



An
Bord
Pleanála

Inspector's Report ABP 307130-20.

Development	Demolition of a dwelling and construction of a 4 no. bedroom dwelling.
Location	Crowe Abbey, Greystones, Co. Wicklow.
Planning Authority	Wicklow Co. Council
Planning Authority Reg. Ref.	191156
Applicant	Stewart Murphy
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant	Stewart Murphy
Observers	None
Date of Site Inspection	29/6/2020
Inspector	Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The appeal site is located at Crowe Abbey, Greystones, Co. Wicklow. The site with a stated area of 0.05 hectares is situated on the eastern side of the Kindlestown Lower Road the R761, it extends for back for circa 25m and has a width of 27m. As indicated on the site plans the level of the lands falls sharply in an easterly direction from the R761 to the boundary. The roadside boundary is formed by a stone faced wall and curved wall associated with the existing vehicular entrance.
- 1.2. The site is extremely overgrown and contains a single storey timber dwelling. The dwelling features a flat roof and has an area of 67sq m. The site is served by a vehicular entrance off the Kindlestown Lower Road to the west which is shared with three other properties.
- 1.3. The northern boundary adjoins the private access road which serves the existing properties. There is a dwelling situated immediately to the south of the site which lies close to the public road. The eastern boundary of the site adjoins the rear garden of a large detached dwelling. There are mature trees and growth along the eastern boundary and sections of the northern and southern boundaries.

2.0 Proposed Development

- 2.1. Permission is sought for the demolition of the existing single storey dwelling and the construction of a 4 no. bedroom two-storey dwelling. The proposed dwelling has a floor area of 202sq m.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for two reasons.

1. The proposed development would seriously injure the amenities and depreciate the value of properties in the vicinity by reason of the creation of an overlooking impact on the adjoining single storey dwelling and associated private amenity space. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to;

- The size and scale of the proposed development and the restricted nature of the site,
- The lack of information regarding the existing structural and retaining works and the lack of information regarding the impact of the development on existing trees/vegetation.

It is considered that the proposed development would represent overdevelopment of the subject site which would injure the amenities of the area. 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

Report dated 6/12/19 – It was considered that the proposed floor area would result in a significant intensification of use of the site and would constitute overdevelopment of the site. The existing trees which provide current screening may require to be removed. The Planning Officer was not satisfied that the mitigation measures to reduce overlooking are satisfactory. Concern was expressed in relation to the site levels and the retaining wall.

Report dated 26/3/20 – The applicant submitted unsolicited further information including an assessment of overlooking impact of the proposed development. It is argued in the response that there will be no overlooking impact. A 2m fence is proposed to protect the privacy of the adjoining property. An Arborist assessment was submitted. The Planning Officer noted that there are a number of trees at the northeast corner with the neighbouring property. The impact of the development on these trees is unclear. It was considered that insufficient information has been submitted in relation to the proposed and existing site levels and the proposed retaining walls. A refusal of permission was recommended on that basis.

3.2.2. Other Technical Reports

Roads – Further information required in relation to the proposed retaining wall at access to R761. The retaining wall should not impede sightlines. Details of the proposed footpath should be agreed with the Greystones Municipal District Engineer.

Irish Water – No objection

3.3. Third Party Observations

- 3.3.1. The Planning Authority did not receive any submissions/observations in relation to the application.

4.0 Planning History

There is an extensive planning history relating to the site which is detailed in report of the Planning Officer. The most recent relevant application is as follows;

PA Reg. Ref. 18/287 – Permission was granted for the demolition of the existing 67sq m dwelling and its replacement with a 120sq m single storey dwelling.

5.0 Policy Context

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

- 5.1.1. The site is zoned Existing Residential in the Greystones-Delgany and Kilcoole Local Area Plan 2013-2019 (adopted September 2013) with the 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”.

5.2. Wicklow County Development Plan 2016-2022

- 5.2.1. Chapter 4 refers to Housing
- 5.2.2. Objective HD9 refers to Existing Residential Areas
- 5.2.3. 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.

5.2.4. Appendix 1 – Development and Design Standards

5.3. **Natural Heritage Designations**

5.3.1. None.

5.4. **EIA Screening**

5.4.1. Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. 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**

A first party appeal has been lodged by Plan 8 Architects on behalf of the applicant Stewart Murphy. The issues raised are as follows;

- The planning history of the site is highlighted. A number of applications were made to replace the existing dwelling with a new dwelling but were refused permission. Under Reg. Ref. 18/287 permission was for a heptagonal shaped dwelling with a floor area double that of the original dwelling. It is considered that the irregular shaped dwelling would be completely out of character with the surrounding dwellings.
- In relation to the refusal reason no. 1 the first party refute the Planning Authority's concerns in relation to potential overlooking.

- The first party has undertaken a number of assessments and site investigations to demonstrate that there would be no overlooking of adjoining property. An Arborist report, photographs taken from the site and photographs taken from the adjoining property to the east have been provided. Revised Contiguous Site Sections indicating the level of potential overlooking has been submitted.
- It is submitted that the Drawings D011_07, 08 and 09 illustrate that no overlooking of the adjoining properties would occur from the first floor of the proposed development at a finished floor level of 55.25. Furthermore, no overlooking of the adjoining properties would occur from a height of 800mm above the existing flat roof timber chalet structure. This represents a height of 290mm above the proposed first floor level.
- A new 2m high post and wire plank fence is also proposed it is submitted that it will protect the privacy of the adjoining amenity spaces of neighbouring properties.
- The applicant is amenable to accepting a condition if permission is granted by the Board which would retain and protect the existing mature vegetation on site. The wording suggested is, *'The house shall be built into the hillside in such a manner that the finished ground floor level shall not be more than 0.15m above the existing ground level at the lowest point along the downhill side of the house unless otherwise agreed by the Planning Authority. When the floor slab has been laid and before any further development takes place on the dwelling a certificate shall be provided from a chartered engineer, architect or other suitably qualified professional (with professional indemnity insurance), together with photographic evidence showing the retention of the existing mature vegetation along the eastern boundary.'*
- The photographs taken from the adjoining property to the east were taken in the first week of February 2020. Therefore, the deciduous plants and trees had no foliage. It is submitted that even in the absence of foliage no overlooking would occur.
- The comments of the Planning Officer dated 6/12/19 are noted which stated that the footprint/site coverage proposed was similar to the previously

permitted development and it is the intensity/plot ratio that is greater, i.e. 120sq m-202sq m. The comments further stated that it is debatable if this could be described as overdevelopment that is out of character with the area particularly given its urban location close to a large village centre and 15/20 minutes' walk to the Dart. The first party submit that the proposed dwelling is unique and responds to the best use of the challenging site.

- The layout of the proposed retaining wall and foundations are indicated on and Drawing no. 1 submitted with the appeal.
- The Abortist report submitted with the appeal outlines how the works are to be undertaken to minimise the impact on existing vegetation.
- The first party request that the Board overturn the decision of Wicklow County Council and grant permission for the proposed development.

6.2. **Planning Authority Response**

- None received

7.0 **Assessment**

Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

- Design and impact on Residential Amenity
- Appropriate Assessment

7.1. **Design and impact on Residential Amenity**

- 7.1.1. The proposal is for construction of a two-storey detached dwelling on the site of a single storey timber dwelling which it is proposed to demolish. The existing dwelling has a floor area of 67sq m and a ridge height of 4.175m. The finished floor level of the existing dwelling is 53.86. The currently proposed dwelling has a floor area of 202sq m with a ridge height of 6.25m. The proposed finished floor level is 52.05.

- 7.1.2. The Planning Authority refused permission subject to two refusal reasons. The first reason stated that the proposed development would have an overlooking impact on the adjoining dwelling and associated private amenity space.
- 7.1.3. The second reason referred to the size and scale of the proposed development and the restricted nature of the site, the lack of information regarding the existing structural and retaining works and the lack of information regarding the impact of the development on existing trees/vegetation. The Planning Authority concluded that the proposed development would represent overdevelopment of the subject site which would injure the amenities of the area.
- 7.1.4. In relation to the matter of overlooking it is set out in the appeal that the assessments they have undertaken including a photographic survey, revised drawing submitted including Contiguous Site Sections and the Arborist report, demonstrate that there would be no overlooking of adjoining property. Furthermore, the first party highlight that the proposed new 2m high post and wire plank fence to be located along the eastern site boundary would protect the privacy of the adjoining amenity spaces of neighbouring properties.
- 7.1.5. The eastern and southern site boundaries adjoin two residential properties. The dwelling to the south adjoins the party boundary. A separation distance of circa 4m is provided at the closest point between the proposed dwelling and the southern boundary. The south facing side elevation addresses this boundary. There are 2 no. bedroom windows proposed at ground floor level to this elevation, however no first floor windows are proposed to this elevation. Therefore, I am satisfied that there would be no undue overlooking of the property to the south.
- 7.1.6. The dwelling to the east, Crowe Abbey House would have a separation distance of circa 15m at the closest point from the proposed dwelling. Crowe Abbey House is a large dormer dwelling it is served by private amenity space to the south and west of the property.
- 7.1.7. The appeal site is elevated above the level of Crowe Abbey House. The proposed height difference between finished floor level of the new two-storey dwelling and the ground floor level of Crowe Abbey House is 3.6m. The eastern elevation which addresses the boundary with Crowe Abbey House features the first floor window serving the living/dining room and two terraces. The larger terrace has a floor area of

45sq m. While I note that a section of timber screening circa 3.5m in width is proposed to the smaller terrace at the living/dining room the larger terrace would have a balcony screen of only 1m in height.

- 7.1.8. The eastern boundary features mature planting including a number of large conifers. The Arboricultural Assessment provides details of the existing trees on site. It identifies that there are 8 no. trees on the site and the tree conditions are rated between moderate to poor. As indicated on drawing no. 102 it is proposed to remove tree ref. 1945 and tree ref 1946 to facilitate development. Ref. 1945 is a Leyland Cypress tree located along the eastern site boundary. Ref 1946 is a Larch tree located to the southern boundary. A cluster of trees to the north-western site corner would also be required to be removed to carry out the proposed development.
- 7.1.9. The proposed dwelling would be located a minimum distance of 3.3m from the eastern boundary and a minimum distance of 4.3m from the southern boundary therefore proposed development would require the removal of these existing trees and other vegetation to facilitate the works. This would therefore reduce the existing screening. The proposed scheme includes the provision of a new 2m high plank fence along the eastern boundary. I note the drawings submitted as part of the Overlooking Assessment. As indicated on Drawing No. 10 even with the proposed fence in place there would be overlooking from first floor level towards the side and rear garden of Crowe Abbey House. Having regard to the proximity of the proposed dwelling to the eastern site boundary and the design and location of the proposed main balcony and the proposed balcony serving the living/dining room, I would consider that the proposed development would have an overlooking impact which would seriously injure the existing residential amenity of the Crowe Abbey House.
- 7.1.10. The Planning Authority had concerns in respect of the lack of information regarding the existing structural and retaining works. In response to the matter the first party refer to the layout of the proposed retaining wall and foundations indicated on Drawing no. 1 submitted with the appeal. The proposed dwelling would be built onto a retaining wall located along the western boundary. The design of the retaining wall is indicated as 300mm of reinforced concrete. The proposed retaining wall would be setback from the public road by 3m to facilitate the provision of a 1m wide grass verge alongside the road and a 2m wide path. Having regard to the location of the proposed retaining wall at the public road (R761), should the Board decide to grant

permission, I would recommend the attachment of a condition requiring the full design details of the proposed retaining wall to be submitted to the Planning Authority for agreement prior to the commencement of development.

- 7.1.11. In relation to the matter of the size and scale of the proposed development and overdevelopment of the site as detailed in the second refusal reason the first party noted the comments of the Planning Officer dated 6/12/19. The comments stated that the footprint/site coverage proposed was similar to the previously permitted development and it is the intensity/plot ratio that is greater, i.e. 120sq m-202sq m. I note that the proposed dwelling would occupy a similar footprint to the 120sq m single storey dwelling granted under Reg. Ref. 18/287. The comments of the Planning Officer further stated that it is debatable if the development could be described as overdevelopment and out of character with the area given its urban location. The first party submit that the proposed dwelling would provide the best design response to a challenging site.
- 7.1.12. The proposed scheme would provide for 2 no. car parking spaces within the carport and the driveway could facilitate parking for a further vehicle. As per page 11 of Appendix 1 of the Wicklow County Development Plan 2016-2022 which refers to Development and Design Standards, dwellings with over two bedrooms require two car parking spaces. Regarding private amenity space the dwelling would be served by a side and rear garden. It is indicated on the Site Layout Plan that the garden has an area of 231sq m. The area of garden located directly to the south of the dwelling has an area of circa 90sq m. As set out in Appendix 1 of the Development Plan, the minimum private amenity space recommended for a dwelling with three bedrooms or larger is 60-75sq m. Therefore, I am satisfied that a sufficient area of private amenity space would be provided. In relation to the proposed design of the dwelling it is contemporary and featuring a flat roof. I note that there are a mix of house types and designs in the area. Having regard to the above details the proposed development would conform generally to the Development and Design Standards of the Development Plan therefore, I would not consider that the proposed development would constitute overdevelopment of the site or that it would be out of character with the pattern of development in the surrounding area.

7.2. Appropriate Assessment

- 7.2.1. The appeal site is not within or adjoining any Natura 2000 site. Having regard to the nature and scale of the proposed development, the location of the site in a serviced suburban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that permission is refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. Having regard to the location of the proposed development on elevated ground above the neighbouring dwelling to the east and to the two-storey nature and design of the proposed development including 2 no. balconies at first floor and the proximity of the development to the eastern site boundary, it is considered that the proposed development would have an overlooking impact seriously injuring existing residential amenity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Siobhan Carroll
Planning Inspector

16th of July 2020