



An
Bord
Pleanála

Inspector's Report ABP-309481-21

Development	Construction of house
Location	No. 1 Beechurst, Bray, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	201197
Applicant(s)	John Dalton and Sharon Earls
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	John Dalton and Sharon Earls
Observer(s)	A. and S. Sterling
Date of Site Inspection	7 th May 2021
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The subject site is located on a corner of the Beechurst housing estate in Bray, Co. Wicklow. The site forms the side garden of an existing two storey dwelling at No. 1 Beechurst.
- 1.2. The existing development within the landholding outlined in blue on the site location map comprises of a detached two storey dwelling. The general character of the area is low density and suburban. There is a wide range of dwelling designs in this estate including bungalows, dormer dwellings and two storey dwellings.
- 1.3. The site has a stated site area of 0.045 hectares, is irregularly shaped, and is characterised by a steep rise in gradient from the footpath serving the estate to the rear of the property. The site is fenced off with palisade fencing and a pedestrian gate for use by the ESB for maintenance purposes of an ESB substation on the site. There are a large number of mature trees on the site.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a two storey detached gable fronted dwelling. The proposed dwelling has a stated area of 132m² and comprises of 3 No. bedrooms. Two car parking spaces are proposed and the site is served by mains water and sewerage.
- 2.2. A letter was submitted with the application from the ESB which stated that the ESB had been consulted in relation to their existing substation on the site and agreed to alter the substation location to facilitate the proposed works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority refused permission for one reason as follows:

Having regard to:

- The location of the proposed development in an area zoned for residential development in the Bray Municipal District Local Area Plan, where the

objective is 'to protect, provide and improve residential amenities of existing residential areas.'

- The visually prominent location of the site at the entrance to Beechurst housing development on the Killarney Road.
- The proposal to construct the dwelling house forward of the established building line and within the open space area designated under PPR No. 705 and 78/98E.
- The proposal to remove existing mature trees which are of amenity value.

It is considered that the proposed development would be visually obtrusive on the streetscape and would be contrary to the zoning objective for the site which states that new housing will not normally be permitted within open space and contrary to objective NH16 of the Wicklow County Development Plan 2016-2022 which states that development that requires the felling of mature trees of environmental and/or amenity value will be discouraged. The proposed development would therefore seriously injure the amenities of property in the vicinity and would materially contravene an objective of the Bray Municipal District Local Area Plan. The proposed development would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planner's report considered that the proposed development would require the removal of mature trees and would be development of designated open space and would be contrary to Development Plan objectives.

3.2.2. Other Technical Reports

3.2.3. None.

3.3. Prescribed Bodies

3.3.1. Irish Water

- No objection subject to conditions.

3.4. Third Party Observations

- 3.4.1. One third party observation was submitted to the Planning Authority. The issues raised are similar to the issues raised in the observation submitted to the Board.

4.0 Planning History

PA Reg. Ref. 705

Permission granted for housing development on a site in Beechurst.

PA Reg. Ref. 78/98E

Permission granted for the extension of the appropriate period in relation to the original PA Reg. Ref. 705.

PA Reg. Ref. 01/114

Permission granted for revised house including additional accommodation in roofspace, to 5 No. detached houses of existing permission Reg. Ref. No. 705 and 78/98E (under construction) at Beechurst.

5.0 Policy Context

5.1. National and Regional Policy

- 5.1.1. The 'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009' note that, in general, increased densities should be encouraged on residentially zoned lands and that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the potential to revitalise areas by utilising the capacity of existing social and physical infrastructure. Such developments can be provided either by infill or by sub-division. In respect of infill residential development potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In

residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.

5.2. Development Plan

5.2.1. Wicklow County Development Plan, 2016-2022

Relevant objectives include the following:

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 Houses Design Guide.

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 (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.

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 unserviced, 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.

HD11 In existing residential areas, the areas of open space permitted, designated or dedicated solely to the use of the residents will normally be zoned 'RE' as they form an intrinsic part of the overall residential development, however new housing or other non-community related uses will not normally be permitted on such lands.

NH16 Development that requires the felling of mature trees of environmental and/or amenity value, even though they may not have a TPO in place, will be discouraged.

Appendix 1: Development and Design Standards

5.2.2. **Bray Municipal District Local Area Plan, 2018 – 2024:**

Land Use Zoning:

The proposed development site is zoned as 'RE: Existing Residential' with the stated land use zoning objective 'To protect, provide and improve residential amenities of existing residential areas'.

Description: To provide for house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity. In existing residential areas, the areas of open space permitted, designated or dedicated solely to the use of the residents will normally be zoned 'RE' as they form an intrinsic part of the overall residential development; however new housing or other non-community related uses will not normally be permitted.

Other Relevant Sections / Policies:

Chapter 2: Overall Vision & Development Strategy:

Section 2.2.3: Population and Housing: Residential Development Strategy for Bray MD (incl.):

- To promote and facilitate in-fill housing developments, the use of under-utilised / vacant sites and vacant upper floors for residential use and facilitate higher residential densities at appropriate locations, subject to a high standard of design, layout and finish.

R4: To encourage in-fill housing developments, the use of under-utilised and vacant sites and vacant upper floors for accommodation purposes and facilitate higher residential densities at appropriate locations, subject to a high standard of design, layout and finish.

5.3. Natural Heritage Designations

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

- The Bray Head Special Area of Conservation (Site Code: 000714)
- The Ballyman Glen Special Area of Conservation (Site Code: 000713)

5.4. EIA Screening

5.4.1. Having regard to the minor nature and scale of the development proposed, the site location in a built-up area outside of any protected site, 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

6.1.1. The grounds of appeal can be summarised as follows:

- The proposed house has been designed to be inkeeping with the style of other houses in Beechurst.
- This is a serviced area and there are other houses on similar prominent sites in the area.
- Careful consideration was given to the building line.
- In the drawing from the original application, dated 1974, the site was identified as Open Space, however it has never been used as a public amenity. Since the existing owners moved into No. 1 Beechursh in 1998, the adjacent site has been fenced off and the pedestrian gate has been locked to the public. The ESB have a key to access the substation on site.

- In February 2020 the title of the land was transferred from Mr. Terrace Moore (the original developer) to Michael and Esther via an unchallenged adverse possession application. This is not a public open space nor has it ever been used as such.
- It is unfortunate that a number of mature trees need to be removed. An argument can be made that these are sited precariously close to the existing house, at only a distance of 6.5m and standing well over 12m in height, they could cause significant harm were they or part thereof to be damaged and fall.

6.2. Planning Authority Response

- None submitted.

6.3. Observations

One observation has been submitted which can be summarised as follows:

- The lands were designated as open space under PA Reg. Ref. No. 705 and PA Reg. Ref. 78/98E.
- The site entrance and car parking is proposed over lands which are not in the ownership of the applicant and do not form part of the application site.
- The removal of mature trees is contrary to objectives in the Local Area and County Development Plans.
- The site is visually prominent and the proposed development steps forward of the building line.
- The proposed development will add a severe additional load onto the system and therefore should not be permitted.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal. Appropriate Assessment also needs to be addressed. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Principle of Development
- Visual Impact
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The subject site is zoned as 'RE' – Existing Residential' in the Bray Municipal District Local Area Plan, 2018 – 2024: with the stated land use zoning objective 'To protect, provide and improve residential amenities of existing residential areas'.
- 7.2.2. I note that the site is located in an established residential area where public services are available and that the development of appropriately designed infill housing would typically be encouraged in such areas provided it integrates successfully with the existing pattern of development and adequate consideration is given to the need to protect the amenities of existing properties.
- 7.2.3. I note that the lands were designated as 'open space' in the original permission granted on the site and an extension of same under PA Reg. Ref. No. 705 and PA Reg. Ref. 78/98E.
- 7.2.4. It is stated in the appeal that the lands were identified as open space in 1974 but have never been used as a public amenity. Since the applicant's parents purchased the house at No. 1 Beechurst in 1998, the adjacent site has been fenced off and the pedestrian gate has been locked to the public. There is an existing ESB substation on the lands which it is proposed to relocate and the ESB have a key to access the lands. The applicant's have had the sole responsibility for the upkeep and maintenance of this site over the last 20 years. As a result of their work, in February 2020, the title of the land was transferred from Mr. Terrance Moore to the applicant's parents via an unchallenged adverse possession application. A folio map indicating that the lands were transferred into the names of Michael and Esther Earls by the

Property Registry Authority dated the 4th day of February 2020 is submitted with the appeal.

- 7.2.5. Objectives in both the Wicklow County Development Plan and the Bray Municipal District Local Area Plan do not 'normally permit' new housing or other non-community related uses on such lands.
- 7.2.6. I noted on the site inspection that these lands are very elevated above the footpath and would be difficult to access due to the steep gradient between the footpath and the fence. A high fence which is gated with a locked gate are located around the lands. The lands presently form part of the garden of the existing dwelling at this location and are only generally accessible from the garden of the existing house. I note that it is possible to access these lands by climbing the steep bank in front of the site and jumping over the fence and in the past the appeal states that there was anti-social behaviour on the lands by people accessing the lands in this manner.
- 7.2.7. Having regard to the fact that the lands have never been used a public open space area and are fenced off and locked with a key, taken together with the difficulties in accessing same due to their steep gradient, I consider that the development of same would be acceptable in principle subject to the consideration of all other relevant planning issues, including the impact, if any, of the proposal on the amenities of neighbouring properties and the overall character of the wider area.

7.3. Visual Impact

- 7.3.1. The subject development comprises a two storey gable fronted dwelling. The proposed development is located on a corner site within the Beechurst housing estate and would front onto the main access road to this estate.
- 7.3.2. The main issues raised in relation to visual impact relate to the elevated nature of the site, the proposed building line, and the removal of mature trees as part of the application.
- 7.3.3. I refer the Board to the contiguous elevation submitted with the application. The existing houses in this estate comprise of a large range of styles, heights, and sizes. The type of gable fronted dwelling proposed is similar to many of the existing dwellings in the area. I note that the height of the proposed dwelling has a ridge

height of c. 7.2m and the overall height is c. 0.3m below the height of the at the existing dwelling directly adjacent to the site at No. 1 Beechurst.

- 7.3.4. I note that a dormer type dwelling house is currently under construction on the corner site opposite No. 1 Beechurst. Whilst the house under construction is further from Killarney Road, I do not consider that the difference in the building lines at this location would unduly detract from the visual amenities of the area.
- 7.3.5. I note that it is proposed to cut down a number of attractive mature trees on the site. A tree survey is submitted with the appeal which rates the trees onsite as per the requirements set out in BS 5837. The tree survey included the cluster of 14 trees and shrubs growing on the site. Almost all of the trees surveyed were graded C (low value). It is acknowledged that the trees do contribute some landscape amenity and screening to the site.
- 7.3.6. It is stated that it is likely that ash dieback disease will impact on the ash trees over the next few years and if or when this happens, the ash trees are likely to decline and require removal. This will probably alter the wind dynamics of the ground and require further pruning to the beech and sycamore trees further reducing their arboricultural and amenity value.
- 7.3.7. I share the view that the existing mature trees contribute to the area and provide an attractive entrance to the estate. However, having regard to the tree survey which indicated that some of the existing trees were in poor condition, the very close proximity to some of the trees to the existing house at only a distance of c. 7m and the danger of same to both the occupants of the house and the general public, and the proposals to plant a similar number of suitably sized, small -medium native Irish trees, I am satisfied that the removal of the trees would be acceptable at this location.
- 7.3.8. I have examined the site and surroundings on the site inspection and am satisfied that the drawings submitted are sufficient to assess the visual impact. I am of the view that the design and scale of the proposed dwelling is similar to existing houses in the area. As such, I am of the view that the proposed development is acceptable and would not be detrimental to the character of the streetscape.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area, no appropriate assessment issues arise, and it is considered that the proposed development would not 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. Having regard to the foregoing, I recommend that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below:

9.0 Reasons and Considerations

- 9.1. Having regard to the land use zoning of the site in the current Bray Municipal District Local Area Plan 2018-2024, to the infill nature of the site, to the design and scale of the proposed development, and to the nature and pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would represent an appropriate residential density, would comply with the provisions of the Local Area Plan and the Wicklow County Development Plan 2016-2022, and would be acceptable in terms of traffic safety and convenience. 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, as amended by the further plans and particulars received by An Bord Pleanála on the 18th day of February 2021, 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.

Reason: In the interest of public health.

3. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

4. 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.

5. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority, complete details of all proposed boundary treatment within and bounding the proposed development site.

Reason: In the interests of traffic safety and visual and residential amenity.

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

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

8. 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.

Emer Doyle
Planning Inspector

13th May 2021