



An
Bord
Pleanála

Inspector's Report ABP-311358-21.

Development	7 no. houses and associated site works.
Location	Ballinacor West, plus Ballinacor east, Barndarrig, Co. Wicklow.
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	21322.
Applicant	Rising Sons Ltd
Type of Application	Permission
Planning Authority Decision	Refuse (three reasons.
Type of Appeal	First Party
Appellant(s)	Rising Sons Ltd
Observer(s)	None
Date of Site Inspection	8 th July 2022
Inspector	Philip Davis.

Contents

1.0 Introduction.....	3
2.0 Site Location and Description	3
3.0 Proposed Development	4
4.0 Planning Authority Decision	4
4.1. Decision	4
4.2. Planning Authority Reports	4
4.3. Prescribed Bodies	5
4.4. Third Party Observations	5
5.0 Planning History.....	6
6.0 Policy Context.....	6
6.1. Development Plan.....	6
6.2. Natural Heritage Designations	6
7.0 The Appeal	7
7.1. Grounds of Appeal	7
7.2. Planning Authority Response	7
8.0 Assessment.....	7
9.0 Recommendation.....	15
10.0 Reasons and Considerations	16

1.0 Introduction

This appeal is by the applicants against the decision of the planning authority to refuse permission for a development comprising 7 dwellings near the village of Barndarrig (in Ballinacor East and Ballinacor West townlands) in south Wicklow, just west of the M11. The reasons for refusal relate to traffic and access, archaeology, and poor open space provision.

2.0 Site Location and Description

Barndarrig (or Ballyhara or Ballinacor) is a small settlement just west of the new alignment of the M11 between Redcross and Kilbride in South Wicklow, located on a scarp slope dropping to the east towards the Irish Sea coast. It consists of a scattering of dwellings around a catholic church, one small grocery/petrol station, a primary school, and further dwellings and commercial uses on the west side of the R772, the former Dublin to Rosslare road (bypassed by the M11). The R756 road runs from the R772 to Redcross, intersecting the settlement. The National Botanic Gardens, Kilmacurragh is about 3 km to the north-west. The area is mostly a farming landscape with large fields bounded by ditches and hedgerows with some modern housing estates south and west of the catholic church. The topography is typical of the rolling countryside at the foothills of the Wicklow Mountains, with levels gradually falling to the coast at the north end of Brittas Bay, some 5 km to the east. The appeal site is an irregularly shaped area of land mostly on the west side of a third class road running from the R772 to Ballinacor church.

The appeal site straddles the R756 on the side of a scarp slope overlooking the M11 and consists of an overgrown field bounded by ditches and hedgerows – the area proposed for development is entirely on the western side of the road. It includes an access to a field to the south to an L-road linking the settlement with the R756. Site area is given as 1,124.35 sqm in the appeal documentation (the planners report states 0.87 hectares). The site slopes steeply to the east and there is evidence on the south-western end of a rath (apparently now largely removed). To the south of the site is the 19th Century RC church and presbytery at Ballinacor. Otherwise, it is surrounded by open countryside. There is a national School (*St. Mary's of*

Bardarrig) to the north-east of the site with a vacant public House (*Lil Doyles*) on the junction with the R172.

The lands of the appeal site appear to have been considerably raised with made ground, with some visual evidence of construction waste and plastics.

3.0 Proposed Development

The proposed development consists of 7 no. 4-bedroom detached split level 2-storey houses with ancillary site development works including an estate road.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to refuse permission for three stated reasons - I'd summarise as follows:

1. It represents a traffic hazard due to lack of forward visibility, the absence of a footpath and controlling crossing, and the speed on the nearby road network.
2. The archaeological report is considered inadequate – due to the location of a recorded ancient monument a full investigation prior to permission is required.
3. It is considered that the proposed design does not provide suitable public space and as such is contrary to Objective HD3 of the Wicklow CDP 2016-2022.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- Notes a previous refusal in 2007 – 9 dwellings, refused for a deficiency in sewerage, design and housing policy, refusal upheld in **PL27.223242**. Subsequently, a refusal for 8 dwellings (**09/1046**) also upheld by the Board for reason of a deficiency in water and sewerage (**PL27.234447**).
- States that it is part of a Level 7 settlement 'Large Village (Barndarrig)'. Relevant policies apply, including HD21.

- The development is considered acceptable in principle having regard to the designation. Density is estimated at 8 units per hectare, residential intensity of 10 units per hectare. The site layout is considered broadly acceptable.
- Notes that Recorded Monument WI1031 is located on the western site boundary, but remains are no longer visible.
- Stage 2 AA and EIAR are not considered necessary.
- A recommendation for refusal was made on the basis of a deficiency in water supply. This refusal was not issued – the applicant made a further submission with a letter from Irish Water stating that sufficient water supply was available. Further plans (unsolicited) were submitted on the 22nd April 2021.
- A second planners report confirms that Irish Water consider that there is sufficient capacity for the proposed development, but an extension of 280 metres would be required to make a connection for wastewater disposal. Notes that a number of other issues required clarification, with regard to the highway access and road design and open space. A refusal was recommended for three reasons.

4.2.2. Other Technical Reports

Roads: Concerns set about estate road

Municipal District Engineer: Footpaths, pedestrian crossing and lighting required – further details needed on sight lines.

Water Services: Further information required

4.3. Prescribed Bodies

Irish Water: Insufficient water capacity, refusal recommended. Subsequent to further details submitted, this recommendation was reversed (letter dated 18 August 2020), but requested a condition for a 280 metres long extension.

4.4. Third Party Observations

None

5.0 Planning History

Appeal site:

07/249 – 9 dwellings, refused for a deficiency in sewerage, design and housing policy, refusal upheld in **PL27.223242**.

09/1046 8 dwellings refused, also upheld by the Board for reason of a deficiency in water and sewerage (**PL27.235547**).

Other decisions:

21 no. dwellings granted permission 100 metres to the south (never completed).

17/1515 – 10 dwellings refused, upheld by ABP **ABP-302938-18**.

6.0 Policy Context

6.1. Development Plan

The site is located within the boundary of the Level 7 'Large Village' of Barndarrig. There is no zoning designation.

6.2. Natural Heritage Designations

The **Magherabeg Dunes SAC, site code 001766** are approximately 5km to the east of the site. The **Buckroneys-Brittis Dunes and Fen SAC, site code 000729** is just to the south of the former SAC. **The Deputy's Pass Nature Reserve SAC, site code 000717** is approximately 5km to the north-west.

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

- Notes that the planning authority accepted the principle of development on the site.
- Additional plans and details submitted with the appeal.
- It is noted that in PL27.235547 the Inspector stated that there were no other substantive issues arising apart from the reasons for refusal (deficiency in services) given.
- It is argued that the deficiency in services has been addressed – Irish Water has accepted that water supplies are adequate.
- Revised drawings with a Roads Network Site Development Report are attached to address the roads safety reason for refusal given by the planning authority. It is stated that it is within the 50km speed zone and that adequate sight lines are available.
- A supplementary site services report is submitted on water supply and drainage issues.
- An Archaeological Appraisal by Margaret Gown & Company is submitted.
- An arboriculture study is attached.

7.2. Planning Authority Response

The planning authority did not respond to the grounds of appeal.

8.0 Assessment

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

- Principle of development
- Design and layout
- Amenity

- Drainage and water
- Traffic safety
- Archaeology
- Contaminated land
- Appropriate Assessment
- Other issues

8.1. Principle of development

The site is largely within the boundary of the Level 7 ‘Large Village’ of Barndarrig. In the Wicklow County Development Plan 2016-2022, Level 7 settlements are described as having the following function:

These are larger rural villages that have a moderate level of existing infrastructural services, both physical and social, and that are of such a size as to accommodate a limited amount of urban generated housing demand. These settlements generally have a population of less than 500, with many considerably smaller. These settlements provide a range of local community services and facilities including for example a church, primary school, shop, community hall, sports ground, pub and post office. These villages provide a very important function in providing a place for the local rural community to gather. In order to safeguard their continued existence into the future, it is important that growth is encouraged and facilitated in a sustainable manner. These settlements should aim to target local investment in generally small scale non intensive industry that is based on local rural resources. There may be some scope for these villages to provide small scale tourism facilities based on rural pursuits having regard to the location of many villages deep within the rural area of the County. Retail outlets should provide for the convenience needs of the local population. Social / recreational facilities should provide for the day to day needs of the local population. In these settlements it is essential that growth is supported while also strictly controlled so that development is undertaken in a manner that is respectful to the character of these villages and the environmental sensitivities of the rural area. It is of utmost importance to ensure that the design of development is appropriate to the rural setting within which these villages are situated.

The lands are unzoned, with the Development Plan setting out a number of criteria for development. Such level 7 villages are considered rural in nature (and as such there are standards set out such that 50% of any multi-house development should be for local residents as per rural housing). I would note that the density standards set out in paragraph 6.12 of the Sustainable Urban Housing Guidelines would seem the best fit for a site such as this (the development plan does not explicitly set out density guidelines for such sites): i.e.:

In order to offer an effective alternative to the provision of single houses in surrounding unserviced rural areas, it is appropriate in controlled circumstances to consider proposals for developments with densities of less than 15 - 20 dwellings per hectare along or inside the edge of smaller towns and villages, as long as such lower density development does not represent more than about 20% of the total new planned housing stock of the small town or village in question. This is to ensure that planned new development in small towns and villages offer a range of housing types, avoiding the trend towards predominantly low density commuter-driven developments around many small towns and villages within the commuter belts of the principal cities and other Gateway locations. Such lower density development also needs to ensure the definition of a strong urban edge that defines a clear distinction between urban and the open countryside

I would further note that the village is in an area under some pressure for commuter generated housing, as it is close to the M11 and as such very accessible for a number of urban areas along the east coast.

I note two previous refusals for permission for dwellings on the site, upheld on appeal. Both related to deficiencies in water and sewerage provision.

The site is a natural extension of the settlement. It is on high ground on a strip of land between the church and national school (which is somewhat separated from the village). The original national school seems to have been located on the very northern tip of the site – there are no visible remains. There is a footpath between the main village and the school on the opposite side of the road.

I would therefore conclude that the general principle of residential development on the site would be in accordance with the overall settlement strategy of the Wicklow

County Development Plan. I would have concerns that the very low density is not consistent with the 2009 Guidelines, although there is certainly scope for interpretation that this particular context allows densities lower than 15 per hectare. Having regard to the nature of the site and the settlement, I do not consider that a justification has been provided for a density significantly below the targets set out in guidance.

8.2. Design and layout

The proposed development consists of a line of detached dwellings on a north to south alignment, served by a road running from the northern-most part of the site. The service road runs more or less parallel to the public road, but at a significantly higher level. Open space and landscaping consists of small areas of residual land identified for open space (three discrete sections). I concur with the planning authority that there appears to have been little thought given to the design or layout of open space for the housing scheme. In this regard, the WCDP states in policy 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.

While these guidelines are somewhat subjective, I would concur with the planning authority that the design is not in accordance with policy HD3, especially with regard to the very low density of housing proposed. I further note that the overall settlement has little in the way of open space, the main exception seemingly some grassed areas in more recent developments, playing fields, and some minor amenity spaces, including a small seating area on the opposite side of the road from the appeal site.

While the levels drop on site would make it difficult to create an open space that would be useable for activities, the number of mature trees in the hedgerow provides an opportunity for a more attractive overall quality of layout and design. I

would concur with the conclusion of the planning authority that this is not an issue that can be addressed through condition and justifies a refusal.

8.3. Amenity

The proposed dwellings are detached and the front elevations face the east towards the coast and benefit from a fine aspect across the Wicklow countryside. The overall orientation is such that I consider that all dwellings would have adequate internal light and amenity. Upper windows of the adjoining presbytery face the site, but having regard to the separation distance I do not consider that there would be a significant impact on the amenity of the presbytery or any other adjoining properties.

8.4. Drainage and Water

Previous proposed residential developments on the site were refused for the reason of inadequate water and drainage provision. Following the revised submission by the applicant, Irish Water confirmed that the site could be serviced, albeit by way of a 280 metre new connection for wastewater. The planning authority accepted that this was practicable and acceptable.

While the information on file regarding water supply is somewhat vague, it appears that both Irish Water and the local authority are satisfied that the site can be serviced adequately from the public water/wastewater system.

As the site is elevated over the level of the adjoining road, there is likely a potential issue of run-off from the road to the public highway. I consider that this is an issue that can be dealt with by way of condition.

8.5. Traffic safety

The planning authority refused for traffic hazard reasons, citing five issues, i.e.:

- Lack of visibility for right turning vehicles.
- The location of the entry point of the pedestrian access at a point where there is no connecting footpath.
- The lack of a controlled crossing
- The lack of sufficient pedestrian facilities.

- The speed on the adjoining road network and gradient.

The site is on a section of road (R754) which runs through the village, connecting to the former N3 (now R772), which in turn connects to the M3. The road is relatively narrow for a regional road and has a footpath on the eastern side, leading to the national school near the junction with the R772. The road drops in level as it goes north and there is a sharp turn towards the national school. The entrance is within the 50kph zone. The applicant submitted additional information with the appeal with regards to the design of the entrance.

I would consider that as a minimum the site should be directly connected to the village via a footpath that does not require pedestrians to cross the road. I also share the planning authorities concern about the location of the site entrance and the difficulty in sight lines for right turning vehicles – with the level drop this would always be quite an awkward turning.

While I do not consider that the problems with this site or the chosen entrance are insoluble, I do not consider that they can be addressed by way of condition – a fundamental redesign may be required. I do not consider that the information provided with the appeal fully addresses the concerns of the planning authority. I therefore concur with the reasoning of the planning authority and recommend that this reason for refusal be repeated.

8.6. Archaeology

There is a recorded ancient monument, a ringfort, on the south-western corner of the site. This part of the site is heavily overgrown, and it is not clear to whether there are any remaining visible features, although it seems likely that it has been largely destroyed since it was indicated in the first OS plans. It would seem likely to have been impacted by general land works, including what appears to have been landraising on the site. It is described as follows in the Register of monuments:

Situated on a gentle SE-facing slope. Circular enclosure (diam. c. 25m) cut by a laneway shown on the 1838 OS 6-inch map and referred to in the OS Letters (O'Flanagan 1928, 127). Not visible at ground level.

The oldest OS plan shows it intersected by a lane – it is not indicated in any later OS maps. Traces of this laneway can still be seen, but it is overgrown and no longer used.

There is no evidence that this ringfort is associated with any continuous occupation of the village. The village appears to have developed around the RC church in the early 19th Century and does not have the medieval origins of several villages in this part of Wicklow. The scarp slope however is a natural high point in the area, so it is reasonable to assume that it was a logical location for settlement in the past.

The site does not therefore appear to have a very high potential for archaeology. Notwithstanding this, it is still a registered monument and there is a possibility of surface and subsurface remains on the site and I concur with the conclusion of the planning authority that insufficient information was provided by the applicant.

A full archaeological appraisal was submitted with the application, but the planning authority noted that this was the same report as submitted in PL27.223242 and this was not considered to be acceptable. I note that the Department of Culture, Heritage and the Gaeltacht has not made any submissions.

The closest proposed dwellings to the ringfort are within 10 metres, and a rear access path is indicated as running along the known extent of the ringfort.

In this context, I would consider that at a minimum an active investigation take place prior to the submission of the application as to the extent of any physical remains associated with the ringfort. I do not consider that the appraisal submitted with the application provides sufficient information to grant permission in the absence of a ground survey of the area identified. I therefore concur with the planning authority in their reason for refusal.

8.7. Contaminated land

During my site visit, I noted that almost the entire site appears to have been landraised at some stage in the last decade, judging by the extent of regeneration. There is no record on file of a planning permission for such works. The surface area is clearly made ground – seemingly a mix of subsoils, possible construction wastes, with some plastics visible. This issue was not raised at the application stage and it

does not appear to have been raised in the previous two appeals pertaining to the lands.

I would consider this a new issue, but in the absence of a geotechnic study to identify the nature of this material, and evidence that it has planning permission and related waste licensing, I would consider that any grant of permission should have clear evidence that this material can be removed without hazard and in accordance with all waste regulatory requirements.

8.8. Appropriate Assessment

The **Magherabeg Dunes SAC, site code 001766** are approximately 5km to the east of the site. The **Buckronev-Brittis Dunes and Fen SAC, site code 000729** is south of the former SAC. The **Deputy's Pass Nature Reserve SAC, site code 000717** is 5km to the north-west. The site is within the catchment of the Potters River, which drains to the coast at Brittis.

The site is not in hydraulic continuity or within proximity to Deputy's Pass Nature Reserve or any of the Natura 2000 sites in the Wicklow uplands. Drainage in the area of the appeal site is to the Potters River, which flows into what was formerly marsh and fen held behind the dune system of Brittis Bay, and is now partially drained. The Dune and Fen system to which the area drains have the following qualifying interests:

Annual vegetation of drift lines
Perennial vegetation of stony banks
Mediterranean salt meadows (<i>Juncetalia maritima</i>)
Embryonic shifting dunes
Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)
Fixed coastal dunes with herbaceous vegetation (grey dunes)
Atlantic decalcified fixed dunes (<i>Calluno-Ulicetea</i>)
Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>)
Humid dune slacks
Alkaline fens

There are no watercourses on or near the site. It seems to drain primarily through geology and via field drains to the river system in the valley to the east and south of the site. As such, I would consider that there is sufficient attenuation between the site and the fen habitat that there would be no effect on the integrity of the fen or coastal dune habitats.

The site is regenerating scrub with trees (native and otherwise), around the boundary. As such it has some localised value, but there is no evidence that it is used for foraging or breeding by any species associated with the qualifying interests of the upland SAC/SPA's within 10km of the site.

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 satisfied that a conclusion of no significant 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 the integrity of European sites no. **000717** or **000729** or **001766** 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.

8.9. Other issues

The proposed development would be subject to a standard s.48 development contribution if granted permission. I do not consider that there are any other substantive issues raised in this appeal.

9.0 Recommendation

I recommend that the Board uphold the decision of the planning authority to refuse permission for 7 no. dwellings on the site, for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. Having regard to the location of the proposed entrance at a levels drop close to a turn in the road with restricted sight-lines; the lack of a pedestrian footpath on the western side of the road; and the nature of the adjoining road, it is considered that the proposed development would endanger public safety by reason of a traffic hazard and would thus be contrary to the proper planning and sustainable development of the area.
2. It is considered that notwithstanding the submission of an archaeological appraisal for the site, having regard to the location within the site of a recorded ancient monument and the absence of a full archaeological assessment of any remains, insufficient information has been submitted to satisfy the Board that the proposed works would not cause substantive damage to a historic monument and would thus be premature pending the carrying out of a direct archaeological investigation of the south-western corner of the site.
3. Having regard to the proposed low density of development on the site and the overall context, including topography and existing vegetation, it is considered that the overall design is substandard with regard to the provisions of Objective HD3 of the County Development Plan 2016-2022 in relation to achieving a necessary high quality of layout and design of new housing and open space. The proposed development would, be substandard in relation to amenity and would thus be contrary to the proper planning and development of the area.

Philip Davis
Planning Inspector

10th August 2022