



An
Bord
Pleanála

Inspector's Report ABP-312145-21.

Development	Relocate vehicular entrance to dwellinghouse.
Location	Ballinaheese, Beech Road, Arklow, Co. Wicklow.
Planning Authority	Wicklow County Council .
Planning Authority Reg. Ref.	211169.
Applicant	Francis Burke.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant	Ellen Burke.
Observer	None.
Date of Site Inspection	3 April 2022.
Inspector	Mairead Kenny.

1.0 Site Location and Description

- 1.1. The subject site is the location of a detached one-off dwellinghouse located at Ballinaheese, Beech Road in Arklow. This is a suburban area outside of Arklow town. The area is defined by a row of dwellinghouses on one side of the road, a nearby church and a small grocery store.
- 1.2. There is a footpath along the site frontage. The road is straight and is marked in the centre of the carriageway by a dotted white line. The site is identified by signage as being the location of a childcare service. There is ample parking within the curtilage of the dwellinghouse.
- 1.3. The front boundary is defined by a simple low wall and there is a similar structure at the dwellinghouse to the south-east. At the dwelling house to the north-west the front boundary is defined by a stone wall which contains stone pillars, and which is backed by yew hedge.

2.0 Proposed Development

- 2.1. Permission is sought for relocation of an existing vehicular entrance. The purpose of this development is stated to be to serve to improve sightlines from the dwelling house to the public road.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to conditions including:

- Details of entrance layout and boundary walls.
- Before the new entrance is brought into use the existing entrance shall be permanently and effectively closed.

3.2. Planning Authority Reports

Planning Reports

- 3.2.1. The points made in the planner's report are:

- The planning issues raised in the submission of Ellen Burke are noted. The issues raised are considered. Legal/ownership disputes are not a matter for the planning authority.
- The principle of the development is considered acceptable.
- It is considered that adequate sightlines can be achieved at the revised entrance location.
- The design is acceptable.
- The revised location of the entrance is unlikely to result in a significant increase in traffic volume and noise.

3.2.2. Other Technical Reports

District Engineer

The main points of the report are:

- the entrance gradient shall not exceed 1:40
- the existing entrance should be closed off before the new entrance is brought into use
- works to the public footpath must be completed to the satisfaction of this office
- sightlines of 120 m are required.

3.3. Prescribed Bodies

No reports.

3.4. Third Party Observations

Esther and Vaughan Curtis

This states:

- a preschool is operating, and this is the purpose of the change of use
- the preschool is subject of an application to expand under reference 21/1196
- the new entrance will generate more traffic in a residential area

- the preschool gives rise to noise and activity which interferes with the residential area
- the new arrangements will allow for more cars to be contained within the garden at any one time resulting in greater disturbance to the area.

Ellen Burke

This states:

- as described under the previous application, I am the registered owner of the land and I have not given permission for the making of the application.

4.0 Planning History

Reg. ref. 211196

This application relates to the expansion of the existing childcare activity at the site. A request for further information was issued and the website of the planning authority indicates that no response has been received to date. The matters raised in the request relate to on-site signage, details of the site layout, proposed preschool unit, parking and other matters.

Reg. ref. 20762

Permission was sought for conversion of part of the dwelling house to preschool facilities and all associated works. The defined site boundary for the purposes of this application is the same as that subject of the current application.

Following a request for further information, which included a request that the applicant obtain confirmation from the adjoining landowner regarding works to achieve 80 m site line, and the failure by the applicant to obtain such agreement, permission was refused for a single reason:

- It was considered that the proposed development would endanger public safety by reason of serious traffic hazard because 80m sight line in a north-westerly direction cannot be achieved as they are impaired by neighbouring stone pillars.

The further information request also address the matter of sufficient legal interest. In response a folio map was submitted by the applicant. The planning authority was satisfied that the applicant is the legal owner of the site.

5.0 Policy Context

5.1. Development Plan

Under the Wicklow County Development Plan, Volume 3, Appendix 1 development design standards provided indicate that commercial/employment uses in rural areas shall be served by entrances with adequate sightlines.

5.2. Natural Heritage Designations

The nearest European site is Buckronev-Brittis Dunes and Fen SAC which is north of Arklow along the coast.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are:

- I am the registered owner of the land.
- The information provided in the planning application is untruthful.
- Permission should be retracted as it is unjust, unfair and false.

6.2. Applicant Response

The response of the applicant stated 3 January 2022 includes the following points:

- the history of the construction of our house and that of our neighbours are outlined
- the planning application under 20/762 is noted and described
- we are the registered owner of the site as per folio number WW12037 as per attached map

- we wish to locate entrance to ensure compliance with guidelines
- the appellant has not provided any map to demonstrate ownership of the site.

6.3. **Planning Authority Response**

No substantive response received.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

- 7.1. The application as described in the public notices is for the purposes of improving sightlines to the residential dwelling house and to comply with development plan and other standards. Notwithstanding that permission has been sought for a play school facility to Wicklow County Council, I consider that the planning application can be considered by the Board based on the planning notices description.
- 7.2. I note that the district engineer sets out a requirement for 120 m sightlines on the local road. The planning authority has previously requested that 80m sightlines be provided at this site. Based on the location of towns and villages in the area and my observations at the time of inspection, I have formed the impression that the traffic levels on the road are relatively low. The road is straight, and I consider the vehicles travelling on the road would have visibility of vehicles egressing from the site. In any case, having regard to the particular circumstances I see no requirement for 120 m sightlines, and I consider that the proposed development is acceptable with respect to traffic safety. The proposed development will increase the sightlines available to serve the dwellinghouse.
- 7.3. I note that neither party has provided full details to support their claim with respect to legal interest but consider it would not be appropriate to further consider this matter.

The land ownership dispute is a private legal matter, and the Board should not further investigate the claims made by both parties.

8.0 Recommendation

- 8.1. I recommend that the decision of the planning authority be upheld for the reasons and considerations and subject to the conditions below

9.0 Reasons and Considerations

It is considered that, subject to compliance with conditions in set out below, the proposed development 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 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 existing entrance shall be closed off once the new entrance comes into use.

Reason : In the interest of traffic safety.

Mairead Kenny
Senior Planning Inspector

4 April 2022