre services and facilities (between approximately. three and five retail/retail service units), excluding supermarkets or premises with a gross floor area greater than approximately 150m². The remainder of the site is zoned RE, 'Existing Residential' with a stated objective: To protect, provide 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".

5.2. Development Plan

The Wicklow County Development Plan 2016 – 2022 (CDP),

Section 4.3 addresses Key Housing Principles. The Plan contains the following relevant policies and objectives: -

Objective HD 1: New housing development shall be required to locate on suitably zoned or designated land in settlements

Objective HD 2: New housing development, above all other criteria, shall enhance and improve the residential amenity of any location, shall provide for the highest possible standard of living of occupants and in particular, shall not reduce to an unacceptable degree the level of amenity enjoyed by existing residents in the area.

Objective HD3: All new housing developments (including single and rural houses) shall achieve the highest quality of layout and design, in accordance with the standards set out in the Development and Design Standards document appended to this plan.

Objective HD5: In order to make best use of land resources and services, unless there are cogent reasons to the contrary, new residential development shall be expected to aim for the highest density indicated for the lands¹. The Council reserves the right to refuse permission for any development that is not consistent with this principle.

Objective 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. 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.

Objective HD10: In existing residential areas, infill development shall generally be at a density that respects the established character of the area in which it is located, subject to the protection of the residential amenity of adjoining properties. However, where previously unserved, low density housing areas become served by mains water services, consideration will be given to densities above the prevailing density, subject to adherence to normal siting and design criteria.

Volume 3, Appendix 1 – Development Design Standards sets out standards for residential developments, of particular relevance is Section 16.59 which relates to infill/backland development housing.

5.3. **National Guidance**

- Urban Design Manual, A Best Practice (DOEHLG, 2009).
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).
- Design Manual for Urban Roads and Streets (DOEHLG & DTTAS, 2013).

5.4. **Natural Heritage Designations**

None Relevant.

5.5. **Environmental Impact Assessment - Preliminary Examination**

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 **The Appeal**

6.1. This third-party appeal is being made by an adjacent resident (Mr Hugo Hynes) who resides immediately south of the appeal site, within the property known as Kenville.

6.2. **Grounds of Appeal**

The main areas of concern relate to the following:

- Concern is expressed about the proposed two-metre retaining wall along the southern boundary of the site and two-metres away from the appellants boundary. The appellants believe that the foundations for the proposed wall

would damage the roots of the trees in this vicinity and interfere with the groundwater regime and would lead to tree felling and tree death/damage. The wayleave condition (Number 12) requires that no development takes place within the six-metre wayleave area.

- The retaining wall, if permitted, would result in the creation of a no-mans land, between the proposed wall and the appellants property.
- Revised boundary treatment proposals are required between the appeal site and the Kenville property in order to protect the residential amenity of the residents of Kenville.
- A durable and permanent boundary between the public open space and Kenville is required and a two-metre high concrete block wall would be welcomed by the appellant and would allow for planting on both sides of same to protect and respect the privacy and amenity of the appellants.
- The appellant is prepared to cooperate with the developers regarding the construction of a two-metre wall along the southern boundary of the appeal site which would provide a visual screen between the properties and not interfere with the services wayleave.
- The setting back of the roadside boundary will leave a portion of the appellants property without a boundary, this gap should be enclosed by the construction of a 1.8-metre high masonry wall.
- That the public lighting column in front of the proposed property number 4 number 4 be relocated onto the public footpath to reduce the impact of LED lighting on the appellants property.

6.3. Applicant Response

The applicants did not respond to the grounds of appeal.

6.4. Planning Authority Response

No comments were received from the Planning Authority in relation to the appeal.

7.0 Assessment

7.1. I consider that this appeal should be assessed under the following headings:

- (i) Principle of Development.
- (ii) Development Management Standards.
- (iii) Residential Amenity & Boundary treatment.
- (iv) Other issue (s).
- (v) Appropriate Assessment.

In the interest of clarity, the assessment below relates to the revised development, submitted as the further information to the Planning Authority, unless otherwise stated.

7.2. Principle of development:

- 7.2.1. The site is split between two land use zoning objectives with the majority of the site (approximately 80%) zoned Small Local Centre/SLC with the remainder zoned residential Existing/RE.
- 7.2.2. The Local Area Plan (LAP) does not specifically outline uses permissible/open for consideration or not permissible within the various zonings. The SLC zoning at this location corresponds to a number existing commercial units north of the site and a number of existing residential properties in the vicinity of the appeal site. Section 11 of the LAP regarding zoning states: Uses generally acceptable in centres would include residential development amongst other uses. The LAP also acknowledges that: Many uses exist where they do not conform to the designated zoning objective.
- 7.2.3. Although the proposed development would comprise residential uses only, and would not constitute an exclusive neighbourhood centre use, I would consider the nature of the residential use proposed would not be contrary to the proper planning and sustainable development of the area. The existing use on site is residential as is a significant portion of the adjoining uses and the construction of a residential development of a satisfactory design, layout and scale would be in accordance with the character of the area. Similarly, the Wicklow County Development Plan does not explicitly advise the nature of uses permissible within the zoning, and whether residential development is considered appropriate within these zonings. Subject to the development being satisfactory in terms of design, scale and physical impact, I would consider the principle of the proposed development to be satisfactory.

7.3. Development Management objectives:

- 7.3.1. In relation to residential development the issues concerning development management relate to the provision of the quality and quantity of public/private open space, access and car parking. The proposal has a density of 22 dwellings per hectares. I would consider the density acceptable given the urban character of the immediate area with large houses on generous plot sizes. I would note that the acceptability of such is contingent on the proposal being satisfactory in terms of its overall physical impact (visual amenity, adjoining amenity, traffic impact, etc.).
- 7.3.2. Volume 3, Appendix 1, of the County Development Plan regarding Development Design Standards, the minimum requirement for open space is 0.64 square metres per 1 square metre for the first 150 square metres (Range from 60-75 square metres recommended for three bedroomed houses). In the case of the proposed development there are two house types (House Type A 102 square metres and House Type B, also 102 square metres). Rear garden sizes range from 67 square metres up to 240 square metres which exceed the minimum requirements of the Development Plan.
- 7.3.3. In relation to public open space, the Development Plan sets out the requirement of 15% of the site area for public open space. An area of public open space would be provided to the south of the site which is approximately 11.25% (311 square metres) of the site area. Notwithstanding this shortfall, given the infill/backland nature of the site, and that four of the six garden spaces exceed the maxima private open space standards, therefore, I would consider that the private and public open space provision is acceptable in this instance.
- 7.3.4. In relation to car parking, the proposal is for two off-street car parking spaces per dwelling (12 spaces). The Development Plan requirement is for two spaces per dwelling (two bedroomed units and over). In this regard the proposed development is compliant with development management standards. The Roads Section of Wicklow County Council outlined no objections to the traffic and access proposals subject to a number of conditions.
- 7.3.5. I am satisfied the proposal is compliant with the minimum development design standards set out within the Development Plan.

7.4. Residential amenity:

- 7.4.1. At present the pattern of development at this location is for development orientated north-west and south-east with the existing dwellings on site, the detached dwelling to the south, the retail unit and housing development (Adare Close) to the north all conforming to this pattern of development.
- 7.4.2. In terms of separation distances, there would be a minimum of thirty metres separation to dwellings in Carrick Villas, approximately 12 metres separation to the Kenville property to the south, approximately twenty metres separation between the Clonbur and Derrymore properties and the proposed terrace of five dwellings and approximately 1.6 metres separation to number 4 Adare Close. Given the separation distances between the proposed dwellings and the neighbouring residential properties, and the existence of the established hedge and tree boundaries between the properties, in addition to landscaping proposals, that the proposed development would not result in overshadowing or overlooking of the adjacent properties.
- 7.4.3. The appellants raised concerns that construction works might cause damage to the tree roots along the southern site boundary. The applicants are proposing to construct retaining walls in the south-west of the appeal site (outside of the area subject to a proposed wayleave agreement. and this could impact upon the trees in this area. A specific condition could be included to conserve all existing trees and planting along this southern boundary, and that a suitable boundary treatment be introduced along the southern boundary. Final boundary treatment details should be agreed in writing with the Planning Authority prior to the commencement of development. The submission of a landscaping scheme for the site is a matter that can be conditioned.
- 7.4.4. The proposed dwellings are two-storeys and would have a maximum ridge height of 8.4 metres (previously, three-storey dwellings with a maximum ridge height of eleven metres were proposed and refused planning permission). The scale, height and bulk of the proposals would complement existing pattern and orientation of development in the area. I would consider given the overall height and scale of the proposed dwellings and their north-south orientation and level of separation from adjoining residential development, that the proposals would not have an undue adverse impact on the residential amenities of neighbouring residential properties.

- 7.4.5. I am satisfied that any issues in relation to construction activities could be addressed by means of a Construction Management Plan which could be conditioned.
- 7.4.6. I, therefore, conclude that the proposal would afford a satisfactory standard of amenity to future residents and that it would be compatible with the pattern of development in the area.

7.5. **Other Issues**

- 7.5.1. I note that dwelling number one within the proposed terrace would be located in close proximity (approximately seven hundred millimetres) to the party boundary with number four Adare Close, to the north of the appeal site. I would have concerns as to how the northern gable of the most northerly dwelling of the terrace could be constructed and/or maintained. Given that there is scope for movement further south on the site, I am of the opinion that the terrace should be re-located one metre in a south-easterly direction in order to alleviate this potential issue

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposal, the nature of the receiving environment, and the proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposal 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 that planning permission be granted subject to conditions.

9.0 **Reasons and Considerations**

Having regard to the zoning objective for the site and the policies and objectives of the Wicklow County Development Plan 2016-2022 and the Greystones, Delgany and Kilcoole Local Area Plan 2013, it is considered, subject to the conditions set out below, that the proposed development would not seriously injure the residential amenities of the area and would be acceptable in terms of visual amenity and traffic

safety. The proposed development, would, therefore, be in accordance 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 on the 28th day of August 2019, and, as amended by the further plans and particulars submitted on the 20th day of January 2020, 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.

Reason: In the interest of clarity.

2. The terrace of dwellings shall be moved one metre in a south-easterly direction so that a minimum gap of 1.5 metres between proposed dwelling number one within the terrace and the existing northern party boundary wall with number four Adare Close is achieved. Prior to the commencement of development, a revised layout shall be submitted for the written agreement of the Planning Authority illustrating the revised layout change.

Reason: In the interest of residential amenity and the proper planning and sustainable development of the area.

3. All existing trees and shrubs shall be maintained on site where possible, except to allow for the construction of the footprint of the proposed dwellings. Precise details of all boundary treatment shall be submitted for the written agreement of the Planning Authority prior to the commencement of development.

Reason: In the interest of visual and residential amenity.

- 4 The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five 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.

Reason: In the interest of residential and visual amenity.

- 5 The use of the existing vehicular access road to the north of the site and the setting back of the roadside (western) boundary and widening of the footpath along the western boundary of the site frontage shall be constructed in accordance with the requirements of and with the written agreement of the planning authority. Tie-ins with existing footpaths and boundary walls along the western site boundary shall be satisfactorily completed by the developer and at no cost to the local authority or neighbouring property owners.

Reason: In the interest of orderly development and traffic safety.

- 6 The internal road network serving the proposed development, including the turning area, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

- 7 The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of traffic management, intended construction practice for the development, including noise management measures and off-site disposal of construction / demolition waste.

Reason: In the interests of public safety and residential amenity.

8 Proposals for house naming and a house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

9 Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

10 The applicant shall enter into water and waste-water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

11 Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

12 All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

13 Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of amenity and public safety.

14 The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

15 Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

16 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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

Fergal O'Bric
Planning Inspector

26th May 2020