



An
Bord
Pleanála

Inspector's Report ABP-308073-20

Development	House, garage, well, wastewater treatment system and all associated site works.
Location	Westaston Demesne, Kilbride, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	20158
Applicant(s)	Daniel Beale
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Date of Site Inspection	11 th November 2020
Inspector	Paul O'Brien

1.0 Site Location and Description

- 1.1. The subject site with a stated area of 0.3030 hectares, comprises an area of land located to the north of a laneway, located off the north of the L1152, Co. Wicklow. This road provides a link to the M11 to the east and Rathdrum to the west, which is approximately 5.3 km away. Kilmacurragh Gardens are located to the east, the laneway provides access to these lands but is gated, thereby providing access from this road/ laneway.
- 1.2. The site is rectangular in shape, falling gently on a south to north axis and was under grass/ in agricultural use on the day of the site visit. The front boundary consists of a bank with a mix of mature trees/ planting providing screening along the laneway. A detached house is located to the west of the site
- 1.3. Surrounding lands are primarily in agricultural use, though such use is limited due to the rolling nature of the lands in this part of Co. Wicklow. A GAA ground, Barndarrig GAA, is located to the east/ south of the access road, to the south west of the subject site.

2.0 Proposed Development

- 2.1. The proposed development consists of:
 - A single-storey, detached house providing for three bedrooms and a stated floor area of 117.5 sq m. The proposed house has a ridge height of 5.86 m.
 - A detached garage, located to the east of the house, with a stated floor area of 36 sq m.
 - Wastewater treatment system.
 - Bored well.
 - New entrance onto the public road.
 - All associated site works.

3.0 **Planning Authority Decision**

3.1. **Decision**

The Planning Authority decided to refuse permission for one reason as follows:

‘Having regard to the inadequacy of the road network serving the site in terms of width/ alignment/ structural and surface condition, it is considered that the existing road network is not suitable to support any degree of development and therefore to allow this development would endanger public safety by reason of traffic hazard’.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The Planning report reflects the decision to refuse permission. The Planning Authority Case Officer referred to the poor quality of the local road network and secondly the development was contrary to Section 4.4 of the Wicklow County Development Plan 2016 – 2022 in that it would not represent a necessary dwelling in this high amenity area. The development would not comply with Objective HD23 of the development plan – demonstration of housing need. A handwritten note by the Senior Engineer, agreed with the reason for refusal as being the poor quality of the road, but considered that adequate sightlines could be achieved here.

The applicant was granted an extension of four months of the appropriate period. Further information was submitted, and the applicant was able to demonstrate his connection to the area. The applicant was willing with the other users of this lane, to upgrade the quality of the road. The Planning Authority Case Officer noted the planning history of this area and no upgrades to the road have been undertaken to date. Refusal of permission was recommended on the basis of the poor quality of the local road network.

3.2.2. **Other Technical Reports**

Environmental Health Officer – Report from EHO stating no objection subject to conditions.

3.3. **Objections/ Observations**

Councillor J Snell wished to be kept informed of this application.

4.0 Planning History

None.

5.0 Policy and Context

5.1. Development Plan

5.1.1. Under the **Wicklow County Development Plan 2016 – 2022**, the site is located within a Level 10 – Rural Area.

5.1.2. Within Chapter 2 – Vision and Core Strategy, an assessment of the rural areas found that there is no evidence of significant population decline in any part of the County and pressure for rural housing around the fringes of major towns is evident. The following is relevant:

‘It is therefore concluded that there are effectively no ‘structurally weak’ areas in the County. Furthermore, when the ‘zone of influence’ of urban areas is considered (which includes the influence of Dublin as well as major towns in the County, namely the Bray–Greystones cluster, Rathdrum, Wicklow-Rathnew, Arklow, Blessington and Baltinglass), it is evident that the entire County can be considered an area under strong urban influence. This would be consistent with the preliminary analysis carried out as part of the National Spatial Strategy 2002 – 2020’.

5.1.3. Within Chapter 3 – ‘Settlement Strategy’, the following is relevant:

‘Development within the rural area should be strictly limited to proposals where it is proven that there is a social or economic need to locate in the area. Protection of the environmental and ecological quality of the rural area is of paramount importance and as such particular attention should be focused on ensuring that the scenic value, heritage value and/or environmental / ecological / conservation quality of the area is protected’.

5.1.4. Within Chapter 4 – ‘Housing’, the following is relevant:

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

Residential development will be considered in the countryside in the following circumstances:

1. A permanent native resident seeking to build a house for his / her own family and not as speculation. A permanent native resident shall be a person who has resided in a rural area in County Wicklow for at least 10 years in total (including permanent native residents of levels 8 and 9), or resided in the rural area for at least 10 years in total prior to the application for planning permission'.

And

'In the event of conflict of any other settlement strategy objective / Landscape Zones and categories, a person who qualifies under policy HD23 their needs shall be supreme, except where the proposed development would be a likely traffic hazard or public health hazard'.

5.1.5. 'Appendix 2 – Design Guidelines for New Homes in Rural Wicklow' is noted and provides extensive guidance on the location, layout and design of houses in rural locations.

5.1.6. Objective WI7 of Chapter 9 – Infrastructure, is relevant to this development and states:

Permission will be considered for private wastewater treatment plants for single rural houses where:

- the specific ground conditions have been shown to be suitable for the construction of a treatment plant and any associated percolation area;
- the system will not give rise to unacceptable adverse impacts on ground waters / aquifers and the type of treatment proposed has been drawn up in accordance with the appropriate groundwater protection response set out in the Wicklow Groundwater Protection Scheme (2003);

- the proposed method of treatment and disposal complies with Wicklow County Council's Policy for Wastewater Treatment & Disposal Systems for Single Houses (PE ≤ 10) and the Environmental Protection Agency "Waste Water Treatment Manuals"; and
- in all cases the protection of ground and surface water quality shall remain the overriding priority and proposals must definitively demonstrate that the proposed development will not have an adverse impact on water quality standards and requirements set out in EU and national legislation and guidance documents.

5.2. National Guidance

5.2.1. **The Sustainable Rural Housing – Guidelines for Planning Authorities** (April 2005) is relevant to this proposal as they set out the need for rural housing in appropriate/ sustainable locations.

5.2.2. **National Planning Framework – Project Ireland 2040** recognises the importance of rural Ireland.

National Policy Objective 19 is relevant to this development:

'Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements'.

5.3. Natural Heritage Designations

The subject site is not located within any Natural Heritage designated lands.

6.0 The Appeal

6.1. Grounds of Appeal

The applicant, Daniel Beale, has appealed the decision of Wicklow County Council to refuse permission for a house on this site in Westaston Demesne, Kilbride, Co. Wicklow.

The main issues raised in summary, include:

- Permission was recommended for refusal and an extension of time was sought to address the reasons for refusal.
- Planning Permissions granted under 99/1399 and 02/6516 included requirements that the laneway be upgraded and the applicant wishes for the same condition to be applied.
- Upgrading is dependent on weather and they do not wish to encourage non-residents to park on the laneway.
- The adjoining neighbour has allowed for the improvement of sightlines at the proposed entrance.
- Traffic is not an issue of concern as the lane serves very few properties and very little traffic uses it.

7.0 Assessment

7.1. The main issues that arise for consideration in relation to this appeal can be addressed under the following headings:

- Compliance with Requirements for a Rural House
- Wastewater Treatment and Water Supply
- Design and Impact on the Character of the Area
- Traffic Safety
- Appropriate Assessment Screening

7.2. Compliance with Requirements for a Rural House

7.2.1. The appellant outlined their qualifications for a house in this rural location, in order to demonstrate compliance with Objective HD23 of the Wicklow County Development Plan 2016 – 2022. This information has been resubmitted in support of the appeal and includes:

- Birth Certificate – 1990
- Tax letter dated 10th December 2019 giving his address as Ballygannon Mor, Glenealy, Co. Wicklow.
- Bank letters giving his address as Ballygannon Mor, Glenealy, Co. Wicklow. These letters are dated September 2019, September 2018, September 2017, September 2016 and September 2015 – Five separate years.
- Letter from Avondale Community College stating that Mr Beale attended here between September 2002 and June 2008 – a period of six years while residing in Ballygannon Mór, Glenealy, Co. Wicklow.
- Sworn Statutory Declaration as to state that the applicant never has or does currently not own a house.
- Letter of consent from Mr C. Kelly giving permission for the applicant to apply for planning permission on his lands.
- A letter from the applicant setting out their need for this house and supporting information for the planning application. He states that he has lived on the family lands for a period in excess of 19 years. He is a builder's labourer/ blocklayer.

7.2.2. A lot of documentation has been submitted in support of the application and I consider that the information provided demonstrates that he has lived in the area for at least 10 years in accordance with the requirements for housing in Rural Areas as set out in the Wicklow County Development Plan 2016 – 2022. The requirements for a house in such an area are clear and it is up to the applicant to demonstrate compliance with each application. The letter from the school indicates residency for a period of five years and banking details give his address at Ballygannon Mor, Glenealy for a further five years. Ballygannon Mór refers to lands to the north of the subject site.

7.2.3. The documentation as submitted with an application is the only acceptable way to determine a person's compliance with National and Local Policy. I am satisfied that he has demonstrated compliance with the requirements of the Wicklow County

Development 2016 – 2022. National Policy Objective 19 clearly sets out that in rural areas, single housing is to be facilitated ‘..in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area’ subject to design considerations. The appellant has not provided any evidence in relation to economic need other than to say that he cannot afford to buy a house elsewhere. Other than demonstrating that family members live in the area, no demonstrable social need has been provided either. Mr Beale’s current occupation does not require him to live in this location and permitting this development would require the provision of unsustainable public services in the area.

- 7.2.4. I would also be concerned that the development is located in an area with few public services. The applicant/ appellant has stated that he is involved in the local GAA, but no information has been provided as to which club and it is not certain that it is the club to the south of the site. Retail, education and other social services would only be accessible by car.

7.3. Wastewater Treatment and Water Supply

- 7.3.1. It is proposed to install a six person wastewater treatment system and 108 sq m of polishing filter in accordance with the EPA Code of Practice, 2009. The discharge is collected and pumped to a soil polishing filter. The treatment system is located approx. 15 m north east of the house. Table 6.1 of the ‘EPA Code of Practice for Waste Water Treatment and Disposal Systems Serving Single Houses’ sets out minimum separation distances and the proposed development is compliant.
- 7.3.2. The site is located in an area identified with an “Extreme” vulnerability classification in the GSI Groundwater maps and is located within an area defined as ‘Locally Important’ Aquifer category, representing a Groundwater Protection Response of R2¹ under the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009) (Annex B2). There was no indication of ponding on the day of the site visit.
- 7.3.3. The trial hole had a depth of 2 m and the assessment submitted by the applicant indicates that bedrock and the water table were not encountered at this depth, only sandy clay/ silt. Water was encountered at 1 m, so a high-water table would be expected here. The submitted site characterisation records a T-test value (Standard method) of 35.97 min/25mm indicating a good soakage and which is within acceptable limits and a P-test value of 30.42 min/25mm. The submitted report indicates that three

separated trial holes were provided. The report has found that the site is suitable for treatment by way of a treatment system. All required separation distances to houses, structures and other treatment systems are complied with.

- 7.3.4. The Environmental Health Officer reported no objection to this development subject to conditions revising the raised polishing filter taking account of the high-water table of 0.4 m below ground level. I am satisfied that a suitable treatment system can be provided on site that will ensure the suitable disposal of foul water.

7.4. Design and Impact on the Character of the Area

- 7.4.1. The proposed house is a relatively modest three-bedroom unit. It is a rectangular shaped unit with a small projecting porch facing south towards the public road. External materials consist of plaster finish and the roof is to be finished in blue/ black slates. The house is indicated as being set back by 29 m from the roadside edge. I note that the submitted site plan at 1:250 does not accurately scale, however adequate information is available in this assessment.
- 7.4.2. I have noted the Wicklow County Development Plan 2016 – 2022 includes Appendix 2 – ‘*Single Rural Houses – Design Guidelines for New Homes in Rural Wicklow*’. These guidelines are detailed and provide clear information on suitable house designs for the rural areas of Co. Wicklow. I am satisfied that the location and design of house will not negatively impact on the visual amenity of the area.
- 7.4.3. The proposed house is considered to be acceptable in terms of adequate room sizes and storage provision. Adequate private amenity space is available to the rear/ side of the proposed house. The proposed development does not impact on any other houses in terms of overlooking leading to a loss of privacy or in terms of overshadowing leading to a loss of daylight. The adjacent house to the west is circa 45 m from the subject unit.

7.5. Traffic Safety

- 7.5.1. The Planning Authority issued a single reason for refusal referring to the condition of the existing road network serving the proposed house. The appellant referred to two previous grants of permission for the other houses on this lane and were it was intended to upgrade the road to serve these units.

- 7.5.2. On the day of the site visit, I was able to access the laneway, but I concur with the Planning Authority that the quality of the road surface and width was somewhat substandard. Weather conditions were wet on the day of the site visit and significant amount of ponding on the road was evident. The road surface was a mixture of compacted soil/ clay with some hardstanding in the form of small stones. Grass was growing in the centre section of the road.
- 7.5.3. I note the comments of the appellant, however there was no evidence that any works had been undertaken on this road to date and his site is the furthest to the east away from the main public road. The justification for works not been completed (due to weather and to prevent on-street, car parking by non-residents) are noted, but I do not accept these as justifiable reasons. The applicant may be willing to upgrade his section of road, but I would be more concerned about the section from the L1152 right up to his site and which includes lands outside of his control and for which he has no permission to carry out works on. At a minimum works would require the provision of suitable drainage, base layer and top surface to enable safe access and such works would be expensive to undertake by an individual. It should also be added, that whilst the L1152 is of a reasonable quality, an increase in traffic volumes would require its upgrade within a short period into the future.
- 7.5.4. I am not aware of the history of this laneway, but from the site visit it would appear that its primary function is to serve agricultural lands in the area. The GAA grounds are accessed from the western side of the laneway, in close proximity to the L1152 road. The existing houses are located to the western end of the laneway and whilst the subject site is adjacent to the east, it will result in ribbon development and the future need for significant upgrading of this road. The roadway is narrow and in poor condition and is not suitable for pedestrian/ cyclist use. Permitting an additional house along this laneway would set an undesirable precedent for similar development in the area.

7.6. **Appropriate Assessment Screening**

- 7.6.1. Having regard to the nature and scale of the proposed development and the location of the site and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely

to give rise to a significant effect individually or in combination with other plans or projects on an European site.

8.0 Recommendation

- 8.1. I recommend that planning permission be refused for the following reasons and considerations as set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the location of the site within an "Area Under Strong Urban Influence" as identified in Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and the National Policy Objectives of the National Planning Framework (February 2018), which seek to manage the growth of areas that are under strong urban influence to avoid over-development and to ensure that the provision of single housing in rural areas under urban influence are provided based upon demonstrable economic or social need to live in a rural area, and in an area where housing is restricted to persons demonstrating local need in accordance with the current Wicklow County Development Plan 2016 - 2022, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Sustainable Rural Housing Guidelines and National Policy Objective 19 for a house at this location. The proposed development, in the absence of any identified economic and social based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, thus, contravene the objectives of the Wicklow County Development Plan 2016 - 2022, would be contrary to the provisions of the *Sustainable Rural Housing Guidelines for Planning Authorities* and rural policy provisions of the National Planning Framework, and would, therefore, be contrary to the proper planning and sustainable development of the area.
- 9.2. The proposed development would constitute random housing development in a rural area lacking certain public services and community facilities and served by a poor

road network. The proposed development would, therefore, give rise to demands for the provision of further public services and community facilities and accordingly would be contrary to the proper planning and sustainable development of the area.

- 9.3. The proposed development is located along an unsurfaced minor laneway which is inadequate in width, alignment and structural conditions and would, therefore, endanger public safety by reason of traffic hazard.

Paul O'Brien
Planning Inspector

30th December 2020