



An
Bord
Pleanála

Inspector's Report ABP-310455-21

Development	Relocation of entrance to previously approved dwelling (Ref. No. 20/894) and associated works.
Location	Ballinastoe, Roundwood, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	21354
Applicant(s)	Holly Fitzmaurice
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party v. Decision
Appellant(s)	Holly Fitzmaurice
Observer(s)	None.
Date of Site Inspection	19 th January, 2022
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located in the rural townland of Ballinastoe, Co. Wicklow, approximately 5.0km north of the village of Roundwood and 1.4km west of the R755 Regional Road, in the foothills of the Wicklow Mountains, where it occupies a position along the eastern side of a minor local roadway. It has a stated site area of 0.303 hectares, is broadly rectangular in shape, and is presently occupied by a two-storey dwelling house under construction. The roadside site boundary is defined by mature hedgerow and a single large tree with an open drainage ditch and grass margin between it and the near edge of the carriageway. A section of roadside hedging approximate to the location of the proposed entrance has already been removed to accommodate the ongoing construction works on site while a corresponding section of the open drain has been piped.

2.0 Proposed Development

- 2.1. The proposed development involves the relocation of the entrance arrangement serving the dwelling house previously approved under PA Ref. No. 20/894 from its permitted location within the north-western corner of the site to a revised position within the south-western corner of the site frontage.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 12th May, 2021 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following 2 No. reasons:
- Having regard to:
 - a) The removal of the existing large mature beech tree and hedgerows along the L-1036-10 to create the entrance;
 - b) The location of the proposed development within a designated Area of Outstanding Natural Beauty (Mountain Uplands);

- c) The removal of natural screening of the dwelling and garage granted under Planning Reference Number: 17/1506 and Planning Reference Number 20/894; and
- d) the inadequate justification for the relocation of the permitted entrance which results in the removal of existing trees and hedgerows;

it is considered that the proposed development would result in the loss of the existing large mature beech tree and hedgerows along the L-1036-10, and the ecological habitats and biodiversity that live within; the loss of natural screening; and would be contrary to the protection of this highly sensitive landscape Area of Outstanding Natural Beauty. The development would be contrary to the guidelines and objectives of the '*Wicklow County Development Plan, 2016-2022 – Appendix 1: Development and Design Standards*' which seek the preservation of existing trees and hedgerows. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

- The proposed development would materially contravene Condition No. 10 of Planning Reference Number 17/1506 which seeks to ensure that the existing trees and shrub vegetation along the site boundaries not affected by the proposed works are preserved.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

Details the site context (including its location in an 'Area of Outstanding Natural Beauty'), planning history, and the applicable policy considerations, before stating that the revised entrance location would require the removal of a large tree and a section of mature hedgerow in contravention of Condition No. 10 of PA Ref. No. 17/1506 ("*Existing trees and shrub vegetation along the site boundaries not affected by the proposed works shall be preserved*") and contrary to the objectives of Appendix 1: '*Development and Design Standards*' of the Wicklow County Development Plan, 2016-2022 which seek to preserve existing trees and hedgerows. It is also asserted that no justification has been provided for the relocation of the permitted entrance and that the works will reduce the level of natural screening

afforded to the permitted dwelling house and garage (as approved under PA Ref. Nos. 17/1506 & 20/894) with a consequential negative impact on visual amenity and ecological considerations. The report concludes by recommending a refusal of permission for the reasons stated.

3.2.2. Other Technical Reports:

None.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None.

4.0 Planning History

4.1. On Site:

- 4.1.1. PA Ref. No. 20/894. Was granted on 4th December, 2020 permitting Holly Fitzmaurice permission for a revised house type on previously granted site (Ref. No. 17/1506) and associated works.
- 4.1.2. PA Ref. No. 17/1506. Was granted on 3rd May, 2018 permitting Holly Fitzmaurice permission for a dwelling, garage, well, effluent disposal system and all ancillary site works.

5.0 Policy and Context

5.1. National and Regional Policy

- 5.1.1. The '*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*' promote the development of appropriate rural housing for various categories of individual as a means of ensuring the sustainable development of rural areas and communities. In specific reference to the issue of access, the guidelines state that the removal of existing roadside boundaries, except to the extent that is needed for a new entrance, should be avoided where at all possible except where required for traffic safety purposes. It is considered that roadside boundaries, whether hedgerows, sod and

stone bank, stone wall or other boundaries, provide important features that are elements of both the landscape and ecology of rural areas. Moreover, the retention of such boundary treatments is considered to assist in absorbing new rural housing into its surroundings and should be encouraged.

5.2. Development Plan

5.2.1. Wicklow County Development Plan, 2016-2022:

Chapter 3: Settlement Strategy:

Level 10: The Rural Area:

The key development parameter in the rural area is to facilitate appropriate and necessary activities and development, but to protect the natural environment within which these activities are undertaken. Protecting the natural environment is essential for the maintenance and protection of ecological biodiversity and landscape quality, as well as meeting climate change and green infrastructure aspirations. In order to safeguard the future viability of rural activities and to ensure that the rural area flourishes, it is essential that the development of the rural area is managed in a sustainable manner into the future.

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.

Chapter 4: Housing:

Section 4.3: Key Housing Principles:

Section 4.3.5: Rural Housing:

As set out in Chapter 3 of this plan, rural housing in County Wicklow requires to be managed, to protect the County's pristine landscapes and natural resources, to avoid urban generated rural housing and to ensure the needs of those with a bona fide necessity to live in the rural area are facilitated.

Section 4.3.6: *Design of New Developments:*

This plan is accompanied by a Development and Design Standards document which sets out Wicklow County Council's requirements with respect to the design standards for new housing developments.

Chapter 10: Heritage:

Section 10.3: *Natural Heritage and Landscape:*

Section 10.3.9: *Wicklow's Landscape:*

1. The Mountain and Lakeshore Area of Outstanding Natural Beauty:

1(a) - The Mountain Uplands:

The central mountain upland area extends from the Dublin border in the north of the County at Kippure towards Aughrim in the south and from east of the Glen of Imaal as far as west of Roundwood Village. A key characteristic of this area is mountainous topography with U-shaped valleys, lakes and glacial topography. This area generally relates to lands immediately surrounding and above the 300m+ contour line.

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.

NH50: Any application for permission in the AONB which may have the potential to significantly adversely impact the landscape area shall be accompanied by a Landscape / Visual Impact Assessment, which shall include, inter alia, an evaluation of visibility and prominence of the proposed development in its immediate environs and in the wider landscape, a series of photos or photomontages of the site / development from clearly identified vantage points, an evaluation of impacts on any listed views / prospects and an assessment of vegetation / land cover type in the area (with particular regard to commercial forestry plantations which may be felled thus altering character / visibility). The Assessment shall demonstrate that landscape impacts have

been anticipated and avoided to a level consistent with the sensitivity of the landscape and the nature of the designation.

Section: 10.3.10: Views and Prospects:

NH52: To protect listed views and prospects from development that would either obstruct the view / prospect from the identified vantage point or form an obtrusive or incongruous feature in that view / prospect. Due regard will be paid in assessing development applications to the span and scope of the view / prospect and the location of the development within that view / prospect.

Schedule 10.14: Views of Special Amenity Value or Special Interest:

No. 10 - L1036 at Sroughmore, Roundwood: View of White Mountain and Djouce Mountain

Appendix 1: Development and Design Standards:

Section 11: Heritage: Natural Heritage:

AONB and other sensitive landscapes:

Development proposals in Areas of Outstanding Natural Beauty and other sensitive landscapes shall require a Landscape Impact Assessment to assess the visual impact of the development (including any ancillary works) on the landscape and to outline mitigation measures to reduce the impact of the development. At the discretion of the Planning Authority, smaller scale works that would be unlikely to impact on the landscape, such as dwelling extensions, will not be subject to this requirement.

Landscaping:

Landscape design shall ensure that existing site features such as specimen trees, stands of mature trees, hedgerows, rock outcrops and water features are properly identified and retained, as appropriate and new planting or other landscaping should be appropriate to the character of the area and significant on-site natural features shall influence the layout of new development.

Appendix 2: Wicklow County Council: Single Rural Houses: Design Guidelines for New Homes in Rural Wicklow

Appendix 5: Landscape Assessment:

Section 4.5: Wicklow's Landscape Areas:

Section 4.5.1: The Mountain and Lakeshore Area of Outstanding Natural Beauty:

(a) - The Mountain Uplands:

The central mountain upland area extends from the Dublin border in the north of the County at Kippure towards Aughrim in the south and from east of the Glen of Imaal as far as west of Roundwood Village. A key characteristic of this area is mountainous topography with U-shaped valleys, lakes and glacial topography. This area generally relates to lands immediately surrounding and above the 300+ contour line.

Section 5: Policy Provision:

Section 5.3.1: General Development Considerations (GDC)

Section 5.3.2: The Mountain Uplands KDC (see Appendix 4 Map 10.13(b)):

1. All developments within the Mountain Uplands AONB landscape area shall be accompanied by a detailed justification of the need for the proposed development at this location.
2. Where development is to be permitted within the Mountain Uplands AONB landscape area a very high standard of siting, design and landscaping will be required in order to ensure that the proposed development will be assimilated into the existing landscape.
3. To ensure that developments on steep slopes (i.e. 10%) will not be conspicuous or have a disproportionate or dominating visual impact on the surrounding environment as seen from relevant scenic routes and settlements.
4. To maintain the favourable conservation status of existing natural habitats including Natura 2000 sites (SACs and SPAs) and Annex I-Habitats and Annex II-Animal and Plant species within this Mt. Uplands AONB landscape area.

5. To support and facilitate in co-operation with relevant bodies, the provision of amenity routes within and adjoining the Mountain Uplands AONB landscape area in a manner which does not detract from the scenic nature of the area

The proposed development site is located within '*The Mountain Uplands AONB*' landscape category as detailed in Figure 4.11: '*The Landscape Category Map*' and Map 10.13(b) of the Landscape Assessment.

5.3. Natural Heritage Designations

- 5.3.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- The Wicklow Mountains Special Area of Conservation (Site Code: 002122), approximately 700m northwest of the site.
- The Wicklow Mountain Special Protection Area (Site Code: 004040), approximately 700m northwest of the site.
- The Vartry Reservoir Proposed Natural Heritage Area (Site Code: 001771), approximately 2.0km southeast of the site.
- The Carriggower Bog Special Area of Conservation (Site Code: 000716), approximately 2.2km east-southeast of the site.
- The Carriggower Bog Proposed Natural Heritage Area (Site Code: 000716), approximately 2.2km east-southeast of the site.

5.4. EIA Screening

- 5.4.1. Having regard to the minor nature and scale of the proposed development, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, 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 proposed relocated entrance arrangement will provide for safer access to / egress from the site given its positioning opposite an established entrance where traffic turning movements are already known to occur.
- Contrary to item (a) of the initial reason for refusal, the existing mature sycamore tree (mistakenly identified as beech by the Planning Authority) is not proposed to be removed and is to remain in place as part of the natural / established roadside profile. In this regard, the Board is referred to the accompanying updated site layout plan (dated May, 2021) which identifies the location of the mature sycamore tree and hawthorn hedging along the roadside boundary (the remainder of which consists of bramble, alder and brier) and further demonstrates the availability of sightlines to the near road edge as per the requirements of Transport Infrastructure Ireland.
- A temporary construction entrance has been opened on site which clearly demonstrates that adequate sightlines can be achieved without the need to remove the existing sycamore tree (this entrance will be completed in full or otherwise closed and the roadside profile reinstated depending on the outcome of the appeal. The temporary entrance was only installed to facilitate the movement of heavy construction machinery as the gradient at the original entrance location is only suited to domestic traffic).
- Permission was granted under PA Ref. Nos. 17/1506 & 20/894 for the removal of part of the existing roadside boundary and the subject proposal aims to remove a similar stretch of that boundary (albeit in a different and more suitable location than was previously approved). There is no material difference in the amount of boundary to be removed to facilitate access to the site.
- Any ecological / biodiversity impacts arising will be the same whether the entrance is located as proposed or as originally approved.

- The loss of natural screening consequent on the proposed relocation will be the same as that originally approved.
- All existing mature trees and hedgerows will be preserved (except to the extent that is needed for the new entrance) in accordance with Appendix 1: *'Development and Design Standards'* of the County Development Plan and, therefore, the proposal is not contrary to the proper planning and sustainable development of the area.
- The siting of the revised entrance arrangement is preferable as it will be closer to the mature sycamore tree and will have a lesser impact on the surrounding area due to the canopy of that tree (which has an average radius of 8m). The new entrance location means that the top-heavy and overpowering nature of the tree canopy will have an understating effect on the entrance when viewed from the east and south.
- The submitted proposal is the optimum location for the new entrance as regards ecological, safety, and hedgerow preservation considerations.

6.2. Planning Authority Response

None.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- The proposed entrance design v. the permitted entrance design
- Appropriate assessment

These are assessed as follows:

7.2. The Proposed Entrance Design v. The Permitted Entrance Design:

- 7.2.1. The proposed development involves the relocation of the entrance arrangement serving the dwelling house originally approved under PA Ref. No. 17/1506 (as subsequently modified by PA Ref. No. 20/894) from its permitted location towards the north-western corner of the site to a revised position within the south-western corner of the site frontage. In this respect, and for the purposes of clarity, I would advise the Board at the outset that the location of the 'permitted' entrance as shown on the plans and particulars submitted with the subject application is incorrect and does not take account of the modifications made to the site layout in response to the request for further information issued in respect of PA Ref. No. 17/1506. More specifically, the 'permitted' entrance is actually positioned slightly further south along the site frontage (having been moved in order to ensure that no works would be required outside of the site boundary to achieve the required sightlines). Although the site access was subsequently shown in its originally proposed location (as opposed to its approved location) during the assessment of PA Ref. No. 20/894, that later application only concerned a change of house type and did not approve any alterations to the permitted entrance with Condition No. 2 of the grant of permission expressly stating that apart from departures specifically authorised by the permission, the development was to be carried out in accordance with the terms and conditions of PA Ref. No. 17/1506.
- 7.2.2. In addition to the foregoing, I would draw the Board's attention to Condition Nos. 5 & 6 of PA Ref. No. 17/1506 and, in particular, to the requirement set out in Item (a) of Condition No. 6 that the roadside boundary be set back '*along a line formed by joining a point measured 2.4 metres back from the public road carriageway at the centre of the access driveway to a point 90 metres to the north and south on the existing road boundary*'. This latter provision would seem to have been imposed to allow for the setting back of a greater extent of the roadside boundary than that shown on the submitted plans should it prove necessary to achieve adequate sightlines.
- 7.2.3. Having established the parameters of the permitted entrance arrangement, the merits of the revised entrance location can now be assessed. In this regard, it is

apparent from a review of the available information, with particular reference to the assessment undertaken by the case planner on behalf of the Planning Authority, that the primary issue as regards the proposed relocation of the entrance is the potential loss of a large mature tree from alongside the site boundary (the identification of which as 'beech' by the Planning Authority would seem to derive from the site layout plan originally submitted with PA Ref. No. 17/1506) due to the need to achieve minimum sightlines of 90m in both directions. By extension, concerns have arisen that the removal of the tree and adjacent roadside hedging will result in a significant reduction in the level of natural screening afforded to the dwelling house already permitted on site under PA Ref. Nos. 17/1506 & 20/894 thereby increasing the overall impact and prominence of the construction in this visually sensitive 'Area of Outstanding Natural Beauty'.

- 7.2.4. In response to the decision to refuse permission, it has been asserted in the grounds of appeal that the mature (sycamore) tree is to remain in place and that adequate sightlines can be achieved at the revised location without necessitating the removal of either the tree or an unacceptable stretch of the existing roadside boundary hedgerow. In support of the foregoing, an updated site layout plan has accompanied the appeal which details the availability of sightlines in excess of 90m in both directions from the revised entrance location while retaining the existing tree and much of the roadside boundary. In this regard, it has also been submitted that the (2.5m) depth of the roadside margin will allow for unobstructed sightlines when measured from a point set back 2.4m from the near edge of the public road (with reference being made to the existing 'temporary' construction access to the site which shares a position comparable to that of the proposed entrance).
- 7.2.5. Following a review of the submitted details, and having undertaken a site inspection, I am satisfied that in light of the depth of the grass margin (and the open drainage ditch) between the roadside boundary and the near edge of the carriageway, in addition to the alignment of the roadway at this location, adequate sightlines can be achieved from the relocated entrance as proposed without necessitating the removal of either the existing mature tree or an excessive length of the roadside boundary ditch. I would further suggest that the extent of the front site boundary to be removed as a result of the proposed development will be broadly comparable to that already approved under PA Ref. Nos. 17/1506 & 20/894. Accordingly, on the basis that the

works proposed will not deprive the approved dwelling of the existing screening afforded by the tree in question, it is my opinion that the proposal will not give rise to any significant additional impact on either visual amenity or biodiversity considerations over and above that already associated with the permitted construction.

7.3. Appropriate Assessment:

- 7.3.1. Having regard to the minor nature and scale of the development under consideration, the site location outside of any protected site, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and 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 provisions of the Wicklow County Development Plan, 2016-2022, the planning history of the site, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or property in the vicinity 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 8th day of June, 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. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted on the 3rd day of May, 2018 under planning register reference number 17/1506, and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

Robert Speer
Planning Inspector

21st January, 2022