



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308754-20

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<b>Development</b>	Temporary Adult Day Care facilities, new access road, temporary wastewater plant, car park and associated site works.
<b>Location</b>	Lands attached to the Holy Faith Convent, Kilcoole, Co. Wicklow.
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	20537
<b>Applicant(s)</b>	St. Catherine's Association
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Charlie Keddy
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	18 <sup>th</sup> February 2021
<b>Inspector</b>	Emer Doyle

## 1.0 Site Location and Description

- 1.1. The proposed development site is located on the R761 on the northern edge of the village of Kilcoole, Co. Wicklow. The site itself has a stated site area of c. 2.45 hectares, is generally rectangular in shape, and comprises a vacant parcel of land that would appear to have previously formed part of the wider curtilage of the property known as Darraghville House or 'the old convent' which is a protected structure Ref. 13.08.
- 1.2. Darraghville House is well set back from the road at this location and is considerably removed from the site both visually and physically. The current use of Darraghville House is as a health and wellness centre. A site of c. 5 hectares is located to the south of the site and the applicant's have entered into a contract with the Department of Education to purchase these lands to build a school for up to 100 students with intellectual difficulty subject to planning permission on this adjacent site. The land is currently in agricultural use.
- 1.3. The site is served by a public footpath which is narrow and a Dublin Bus route and bus stops are located c. 40 metres to the south of the site. The community centre is located almost opposite the site.

## 2.0 Proposed Development

- 2.1. Permission sought for single storey modular building of 600m<sup>2</sup> for a temporary period of 3 years. The design provides for a zen garden in the middle of the building. Permission is sought for a temporary use as an adult day service centre. The application provides for a new access from the R761 together with car parking for 17 cars. A waste water treatment plant is proposed.
- 2.2. Revised drawings and details were submitted to the Planning Authority dated the 14<sup>th</sup> day of August 2020. The location of the building, car parking, and pedestrian access were revised. In addition, an engineering report and associated drawing was submitted that identified a number of traffic safety proposals. It was indicated that the facility could be serviced by pumped mains sewerage if deemed necessary by the Planning Authority.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. Permission granted subject to 7 No. Conditions. Noteworthy conditions include the following:

- Condition 2 allowed for the construction and occupation of the proposed development for a period of 3 years only.
- Condition 3 required the applicant to connect to the public foul sewer.
- Condition 5 required the road side boundary to match the existing road side boundary.

### 3.2. Planning Authority Reports

3.2.1. Planning Reports

**Senior Executive Planner:** 'Reviewed in light of garden survey on Buildings of Ireland website- hatched area on map attached to report relates to garden associated with house. Accordingly, the application area is outside these lands and therefore I am satisfied the development is outside curtilage of the protected structure.'

**Planner's report:** A detailed justification was included in the initial report to demonstrate that the proposal complied with CD19 of the Development Plan in relation to appropriate locations for day care facilities. The second report considered that the proposal was acceptable. An email from the planner dated the 25<sup>th</sup> of August 2020 noted that the proposed development would be contrary to the zoning and the material contravention process was put in place by the Council in this regard.

3.2.2. Other Technical Reports

**Area Engineer:** Report dated 2<sup>nd</sup> of July 2020 identified 8 No. issues and recommended refusal.

**EHO:** Report dated the 29<sup>th</sup> of June 2020 required further information.

### 3.3. **Prescribed Bodies**

Irish Water: Further Information required to assess the feasibility of a connection to public water infrastructure.

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

- 3.4.1. Two submissions were made to the Planning Authority. Similar issues were raised in the third party appeal to the Board.

## 4.0 **Planning History**

- 4.1.1. None relevant.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

#### 5.1.1. **Wicklow County Development Plan, 2016-2022:**

Chapter 8 Community Development

CD18 To facilitate the development and improvement of new and existing residential and day care facilities throughout the County.

CD19 Residential and day care facilities shall in general be required to locate in existing towns or villages and shall be located close to shops and other community facilities required by occupants and shall be easily accessible to visitors, staff and servicing traffic; locations outside of delineated settlement boundaries shall only be considered where: the site is located in close proximity to a settlement and would not comprise an isolated development; there are excellent existing or potential to provide new vehicular and pedestrian linkages to settlement services; and the design and scale of the facility is reflective of the semi-rural location.

Chapter 10 Heritage

Protected Structure: Kilcoole Holy Faith Convent Ref: 13.08

Section 3.2: County Wicklow Settlement Strategy:

Level 5 – Small Growth Towns: Kilcoole

**5.1.2. Greystones – Delgany & Kilcoole Local Area Plan, 2013-2019:**

Land Use Zoning:

AG/GB – To generally protect the open nature and landscape quality of the lands, to protect and enhance local biodiversity, and to maintain the primary use of the land for agricultural purposes.

Other Relevant Sections / Policies:

SOC13 To allow for the development of new and improved community facilities..... including health and education facilities.

TS2: All new development shall be required to connect to public mains systems for water supply and waste water connections.... otherwise.... considered only in exceptional circumstances.

TS7: Promote the development of safe and accessible pedestrian and traffic routes.

TS8: To implement the objectives as set out in Table 7.1, for:

- i. the development of new roads within the lifetime of the plan (indicated in purple on Map A),
- ii. the development of new roads beyond the lifetime of the plan (indicated in pink on Map A), and
- iii. the improvement/upgrading of existing roads, including for example new footpaths/cycleways, public lighting, road realignments / widening, re-surfacing etc., within the lifetime of the plan (indicated in peach on Map A).

Roads Objectives:

RO6: Improvement of the R761 from Burnaby Height to Kilcoole, as appropriate.

RO8: To provide for the development of a Western Distributor Road to bypass Kilcoole.

**5.2. Natural Heritage Designations**

The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The Murrrough Wetlands Special Area of Conservation (Site Code: 002249), approximately 1.4km east of the site.
- The Murrrough Special Protection Area (Site Code: 004186), approximately 1.8km southeast of the site.

### 5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest 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 at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The Holy Faith Convent is a protected building and should not have anything that will or might affect its status built beside it.
- Concerns in relation to traffic safety and absence of sewer facility.
- There are alternative sites for the proposed facility in the area.

### 6.2. Applicant Response

The response submitted on behalf of the applicant can be summarised as follows:

- The existing facility is located in the grounds of a psychiatric hospital and St. Catherine's have been asked to move all their facilities from there. Furthermore, it is considered that a psychiatric hospital is not a suitable location for special needs facilities and such facilities should be integrated into the local community.

- The lands on which it is proposed to locate this temporary facility are considerably remote, physically and visually from the protected structure.
- The site was in the town boundary of the previous plan 2008-2014- see map attached to appeal response.
- Traffic movements to the building will be minimal with most of the occupants arriving by mini-bus.
- Access to a mains sewer is proposed.

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

- None.

### 6.4. **Observations**

- None.

## 7.0 **Assessment**

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- Principle of Development
- Impact on Protected Structure
- Other Matters
- Appropriate assessment

### 7.2. **Principle of Development**

7.2.1. In terms of background, the purpose of the proposed development is to provide purpose built adult day service centre for 8 clients rising to a maximum of 15 clients. There is an urgent need for the provision of adult day services in the area according

to information submitted with the application and appeal. The service is currently located in the grounds of a psychiatric hospital in the area and the applicant's have been asked to move all their facilities from there. The appeal response considered that a psychiatric hospital is not a suitable location for special needs facilities and such facilities should be integrated into the local community.

7.2.2. The site sits alongside a 5 acre site where, subject to planning approval, it is planned by the applicant's that St. Catherine's school will be built in the future. It is expected that the permanent facilities will be constructed over a period of 2 to 3 years and the proposed temporary facilities would be retired after this time.

7.2.3. The site is zoned as AG/GB in the Greystones, Delgany and Kilcoole Local Area Plan with a zoning objective 'to generally protect the open nature and landscape quality of the lands to protect and enhance local biodiversity, and to maintain the primary use of the land for agricultural purposes.'

7.2.4. CD19 of the County Development Plan states that day care facilities are generally required to locate in existing towns or villages and shall be located close to shops and other community facilities required by the occupants and shall be easily accessible to visitors, staff and servicing traffic; locations outside of delineated settlement boundaries shall only be considered where the site is located in close proximity to a settlement and would not comprise an isolated development, there are excellent existing or potential to provide new vehicular and pedestrian linkages to settlement services and the design and scale of the facility is reflective or the semi-rural address.

7.2.5. The planner's report notes the following in relation to compliance with CD19-  
'The application site is located just outside the development boundary of Kilcoole, and directly adjoins lands which are zoned for community and education and which in accordance with the particulars submitted are intended for the construction of a permanent Residential Day Care facility for St. Catherine's. The site is served by a public footpath which extends into the settlement providing access to local services and amenities. The Kilcoole Parish Centre is located on the opposite side of the public road. The site is located adjacent to a local bus stop and would be easily accessible to visitors, staff, and servicing traffic. Whilst it is not considered that the design of the proposed development could be considered as 'reflective of the semi-



rural location', it is noted that the structure is of a temporary nature (proposed duration of 3 years).

- 7.2.6. I note that the Planning Authority considered that the development concerned would materially contravene the development plan and the material contravention process was put in place by the Council in this regard.
- 7.2.7. I generally concur with the report of the Planning Authority in terms of the justification for the proposed temporary development at this location. However, I would consider that the site could be more appropriately described as 'edge of village' rather than semi-rural location. In this regard, I note that the lands are served by a public footpath and bus stops for a Dublin Bus service are located within c. 40m of the site. I note that the lands directly adjacent the site are within the development boundary of Kilcoole and are zoned as 'CE' – Community and Education. I also note that the subject site was previously within the plan boundary of the 2008-2014 Kilcoole Town Plan.
- 7.2.8. In my view, CD19 of the County Development Plan does have some flexibility for consideration of locations outside of the settlement boundaries of towns and villages for adult day services. I consider that this site is not located in an isolated setting, is linked physically to the village of Kilcoole, and is served by both a footpath and a public bus route. Furthermore, the use proposed is temporary to facilitate the future development of a permanent facility subject to planning permission on an adjacent zoned site. I therefore consider that the proposed development is acceptable in principle.

### **7.3. Impact on Protected Structure**

- 7.3.1. I note that Kilcoole Holy Faith Convent is a protected structure (Ref. 13.08) which is located on lands c. 270m to the south of the subject site. The house is currently in use as a wellness centre known as Luisne and there is a for sale sign outside the premises at present.
- 7.3.2. Section 13.1 of the 'Architectural Heritage Protection Guidelines for Planning Authorities notes that 'the notion of curtilage is not defined by legislation but can be taken to be the parcel of land immediately associated with that structure and which is (or was) in use for the purposes of the structure.'

- 7.3.3. It advises that the extent of curtilage needs to be determined on a case by case basis.
- 7.3.4. The Senior Executive Planner in a note on the file dated the 16<sup>th</sup> day of June 2020 considered that the site was outside the curtilage of the Protected Structure. A map from the garden survey on Buildings of Ireland website is attached which shows the hatched area related to the garden associated with the house.
- 7.3.5. There is a very significant separation distance between the protected structure and the access to same and the current site. I am of the view that the proposed development would not negatively impact on the protected structure or the curtilage of same. However, whilst there is both a physical and visual remove from the protected structure, I note that the boundary wall serving the protected structure and the site are the same.
- 7.3.6. I note that drawing submitted with the application and the further information response indicated that it is proposed to remove a section of this wall in order to achieve satisfactory sightlines. It was intended to replace the wall with a timber and rail fence. I consider that proposals to remove or alter the boundary wall could adversely impact on the character of the protected structure unless this was replaced with a similar type of wall to match the existing wall. I note that Condition 5 of the Planning Authority requires that the timber post and rail fence shall not be constructed and the revised road side boundary fence shall match the existing roadside boundary. Should the Board be minded to grant permission for the proposed development, I consider that a similar condition should be included in the interests of visual amenity and in order to avoid a detrimental impact on the protected structure.

#### **7.4. Other Matters**

##### Wastewater Treatment System

- 7.4.1. I note that it was proposed to serve the proposed development by means of a wastewater treatment system, however drawings P102 and D1919-C-03 submitted to the Planning Authority dated the 10<sup>th</sup> day of June 2020 indicated the percolation areas in different locations. Furthermore, the report from the Area Engineer indicated that a pumped connection to the existing Irish Water Four Water Connection may be

possible and it was unlikely that permission would be granted for on-site services where a public service was available as this would contravene Objective TS2 of the Greystones - Delgany and Kilcoole Local Area Plan.

- 7.4.2. In response to the Further Information request, the applicant stated that an on site wastewater treatment unit was proposed on the basis that the facilities were temporary in nature and the likely route for the pumped rising main and gravity outfall were potentially problematic given the position of existing underground services within the R761 Kilcoole Road including gas, telecoms and ESB services. However, if the Planning Authority deemed that it was necessary to connect to the available services, the applicant was willing to accept a condition to provide a pumped discharge to the existing gravity foul sewer located on the R761 Kilcoole Road.
- 7.4.3. The planner's report noted that a connection to the foul sewer was feasible and considered that this option would be the most appropriate means of effluent disposal.
- 7.4.4. Condition 3 (a) required that the development shall connect to the public foul sewer and that no temporary wastewater treatment system shall be constructed or placed on site.
- 7.4.5. I share the view of the Planning Authority in this regard and consider that should the Board be minded to grant permission for the proposed development, a similar condition should be included.

#### Traffic Impact

- 7.4.6. I note that item 2 of the Further Information Request by the Planning Authority required the applicant to submit a Traffic Impact Assessment prepared by a qualified engineer. Following consultation with the Area Engineer, a number of alterations were proposed as follows: The vehicular access will maintain pedestrian priority along the R761 with a dropped kerb at the carriageway edge to facilitate vehicle access, change of location and design of pedestrian access route to building to provide a more direct route, proposal for a minimum footpath width of 2m between the vehicular access and the existing bus stop. It was also agreed with the Area Engineer that it was not necessary to provide a Traffic Impact Assessment.

- 7.4.7. I consider that the revised proposals would be beneficial for the village of Kilcoole and would make this location safer for pedestrian users in particular. I note that there is a pinch point between the site and the bus stop where the existing footpath is very narrow. I note from information submitted with the application that the day service will initially be for 8 No. school leavers with a further four to six school leavers in future. Numbers set out in the engineering report for development traffic are based on a total occupancy of 30 with 15 clients and 15 staff. It is intended that staff will arrive by car and clients will be dropped off by mini-bus. Having regard to the low traffic volumes, I concur with the view of the Area Engineer that a Traffic Impact Assessment is unnecessary in this instance.
- 7.4.8. Having inspected the site and having regard to the details set out above, I have no reason before me to believe that the proposal would lead to the creation of a traffic hazard or obstruction of road users and I consider that the proposed development is acceptable in this regard.

## 7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development, its location at the edge of the village of Kilcoole and separation from 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 any European site.

## 8.0 **Recommendation**

- 8.1. I recommend that permission be granted for the proposed development for the reasons and considerations set out below:

## 9.0 **Reasons and Considerations**

- 9.1.1. Having regard to the nature and scale of the proposed development, its location at the edge of the village of Kilcoole, the provisions of the Wicklow County Development Plan 2016-2022 and Greystones – Delgany & Kilcoole Local Area Plan, 2013-2019, it is considered that subject to the compliance with the conditions

set out below, the proposed development would not be injurious to the amenities of the area, would not give rise to the creation of a traffic hazard and would 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, as amended by the further plans and particulars submitted on the 14<sup>th</sup> day of August, 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.

2. The grant of permission shall cease on or before 3 years from the date of this order unless a prior grant or permission has been obtained. The use shall cease and the structures shall be removed unless a prior grant of permission for the retention of the structures and continuation of the use has been obtained.

**Reason:** In the interest of clarity and visual amenity.

3. (a) The proposed development shall connect to the public foul sewer.

(b) Water supply and drainage arrangements, including the attenuation and disposal or surface water, shall comply with the requirements of the planning authority for the area.

**Reason:** In the interest of public health.

4. (a) The roadside boundary and footpath as delineated on Drawing D1919-C-07, received by the Planning Authority on the 14<sup>th</sup> day of August 2020, shall be

completed to the satisfaction of the Planning Authority prior to the construction of the temporary prefab.

(b) The proposed timber post and rail fence shall not be constructed. The revised roadside boundary wall shall match the existing boundary wall at this location.

**Reason:** In the interests of traffic safety and in the interest of protecting the architectural heritage of the area.

5. All trees and hedgerow on the site boundaries shall be retained and maintained with the exemption of those strictly required to facilitate the development.

**Reason:** In the interests of visual amenity.

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Emer Doyle  
Planning Inspector

25<sup>th</sup> February 2021