



An  
Bord  
Pleanála

## Inspector's Report ABP-310917-21.

---

<b>Development</b>	74 sqm greenhouse with new steps and ancillary works.
<b>Location</b>	Curtlestown Lwr, Enniskerry, Co. Wicklow.
<b>Planning Authority</b>	Wicklow County Council.
<b>Planning Authority Reg. Ref.</b>	21332.
<b>Applicant</b>	Derek Burton.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Granted with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Joe Walker
<b>Observers</b>	None.
<b>Date of Site Inspection</b>	8 <sup>th</sup> July 2022
<b>Inspector</b>	Philip Davis.

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	4
3.3. Prescribed Bodies .....	5
3.4. Third Party Observations .....	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations .....	7
6.0 The Appeal .....	7
6.1. Grounds of Appeal .....	7
6.2. Applicant Response .....	8
6.3. Planning Authority Response .....	9
6.4. Observations .....	9
6.5. Further Responses.....	9
7.0 Assessment.....	9
8.0 Recommendation.....	14
9.0 Reasons and Considerations.....	14
10.0 Conditions .....	14

## 1.0 Introduction

This appeal is by a neighbouring landowner against the decision of the planning authority to grant permission for a glasshouse structure on rural land in a small village near Enniskerry, Co. Wicklow. The grounds of appeal relate to previous planning history and visual impacts.

## 2.0 Site Location and Description

### 2.1. Curtlestown Lower

Curtlestown lower is a townland on the north side of Glencree Valley, approximately equidistant between Enniskerry and Glencree village at the top end of the valley. It is located on a single winding third class road (L1011) that links Glencree village to Enniskerry. Within the townland is a small village with an early 19<sup>th</sup> Century catholic church and more modern primary school (St. Patricks), with a scattering of individual dwellings on either side of the road, many taking advantage of the fine southerly aspect across the valley. There is no pub nor retail shops within the village. Levels drop steeply down the valley side from Prince Williams Seat at 555 metres to the Dargle River. The townland is around 130 metres AOD. The Wicklow Way long distance walk runs just under 1 km to the west. The appeal site is located on a triangular area of land just east of the catholic church, on the north side of the L1011.

### 2.2. Appeal site

The appeal site, with a site area given as 0.1155 hectares, is a triangular shaped area of land on the north side of the road, with levels sloping steeply upwards to the north. The site has a wide ornamental gate and a small paved area at the front. This paved area appears to be cut into the bedrock and there is a rocky climb to the remainder of the site, which is largely overgrown with trees and shrubs. There is a stone wall boundary to the road. There are some low walls in the site, apparently the remains of buildings on the site that are visible in older OS plans. St. Patricks Church and graveyard, and the parochial house are to the west and north, on higher ground. To the east is a field with a mix of grass and trees and one dwelling on the

eastern side, facing towards the church. To the south, across the road, is a farm complex on lower levels. Levels drop steeply to the base of the valley further south.

### **3.0 Proposed Development**

The proposed development is described as the construction of a 74 sqm greenhouse structure on the lower section of the site, planting of different types of fruit trees on higher sections of the site and new steps to connect lower and higher sections of the site, together with ancillary works including drainage, landscaping and boundary treatment.

### **4.0 Planning Authority Decision**

#### **4.1. Decision**

The planning authority decided to grant permission subject to 4 no. conditions, these specified that the greenhouse is for private use only, surface water to be discharged according to additional details provided, and the metal structure of the greenhouse to be painted green.

#### **4.2. Planning Authority Reports**

##### **4.2.1. Planning Reports**

There are two planning reports on file, the second subsequent to a request for further information.

- Notes a previous grant on the site for a greenhouse which was overturned by the Board on appeal, citing visual impact, in addition to a lengthy planning history for the site and the applicant's landholding to the south, including a previous refusal for a greenhouse.
- It is considered that the visual impacts highlighted by the Board in its refusal have been satisfied by the deletion of the polytunnel and the amendments to the design. Notes that there are no proposals to significantly alter the topography, unlike with the previous applications.

- States that it would '*be best located within the curtilage of the applicant's family home*', but considers that the use is acceptable.
- Stage 2 AA screened out and no EIAR required.
- Requests further information to address the water run-off issues highlighted by the water and environment section.
- Subsequent to the submission of further information, the second report notes the observers claims about title to the land – states that it is not the role of the PA to resolve such disputes.
- The submitted drainage information was considered acceptable, and permission was recommended.

#### 4.2.2. Other Technical Reports

**Water and Environment:** No objection subject to conditions.

#### 4.3. Prescribed Bodies

None on file.

#### 4.4. Third Party Observations

One observation, objecting to the proposed development.

### 5.0 Planning History

**ABP-307408-20.** Permission for a greenhouse and polytunnel on the higher section of the site refused for the following reason (overturning the planning authority decision to grant (**19/1270**) and the Inspectors recommendation:

*Having regard to the nature of the proposed development, the topography and location of the site in a sensitive rural area within a historic cluster, the failure of the applicants to provide sufficient justification for the need for the proposed development at this location and in the light of consideration of more appropriate sites available within their land holding with capacity to take such*

*development, and the extent of ground works (cut and fill) required to facilitate the proposed development, it is considered that the proposed development would significantly alter the natural landscape and topography of the site, which would result in the haphazard development of this site. The proposed development would, therefore, be contrary to proper planning and sustainable development.*

*Note: In deciding not to accept the inspector's recommendation to grant permission, the Board concurred with the inspector that the proposed site development works would significantly alter the existing topography of the site, and considered this would constitute haphazard development. The Board further considered that the applicant had not provided adequate justification for the need of this proposed development or that more suitable alternative locations within the landholding were not available.*

**19/333:** The planning authority refused permission for a greenhouse structure in the lower section of the exiting site and a polytunnel in the higher section for three reasons, two visual related, and the third a lack of information.

**PL27.119395 (99/1593).** Permission refused (upheld by the Board) for a storage shed for forestry equipment (visual impact).

**97/7317:** Permission granted for the relocation of an existing entrance.

**96/5146:** Permission refused for a hay/straw barn for road safety reasons.

Earlier permissions were granted to the applicant for the retention of farm buildings and a change of use on lands to the south, opposite the main road (**92/8793**; **92/7963**, the former upheld by the Board (**PL27.090610**).

## 6.0 Policy Context

### 6.1. Development Plan

The site is in open countryside designated as a Area of Outstanding Natural Beauty (Glencree/Glencullen). Relevant policies quoted include S.5.3.4 (AONB), NH51 (landscape objectives), AGR5 (economic development in rural areas). The site is on an identified 'Prospect'. The adjoining catholic church is a protected structure.

## 6.2. Natural Heritage Designations

The site is less than a kilometre south-east of two extensive European sites – The **Wicklow Mountains SAC 002122** and the **Wicklow Mountains SPA, site code 004040**. The area around the Dargle River and tributaries is a pNHA.

## 6.3. EIAR

Having regard to the nature of the proposed development, its relatively small scale and the absence of any sensitive receptors in the immediate vicinity, the development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded and a screening determination is not required.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

- It is argued with respect to the previous decisions to refuse permission that the applicant has failed to provide a reasonable justification for the need for a domestic greenhouse on lands 350 metres from the applicants, but across the road from a commercial operation owned by the applicant.
- It is argued that the proposed design does not fully address the previous reason for refusal on visual grounds, with particular regard to the sensitivity of the local historic landscape.
- It is argued that the applicant has failed to fully justify the use with regard to CDP policy on agricultural buildings, in particular AGR 1; AGR4 and AGR5. It is emphasised that it is ambiguous as to whether the site is commercial or domestic in nature, and questions its location if it is domestic in nature.
- It is argued that it would have a negative impact on the setting of the 1824 catholic church (a protected structure) and the overall context of the village of Curtlestown. It is questioned as to whether some of the screening trees indicated in the plans submitted exist (photos and drawings attached).

- It is argued that it would have a negative impact on the visual amenities of the Glencree/Glencullen AONB and the identified prospect.
- It is argued that there is some ambiguity about the ground levels shown, and it is submitted that the applicant does not have sufficient title to carry out the works.

## 7.2. Applicant Response

- It is argued that the relevant previous decision was the most recent Board decision (not the previous planning authority refusal), and it is argued that all relevant issues raised in this refusal have been addressed.
- It is stated that the applicant has full title to the lands (land registry documents attached).
- It is stated that the purpose of the application is clear and unambiguous from all submitted documents. It is restated that the purpose of the greenhouse is to grow food domestically and has no other purpose. It is stated that there is no objection to the Board attaching a similar condition to condition no.2 of the planning authority decision, i.e. that it is for private use only.
- An argument is set out that the proposed design fully addresses the previous Board concerns as set out in that decision notice (drawings and photographs attached). It is argued that the design is attractive and appropriate.
- It is submitted that there is no ambiguity whatever in the application documents.
- Additional information is provided on the applicants landholdings – it is stated that the buildings opposite the site are in commercial use, and other lands are used for forestry.
- It is argued that the additional points made by the appellant with regard to the historic context or visual amenity were not raised in the previous refusal. It is noted that the planning authority accepted the design as acceptable.



### 7.3. **Planning Authority Response**

The planning authority did not further comment on the grounds of appeal.

### 7.4. **Observations**

None

### 7.5. **Further Responses**

None

## 8.0 **Assessment**

Having inspected the site and reviewed the file documents, I consider that the appeal can be addressed under the following general headings:

- Preliminary issues
- Principle of development (policy and previous decisions)
- Local context and design
- Protected structure
- Drainage and flooding
- Traffic
- Appropriate Assessment
- Other issues.

### 8.1. **Preliminary issues**

The appellant has raised the issue of title to the lands and the applicant's status with regard to making an application. I concur with the planning authority that this is an issue outside the competence of the planning system and any decision on planning is subject to the provisions of S.34(13) of the Act, as amended.

## 8.2. Principle of development

The appeal site is within a small undesignated village – it is unzoned lands and not within a development boundary. The overall area is part of an Area of Outstanding Beauty and the adjoining church is a protected structure. The site is unused at present and does not appear to have had a previous agriculture use.

The key past decision on the site was in ABP decision **ABP-307408-20** to refuse for similar works:

*Having regard to the nature of the proposed development, the topography and location of the site in a sensitive rural area within a historic cluster, the failure of the applicants to provide sufficient justification for the need for the proposed development at this location and in the light of consideration of more appropriate sites available within their land holding with capacity to take such development, and the extent of ground works (cut and fill) required to facilitate the proposed development, it is considered that the proposed development would significantly alter the natural landscape and topography of the site, which would result in the haphazard development of this site. The proposed development would, therefore, be contrary to proper planning and sustainable development.*

The planning authority, in deciding to grant permission, considered that the visual impacts had been fully addressed in the subsequent (amended) proposal.

I note that the appellant has raised concerns about the potential use of the site for a commercial purpose, but the application is clearly stated to be for ancillary domestic use. A commercial use of the site would require an additional permission or amendment to this application.

As the proposed development use of the site is a greenhouse for domestic purposes I would consider it to be acceptable in principle in a rural area. I consider that the key planning principles in this appeal is whether the reasons for refusal in the most recent appeal on the site have been addressed in addition to normal planning considerations.

### 8.3. Local context and design

The appeal site is within a very attractive location in Glencree Valley. Curtlestown is a very small village, with a school and church, but otherwise is just a small extended cluster of dwellings, distinctive for the very fine views down the valley. The site is on the north side, rising above the level of the road, but well below the level of the adjoining church and graveyard. The site is now largely overgrown and apparently unused, although the gates are in good condition. There is a dwelling on higher ground to its north-west, and a dwelling with associated sheds on lower ground on the opposite side of the road.

The proposed glasshouse is on the western corner of the site, on a somewhat elevated level but lower than that of the polytunnel previously refused by the Board on appeal. The design is of a conventional domestic greenhouse on a brick base, and would be screened by existing vegetation to some degree, but would unavoidably be visible from some aspects on the main road, although I think it is unlikely to be visible from the graveyard or other publicly accessible areas to the north. There is sufficient screening by way of conifer trees that it would not be clearly visible from the entrance to the church and would otherwise not significantly impact on the setting of the protected structure.

In contrast to the previous application on the site, the works require significantly less groundworks and alterations to the topography and would be less intrusive. The previous reason for refusal notes the question of whether it can be justified as the least intrusive element of the overall landholding – the applicant lives further east along the main road. While it would be ideal for such a glasshouse in this context to be next to the applicants dwelling, it is not clear from the evidence on file that this is practical. I would also note that the appeal site is not untouched – at some stage in the past a cutting was made for carparking access (it is unclear as to for what reason).

On balance, I would concur with the conclusion of the planning authority that the previous reasons for refusal have been addressed. While the proposed glasshouse will have some visual impacts, it is within the context of a village with substantial numbers of buildings clustering around the church and graveyard with a number of larger farm buildings (possibly in commercial use) in the vicinity.

#### 8.4. Protected structure

The site adjoins the very attractive late 19<sup>th</sup> Century gothic style church, with its graveyard giving very fine views over the valley. It is described on the NIAH as follows:

*Detached five-bay single-storey Roman Catholic church, built in 1891. The building is constructed in rock-faced squared granite rubble. It is articulated with reducing granite quoins and has an ashlar bellcote. To the north side there is a chancel, with a hipped roof vestry to the east side. The timber sheeted double front doors have strap hinges and are set within a projecting gabled porch. Window openings are generally tall lancets with pointed arched heads and brick pattern leaded glass. The roof is finished in natural slate with cast-iron rainwater goods; there are finials to gable peaks depicting Celtic crosses of different designs. The chimneystack is in stone with a boldly corbelled cap and a small clay pot. The church is set on a slight rise behind a low rubble granite wall with ashlar square gate pillars with wrought-iron gates.*

The graveyard is not described in the NIAH and there are no recorded ancient monuments within the immediate vicinity. The appeal site is not within the curtilage of the grounds and I am satisfied it would not impinge on the church or the overall setting.

Older OS plans indicate some buildings on the site, but there is no indication that the site has archaeological value or that the previous buildings require recording or investigation.

#### 8.5. Drainage and flooding

The site is not subject to flooding, but the works would likely to quantitatively increase run-off. But there are no indications that it would cause a significant flooding or drainage problem on the road or adjoining properties subject to standard drainage provisions so I would consider that this can be addressed by way of condition.

## 8.6. Traffic

The site has an existing gated access (albeit seemingly unused for some time); is near several similar accesses, including the carpark for the church and graveyard. Sight lines are acceptable on either side, and traffic generation is likely to be minimal.

## 8.7. Appropriate Assessment

The site is less than a kilometre south-east of two extensive European sites – The Wicklow Mountains SAC 002122 and the Wicklow Mountains SPA, site code 004040. The area around the Dargle River and tributaries is a pNHA.

The appeal site is within a village, and on lands that have been altered (although are now largely semi-natural vegetation). The nearest EU designated habitat is approximately within a kilometre – both the SAC and SPA are extensive designations that cover much of the higher ground of the Wicklow Mountains. The site is not within hydraulic continuity of these sites, and there is no evidence of any habitat on the site connected with qualifying interests of those designated sites. There are no watercourses on the site and the older OS plans do not indicate any historic drains or streams on the site or in the vicinity.

The designated habitats within 10 km are all associated with raptors (peregrine falcon and merlin) or mountain open habitats. The site is small, partly cleared and as such as none of the species listed in the qualifying interests present and would not have any value for foraging or breeding away from the designated areas.

There are no pathways for pollution from the site to any of the protected habitats. The planning authority carried out a screening and concluded that there would be no adverse impacts on the qualifying interests of any of the Natura sites. I concur with this conclusion.

I have examined the screening in the context of my site visit and other available sources of habitat and environmental data and I am satisfied that it includes sufficient information to allow the Board to carry out a complete assessment of all aspects of the project. I am therefore satisfied that a conclusion of no adverse effects can be reached. I am therefore satisfied, that the proposed development, in itself or in combination with other plans or projects would not be likely to have a

significant effect on the integrity of European sites no. 002122 or 0014040, or any other European site, in view of these sites Conservation objectives and thus a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## 9.0 Recommendation

I recommend that subject to the conditions set out below the Board grants permission for the proposed development for the following reasons and considerations.

## 10.0 Reasons and Considerations

Having regard to the relocation of the proposed glasshouse to a lower level within the site and the overall design and proposed use, it is considered that the proposed development would not seriously alter the natural landscape and topography of the site and would not seriously injure the visual amenities of the area or impinge on the visual qualities of the protected structure. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. The greenhouse shall be for private use only. No commercial activity shall operate from the structure or the remainder of the site without a separate grant of permission.

**Reason:** In the interest of orderly development.

3. Surface water from the site shall not be permitted to drain onto the adjoining public road.

**Reason:** In the interest of traffic safety.

---

Philip Davis

Planning Inspector

8<sup>th</sup> August 2022