



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307291-20

---

<b>Development</b>	Replacement farm dwelling with permission for effluent treatment system.
<b>Location</b>	Ballyross , Glenree , Enniskerry, Co Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	20155
<b>Applicant(s)</b>	Daken & Norah Engmann
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Anthony Sammon
<b>Date of Site Inspection</b>	07 <sup>th</sup> July 2020
<b>Inspector</b>	Colin McBride

## **1.0 Site Location and Description**

1.1. The appeal site, which has a stated area of 22 hectares, is located approximately 6km west of Enniskerry, Co. Wicklow. The appeal site consists of agricultural lands to the north of the public road. At the south west corner of the site are a number of buildings included a dwelling at an advanced stage of construction, a number of farm buildings and a smaller structure that appears to be in use as a dwelling. These structures are located at a much lower level than the public road due to the fact that levels on site fall moving north away from the public road. Adjoining lands are agricultural lands with the nearest dwelling located on a site to the west.

## **2.0 Proposed Development**

2.1. Permission is sought for retention of replacement farm dwelling under Objective HD23(4) of the County Development Plan together with permission for an effluent treatment system and associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission granted subject to 5 conditions. The conditions are standard in nature.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

Planning report (09/04/20): The proposal was considered acceptable in the context of visual amenity, traffic impact and public health. A grant of permission was recommended subject to the conditions outlined above.

#### **3.2.2. Other Technical Reports**

Area Engineer (25/03/20): No objection subject to conditions.

### 3.3. **Prescribed Bodies**

3.3.1 Inland Fisheries Ireland (30/03/20): Conditions to be applied regarding wastewater treatment.

### 3.4. **Third Party Observations**

3.4.1 A submission was received from Anthony Sammon, Ballyross, Glencree, Co. Wicklow. The issues raised include...

- The dwelling is in an ANOB, failure to adhere to planning laws, demolition of existing dwelling, proposal should have been refused with a case cited, non-compliance with development plan policy, and lack of visual impact assessment.

## 4.0 **Planning History**

ABP-307703-20 (20/322): Permission sought to convert farm store/barn to self-catering accommodation. Pending decision.

15/873: Permission granted for modifications to an existing dwelling.

14/1693: Permission granted for extension and alteration of an existing dwelling.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

The relevant development plan is the Wicklow County Development Plan 2016-2022.

The site is in a Level 10-Rural Area

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, which includes a Wicklow Single Rural House Design Guide.

HD23: Residential development will be considered in the open countryside and when it is for those with a definable social and economic need to live in the open countryside.

4. Replacing a farm dwelling for the needs of a farming family, not as speculation. If suitable the old dwelling may be let for short term tourist letting and this shall be tied to the existing owner of the new farm dwelling were it is considered appropriate and subject to the proper planning and development of the area.

NH49: All development proposals shall have regard to the County landscape classification hierarchy in particular the key landscape features and characteristics identified in the 'Wicklow Landscape Assessment (set in Volume 3 of this plan) and the 'Key Development Considerations' set out for each landscape area set out in Section 5 of the Wicklow Landscape Assessment'.

The site is located in an area designated as an Area of Outstanding Natural Beauty.

## 5.2. Natural Heritage Designations

Wicklow Mountains SPA Site Code 004040 c500m to the south.

Wicklow Mountains SAC Site Code 002122 c1km to the south.

## 5.3. EIA Screening

5.3.1 Having regard to nature of the development comprising of the retention of a replacement dwelling, 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

6.1.1 A third party appeal has been lodged by Anthony Sammon, Ballyross, Glencree, Co. Wicklow. The grounds of appeal are as follows...

- The appellant notes there was a vernacular style dwelling on site for which there was permission to extend and that such was demolished. The appellant notes that there was a failure to assess the justification for demolition of such and that the Planning Authority has failed in its obligations in the context of the proper planning and sustainable development of the area.
- It is noted that the dwelling subject to retention is substantially bigger than the dwelling demolished and that the design of the dwelling is incongruous at this location and so different than the permission originally granted for alteration of an existing dwelling that the retention for such should not be permitted.
- The appellant notes that this is one of two dwelling on site for which the applicant has sought retention permission for.

### 6.2. Applicant Response

6.2.1 Response Daken & Norah Engmann, Ballyross Farm, Enniskerry, Co. Wicklow.

- It is noted that the existing structure complies with the drawings approved under ref no. 15/873.
- The original dwelling was not able to be retained due to structural deficiencies found during initial restoration works.
- The applicant notes that they complied with the Planning and Development Act and notes that compliance with ref no. 15/873 is irrelevant to the assessment of the application for retention.
- The applicant notes that the design issue raised are not sufficient reason to refuse permission.
- The dwelling for retention is not observable from the appellant's home or from the public road.

- The applicant notes that the appellant's grounds of appeal are vexatious and unjustified.

### 6.3. **Planning Authority Response**

No response.

## 7.0 **Assessment**

7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Principle of the proposed development/unauthorised development

Design/visual amenity

Wastewater

Appropriate Assessment

7.2. Principle of the proposed development/unauthorised development:

7.2.1 The proposal is for retention of a dwelling and permission for a wastewater treatment system serving the dwelling. The planning history of the site indicates that there was an existing single-storey dwelling on site, which was in a habitable condition. There are a number of permissions granted for extension and alteration of this dwelling. It appears that the existing dwelling was demolished and a new dwelling constructed for which permission is sought to retain. The appellant raises concerns regarding unauthorised development, the failure to properly assess the justification for demolition of the existing dwelling.

7.2.2 Based on the information on file the existing dwelling on site was a habitable dwelling. The dwelling appears to be of considerable age and vernacular in character. The dwelling does not appear to have been of significant architectural

heritage value and had no designated status as such. The dwelling appears to have been demolished without permission, which would have been required if a habitable dwelling. The new dwelling on site is now subject to retention application and subsequent appeal against the grant of permission. It is clear that unauthorised development has taken place and that the proposal is seeking to regularise such. The applicant has indicated the rationale for such in that the structural condition of the existing dwelling was not of such standard that could be retained once works were carried out.

7.2.3 Firstly in relation to the status of the existing dwelling I would note that there are details of such in the planning history documents including photographs. I would note that based on the information available to me that the existing dwelling was not of significant architectural heritage value and that its replacement or demolition would not be contrary to the proper planning and sustainable development of the area. It is clear that unauthorised development has been carried out on site and now permission is being sought for retention. I would note that the Board is not the enforcement authority and that the Council has ample powers to deal with unauthorised development. The proposal is for retention of the new dwelling and retention is provided for under the Planning and Development Act, 2001 (as amended). The proposal is being assessed on its merits.

7.2.4 In relation to rural housing policy the site is in a Level 10-Rural Area. Under Objective HD23 it is noted that “residential development will be considered in the open countryside and when it is for those with a definable social and economic need to live in the open countryside”. There is a list of 16 circumstances for which residential development will be permissible. No 4 relates to “replacing a farm dwelling for the needs of a farming family, not as speculation. If suitable the old dwelling may be let for short term tourist letting and this shall be tied to the existing owner of the new farm dwelling where it is considered appropriate and subject to the proper planning and development of the area”. In this case the appeal site is 22 hectares in size and is operated as a farm with farm buildings on site. I would note

that the dwelling for retention is replacement dwelling and is compliant with development policy on rural housing.

### 7.3 Design/visual amenity:

7.3.1 The appeal site is in an area of the county designated as being an Area of Outstanding Beauty and is upland and scenic area. The appeal site consists of lands amounting to 22 hectares and is located on northern side of the public road with level falling moving north to south. The dwelling itself is located at level well below the public road to the north. The dwelling is sizeable dwelling and is mainly single-storey with a ridge height of 6m with small section of it being two-storeys and having a ridge height of 7m. The dwelling features a pitched roof and an external finish of render. I would note that the dwelling is not highly visible from the public road to the north due to its relative low profile height and the significant drop in levels. I am of the view that the overall visual impact of the dwelling for retention is satisfactory and would not be unduly prominent in the surrounding area including public roads and any designated views or prospects. I do consider that there is a necessity to implement some sort of landscaping scheme to soften the overall impact of the dwelling and an appropriate condition would deal with this matter.

### 7.4 Wastewater/public health:

7.4.1 The proposal entails installation of a proprietary wastewater treatment system. Site characterisation was carried out including trial hole and percolation tests. The trial hole test notes that the water table level was not encountered in the trial hole (1.8m). The percolation test result for T tests carried out by the standard method and for deep subsoils and/or water table and P tests for shall soil/subsoils and/or water table, indicate percolation values that are within the standards that would be considered acceptable for the operation of a wastewater treatment system set down under the EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses. The test results indicate percolation values that are within the standards that would be considered acceptable for the operation of a wastewater treatment system set down under the EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses. The drawings submitted meets the



required separation distances set down under the EPA Code of Practice (based on site size and separation from site boundaries). Based on the information on file and subject to appropriate conditions requiring compliance with the EPA Code Practice, I would consider that the proposal would be acceptable in the context of public health.

#### 7.5 Appropriate Assessment:

7.5.1 Having regard to the nature and scale of the proposed development and its proximity 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 a grant of permission subject to the following conditions.

### 9.0 Reasons and Considerations

Having regard to the provisions of the Wicklow County Development Plan 2016-2022 and to the nature, form, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in the context of the visual amenity of the area, the amenities of adjoining properties, traffic safety and convenience, and satisfactory in regards to public health. 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, 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. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services and no surface water from the proposed development/site shall be allowed to discharge onto adjoining properties or the public road.

Reason: In the interest of public health.

3.

(a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 11th day of February 2020, and in accordance with the requirements of the document "Wastewater Treatment Manual: Treatment Systems for Single Houses", Environmental Protection Agency (current edition). Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity

insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

4. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Any plants which die, are removed or become seriously damaged or diseased, within a period of 2 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 order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

5. 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 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 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.

---

Colin McBride  
Planning Inspector

26<sup>th</sup> August 2020