



An  
Bord  
Pleanála

## Inspector's Report

### ABP-309739-21

---

<b>Development</b>	Demolition of shed, removal of section of stone wall and hedge. The construction of 1 detached dwelling and 1 garage.
<b>Location</b>	Coyne's Cross, Ballyvolan Lower, Ashford, Co. Wicklow.
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	201323
<b>Applicant(s)</b>	Donal Byrne
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Donal Byrne
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	11 <sup>th</sup> June 2021
<b>Inspector</b>	Emer Doyle

## **1.0 Site Location and Description**

- 1.1. The site of the proposed development has a stated area of 0.35 hectares and is located in a rural area north of Ashford, County Wicklow. The site is located close to Coyne's Cross at junction 14 of the M11 and is located off a laneway which runs roughly parallel to the national route.
- 1.2. Development in the area generally consists of sporadic one off houses with very varied designs. The surrounding landscape is generally characterised by gently undulating rural countryside interspersed with instances of one-off housing and agricultural outbuildings.
- 1.3. The site itself is irregular in shape and is somewhat undulating with a higher section close to the laneway and a lower section removed from the laneway. The site is very well screened from the laneway and currently is used by the applicant for grazing sheep. There is a small agricultural shed on the site.

## **2.0 Proposed Development**

- 2.1. Permission is sought for the demolition of the existing shed and the construction of a dormer dwelling of traditional design, together with a new entrance and associated site works. A secondary effluent treatment system and percolation area are proposed together with connection to an existing mains water supply.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission refused for 3 No. reasons relating to design and impact on visual amenity, traffic safety, and rural housing policy.

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

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

The planner's report considered that insufficient information was submitted to demonstrate that the applicant was a native of the area and considered that the scale and design of the house proposed would be out of character with the rural area.

#### 3.2.2. Other Technical Reports

**Health Officer:** Recommends approval of the proposed waste water treatment system subject to conditions.

#### 3.3. Prescribed Bodies

**Irish Water:** Irish Water does not have water/waste water infrastructure within the public road fronting the proposed development and requires the applicant to engage with Irish Water. It is stated that the water mains directly outside the property is insufficient to supply this property.

#### 3.4. Third Party Observations

3.4.1. None.

#### 4.0 Planning History

4.1.1. None relevant.

#### 5.0 Policy Context

##### 5.1. Development Plan

5.1.1. The operative development plan is Wicklow County Development Plan 2016-2022.

Relevant policies include:

Section 4.3.6: Relates to the Design of New Developments and it is stated that all new housing including rural housing shall achieve the highest quality of layout and design.

Appendix 2: Sets out guidelines regarding single rural house design.

Housing in the Open Countryside Policy HD23: 16 criteria are set out which relate to the circumstances that will be considered regarding residential development in the countryside. The most relevant is no. 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.”

The Plan sets out 10 levels of settlement and the subject site is located in Level 10 – The Rural Area. It is stated in the plan regarding Level 10 areas that:

“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 focussed on ensuring that the scenic value, heritage value and/or environmental/ecological/conservation quality of the area is protected.”

Appendix 5: Landscape Assessment: The subject site is located within an area designed as Corridor Area East.

#### **5.1.2. National Planning Framework – Project Ireland 2040, Department of Housing, Planning and Local Government (2018)**

National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence i.e. commute catchment of cities and large towns and centres of employment.

#### **5.1.3. Sustainable Rural Housing Development Guidelines (DoECLG 2005)**

The site of the proposed development is located within an ‘Area Under Strong Urban Influence’. The guidelines require a distinction to be made between ‘Urban Generated’ and ‘Rural Generated’ housing need. Although not specifically defined,

examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

The guidelines state, in respect of rural areas under Strong Urban Influence, that "the housing requirements of the rural community should be facilitated on the one hand, while on the other hand, directing urban generated housing development to areas zoned for new housing in cities, towns and villages". It is further stated that "development driven by cities and larger towns should generally take place within their built up areas or in areas identified for new development through the planning process."

## **5.2. Natural Heritage Designations**

5.2.1. There are two designated EU habitat sites close to the site as follows:

- The Murrough SPA Site Code 004186 is located c. 2.7km to the east.
- The Murrough Wetlands SAC Site Code 002249 is located c. 2.7km to the east.

## **5.3. EIA Screening**

5.3.1. Having regard to the nature of the proposed development, 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 siting of the proposed development is not contrary to the guidelines set out by Wicklow County Council.

- Photomontages have been taken from a number of viewpoints in the vicinity of the site to demonstrate this.
- The design of the development accords with the Council guidelines for Single Rural Housing.
- The applicant is a part-time farmer and landscaper in the local area. He has lived in this area all his life and has never owned a home. A significant amount of documentation has been submitted with the application and appeal to demonstrate that the applicant has lived in the area all his life and is leasing lands in the area for farming sheep.
- An Engineering response is attached to the appeal to address the second reason for refusal which is based on traffic safety.

## **6.2. Planning Authority Response**

- None.

## **6.3. Observations**

- None.

## **7.0 Assessment**

7.1. Having inspected the site and reviewed the file documents, I consider the main issues can be addressed under the following headings:

- Rural Housing Policy
- Visual Impact
- Traffic Safety
- Water Supply
- Appropriate Assessment

## 7.2. Rural Housing Policy

- 7.2.1. The application site is in an area designated as a strong rural area under urban influence. The Sustainable Rural Housing Guidelines advise that houses in such areas may be provided to meet the housing needs of the local rural community, but that urban generated housing should be directed to zoned and serviced lands within settlements.
- 7.2.2. The policy in the Wicklow County Development Plan 2016 - 2022 is to discourage rural housing, especially when relatively close to towns and residentially zoned lands. The exemptions are set out in detail in policy HD23, essentially allowing for people with strong local connections with a demonstrated need to live in the area.
- 7.2.3. The applicant has submitted copious documentation which details his connections with the area including the following:
- Map of family home c. 3km from site in townland of Kiltimon.
  - Previously employed locally at Kiltimon Orchards and as a farmhand in Kilmartin.
  - Maps of lands leased in the area.
  - Copies of the following documents are on the file demonstrating the applicant's address at Kiltimon over a long period:
    - Birth Certificate
    - Holy Communion Certificate
    - School Report St. Thomas Community School Bray
    - CVRT Certificate
    - Bank of Ireland Correspondence
    - Revenue Commissioners Assessment Certificate
    - Revenue File and Return Form
    - HSE correspondence
    - Department of Agriculture Food and Marine single farm payment.
    - Lease Agreement from John O' Toole, Kiltymon for grazing land.

- Sworn declaration from Cormac O' Ceallaigh Solicitors Ashford.

- 7.2.4. It is stated that he is a permanent native resident and has lived in this area all his life. He works as a part-time farmer and in landscape gardening in the local area. He leases land in the area for farming sheep. I met the applicant on an unannounced visit to the site whilst he was feeding a number of sheep. He has never owned a dwelling and has submitted a sworn affidavit in this regard.
- 7.2.5. I am satisfied that the applicant has demonstrated that he would fall within the criteria set out in HD23 of the Development Plan. Having regard to the existing involvement of the applicant in part-time farming and his employment as a landscaper in the local area, I am satisfied that he has demonstrated a social and economic need to live in the area and complies with National Policy Objective 19 of the National Planning Framework (February, 2018).

### **7.3. Visual Impact**

- 7.3.1. The site is located on lands identified as Corridor Area East in Appendix 5 – Landscape Assessment of the current Development Plan. Policy for these areas is set out in Section 5.3.14 and requires the protection of views and prospects from the corridor area towards the surrounding landscape and a requirement for new development to locate within existing clusters rather than in open fields.
- 7.3.2. The existing site is not directly visible from the adjacent lane or from the M11 which runs roughly parallel to the site. The highest part of the site is located closest to the laneway and forms a small hill in the front part of the site. It is proposed to locate the house behind this small hill and I consider that this is an appropriate manner of siting the house. There is noise from the M11 in the front part of the site but it is significantly reduced in the area where it is proposed to locate the house to the rear. The appeal states that the siting was chosen both to reduce the noise levels from the M11 and to reduce the impact on the landscape.
- 7.3.3. The appeal includes photomontages from a number of viewpoints in the locality. I have examined these viewpoints and consider that the proposed house would not



detract from views and prospects in the area and would be recognised as part of an existing cluster of houses when viewed from local roads.

- 7.3.4. The proposed house has a stated floor area of 248.5m<sup>2</sup> with a ridge height of 7.97m. External finishes include dark coloured tiles or other material, locally sourced stone, and off white render.
- 7.3.5. 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. Traffic Safety**

- 7.4.1. Access to the proposed dwelling house is proposed via a laneway which links with a local road and is c. 1km from the Coyne’s Cross junction 14 with the M11. The laneway is in poor condition with grass growing in the middle.
- 7.4.2. The planning authority report notes the restricted sightlines but states that as the road is low trafficked, 50m sightlines could be considered.
- 7.4.3. I note that the second reason for refusal by the Planning Authority considered that the proposed development would endanger public safety by reason of serious traffic hazard due to (a) Inadequate evidence was submitted to show that the applicant has sufficient control of the necessary lands to provide adequate sightlines at the proposed site entrance, (b) the gradient of the entrance within 6m of the access laneway is excessive, (c) no proposal has been submitted to prevent surface water run off onto the road from the entrance/driveway.
- 7.4.4. The appeal response includes an engineering report which states that the applicant is contacted by both neighbours to cut hedges annually and has being do so for many years. It notes that it is a requirement of the bin lorry company that hedgerows are cut back to avoid damage to their vehicles. The low volume of traffic on the laneway is pointed out. It is stated that the gradient for the first 3m of the access is 1:25 or 4% which is acceptable as per Section 5.64 of DN-GEO-03060-02,

Geometric Designs of Junctions. In order to address item 2(c) of the reason for refusal, details of an aco-drain have been provided on Drawing 500-2016-CO2A.

7.4.5. I consider that the sightlines are very restricted in both directions at the proposed entrance. Whilst I note from the appeal response that the applicant has been cutting the hedges on either side of the site for many years, there is no evidence on file providing consent for same and continuation of this into the future. I have considered the gradient from the access road to the laneway and consider that this is acceptable. I note the revised drainage proposals and have no objection to same. Having regard to the above, I am of the view that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate onto the road at a point where sightlines are restricted in both directions.

#### 7.4.6. **Water Supply**

7.4.7. An engineering report was submitted with the application which indicated that it was proposed to connect a 25mm service pipe from the 100mm watermain along the road nearest the development.

7.4.8. A report from Irish Water on file indicated that there is a water mains supply directly outside the site but it is insufficient to supply this property.

7.4.9. I note that this issue was not included in the reasons for refusal by the Planning Authority, nor was it addressed in the appeal.

7.4.10. I am of the view that the proposed development would be premature pending the upgrade of the existing Irish Water infrastructure in this area and/or alternative proposals by the applicant. In the absence of same, the proposed development would be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

#### 7.5. **Appropriate Assessment**

7.5.1. Having regard to the nature and scale of the development and its location relative to European sites, I consider it is reasonable to conclude, on the basis of information on file, which I consider adequate in order to issue a screening determination, that

the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on a European site.

## 8.0 Recommendation

8.1. Based on the above assessment, I recommend that permission be refused for the proposed development for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

1. The proposed development would be premature pending the upgrade of the existing Irish Water public water infrastructure as the public water supply at this location is insufficient to supply the proposed development. The connection of the proposed development to the current public water supply would therefore be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate onto the road at a point where sightlines are restricted in both directions. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

---

Emer Doyle  
Planning Inspector

17<sup>th</sup> June 2021