



An
Bord
Pleanála

Inspector's Report ABP312368-22

Development	Retention of a house.
Location	Rear of No. 2, Ballywaltrim Cottages.
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	211260.
Applicant(s)	Michael Farrell.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Michael Farrell.
Observer(s)	N/A.
Date of Site Inspection	27.05.2022.
Inspector	Mary Mac Mahon.

1.0 Site Location and Description

- 1.1. Ballywaltrim Cottages are located off the western side of Killarney Road, in Bray. These cottages have very long narrow rear gardens, which have been developed over time to provide for single residential units to the rear. There are two dwellings to the rear of No.s 1 and one to the rear of No.3 Ballywaltrim Cottages, and most of the other houses in the lane. The original houses on No.s 1, 2 and 3 Ballywaltrim Cottages, overlook Killarney Road, with the land rising sharply behind (circa 4.6 metres from the road entrance to the site).
- 1.2. The site is located to the rear of No. 2 Ballywaltrim Cottages, Bray, Co. Wicklow. It would appear that at some point, the land to the rear of No. 3 Ballywaltrim Cottages has been taken into the landholding, as the landholding is wider than the general plot pattern of the area. The site adjoins an enclosed area, where planning permission has been granted for a dwelling house. The original house on the plot has a number of sheds to the rear of it. The site is described as previously been in use as a builder's yard, but the area has been cleared to the west of the site and a lean-to shed installed. The site area is stated as 0.07 ha. The gross floor area of the residential unit to be retained is 50 square metres. The building is a small unit with a steeply sloping pitched roof. The space to the front of the unit provides for an area of private amenity and a car parking space. An ESB panel has been housed in a small structure to the front of the parking area.

2.0 Proposed Development

- 2.1. The proposed development is retention of a two storey dwelling of 50 square metres. Water supply and foul water discharge is stated to be connected to the public mains system. The ceiling height of the first floor is 2.4 metres, albeit the habitable space below is estimated to be less than 50% of the floor area. I would estimate that the ground floor area is circa 34 square metres and the area at first floor which meets minimum floor to ceiling standards is circa 6 square metres. A single porthole window lights this roofspace.

3.0 Planning Authority Decision

3.1. Decision

Refuse for two reasons:

1. The development proposed for retention, by reason of its size, layout and design would result in the provision of a substandard level of residential amenity for future occupants due to the lack of private amenity space and the provision of no car parking on site, is out of character with the established pattern of development in the area, would result in piecemeal residential development on site, set an undesirable precedent for the granting of similar type development in the area and would not be in accordance with Objective HD2 and HD9 of the 2016-2022 County Development Plan. The development would therefore be contrary to the Zoning objective of the site, RE: 'To protect, provide for an improve residential amenities of adjoining properties and areas while allowing for infill residential development that reflects the established character of the area in which it is located' and if permitted would be contrary to the proper planning and sustainable development of the area.
2. The development proposed for retention, would be prejudicial to public health due to the lack of evidence that the development is properly serviced by water supply, waste water services and surface water drainage. The development, if permitted, would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report notes that the rear garden is exceptionally long and there is pattern of backland development in the area. The dwelling is significantly smaller than the surrounding residences and does not have the benefit of a rear garden or parking. Due to its distance from the main dwelling house, it cannot be considered ancillary accommodation and is assessed as an independent unit. Limited amenity space or

car parking space has be proposed. The development to be retained is substandard residential development, not in accordance with Objectives HD2 and HD9 and is piecemeal development. It would set an undesirable precedent. Fire safety is also a concern, having regard to the single entrance. The development is considered unsuitable for habitable use.

3.2.2. Other Technical Reports

Irish Water – Further information request, as use of existing connections to the system is not permitted.

SEE – No SUDS or Building Regulations and BER standards has been provided.

4.0 Planning History

21/25 - Permission granted for Brendan Farrell for the subdivision of site at No. 2 Ballywaltrim Cottages for a 97 square metres single storey detached dwelling, two no. car parking spaces and pedestrian access and new connection to the public drainage system.

20/907 - Permission refused to Brendan Farrell for the subdivision of site at No. 2 Ballywaltrim Cottages for a 97 square metres single storey detached dwelling, two no. car parking spaces and pedestrian access and new connection to the public drainage system. The reason for refusal related to the unauthorised nature of the dwelling house (current appeal) west of the proposed development.

UD5358 – single storey dwelling with possible attic conversion without the benefit of planning permission.

In the vicinity of the site:

03/630127 – permission granted for a dwelling house in the rear of No. 3 Ballywaltrim Cottages.

5.0 Policy and Context

5.1. National Policy

The first National Strategic Outcome expected of the National Planning Framework is compact growth. Effective densities and consolidation of urban areas is required to minimise urban sprawl and is a top priority. 40% of future housing delivery is to be within the existing footprint of built up areas (National Policy Objective 3a).

National Policy Objective 35

Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

Sustainable Urban Housing: Design Standards for New Apartments 2020

While the development to be retained is not a block of apartments, the relevant standards for daylight and sunlight are identified in this document. Page 32 states:

“Planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like the BRE guide ‘Site Layout Planning for Daylight and Sunlight’ (2nd edition) or BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’”.

Studio floor space – 37 square metres.

Studio private amenity area – 4 square metres.

Maximum storage area – not more than 3.5 square metres in any one location.

5.2. Development Plan

5.3. Wicklow County Development Plan 2016-2022

In relation to zoning, the plan states:

“The priority for new residential development shall be in the designated ‘town’ and ‘village’ / ‘neighbourhood centres’ or ‘primary zone’ in settlements with development plans, or in the historic centre of large and small villages, through densification of the existing built up area, re-use of derelict or brownfield sites, infill and backland development. In doing so, particular cognisance must be taken of respecting the

existing built fabric and residential amenities enjoyed by existing residents, and maintaining existing parks and other open areas within settlements.”

HD2: New housing development, above all other criteria, shall enhance and improve the residential amenity of any location, shall provide for the highest possible standard of living of occupants and in particular, shall not reduce to an unacceptable degree the level of amenity enjoyed by existing residents in the area.

HD9: In areas zoned / designated ‘existing residential’, house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity will normally be permitted (other than on lands permitted or designated as open space, see Objective HD11 below). While new developments shall have regard to the protection of the residential and architectural amenities of houses in the immediate environs, alternative and contemporary designs shall be encouraged (including alternative materials, heights and building forms), to provide for visual diversity.

HD10 In existing residential areas, infill development shall generally be at a density that respects the established character of the area in which it is located, subject to the protection of the residential amenity of adjoining properties. However, where previously unserviced, low density housing areas become served by mains water services, consideration will be given to densities above the prevailing density, subject to adherence to normal siting and design criteria.

5.4. *Bray Municipal District Local Area Plan 2018 – 2024 applies. The site is zoned RE – Existing Residential. The objective is to: To protect, provide and improve residential amenities of existing residential areas. The description is: To provide for house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity.*

5.5. Page 26 of the written statement states:

“In order to make best use of land resources and services, unless there are cogent reasons to the contrary, new residential development shall be expected to aim for the highest density indicated for the lands. The Council reserves the right to refuse permission for any development that is not consistent with this principle. Lands zoned

Residential – High Density will be expected to achieve a density of not less than 50 units / hectare.

Appendix 1 provides standards for residential development. A one or two bedroom house requires 50 square metres of open space and 1 to 2 car parking spaces.

5.6. Natural Heritage Designations

5.7. Having regard to minor scale and the foreseeable emissions from the proposed development no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

5.8. EIA Screening

5.9. Having regard to the nature and minor scale of the development proposed to be retained, its location on a brownfield site in a built-up urban area where public water supply and public sewerage are available and in light of the foreseeable emissions therefrom it is possible to exclude the requirement for submission of an EIAR at a preliminary stage.

6.0 The Appeal

6.1. The applicant's agent, David Kilfeather, submitted the appeal which includes a letter from the applicant and drawings which indicate a right of way over the lands, service connections and the permitted dwelling house as well as photographs. The contents of the appeal are summarised below:

6.2. Grounds of Appeal

- The house is in effect a studio unit;

- The private open space is provided to the front and its orientation ensures that it is good quality;
- A car parking space has been provided but this was not identified on the drawings;
- A house has been permitted on the adjoining site;
- Backland development is in character of the area – No. 1 Ballywaltrim Cottages being a case in point;
- The design of the house is somewhat unusual, but it fits into the area and does not give rise to negative impacts in terms of adjoining residential amenity;
- If there is a concern about servicing, then this could have been raised via a Further Information request;
- The applicant sleeps downstairs so no issues arise around fire safety – there is no greater risk than that associated with a mobile home;
- The house has been specifically for persons of limited physical mobility;
- It is proximate to social facilities and the applicant has the benefit of family living in close proximity to provide support when needed;
- The house is aesthetically pleasing and harmonises with the area;
- The existing house is serviced and if an individual system is required, this can be provided and likewise for surface water;
- Other services – electricity, broadband are provided;
- The house has been designed to take into account fire safety risks
- The house facilitates the applicant to live alone while other properties accommodate family members;
- The removal of the building would be disproportional to any perceived impacts arising.

6.3. Planning Authority Response

None received.

7.0 Assessment

- 7.1. The proposed development for retention is part of a third line of development at Ballywaltrim Cottages. This is not out of character for the area, as the rear gardens of No.s 7, 8 and No. 1 all have two additional dwellings to the rear. No.s 3 and 6 have one dwelling in the rear of their gardens. A dwelling house has been permitted to the rear of No. 2, Ballywaltrim Cottages. The additional dwellings are individual in character, being designed to respond to each individual plot, therefore the area is visually mixed and robust.
- 7.2. The applicant's agent considers that the scale of the unit is limited and its aesthetic is attractive. Its reliance on a single entry is similar to a mobile home. The roofspace is lit by a small porthole round window. A day bed is shown in this space. A day bed is also shown in the sensory room on the ground floor, which has no window. The sensory space is larger than 3.5 square metres and so cannot be considered as storage space.
- 7.3. There is no doubt that there is an element of charm and whimsy to this unit. It is not dissimilar in size to a studio unit in an apartment block, which is required to be 37 square metres in area. Such a unit would require 4 square metres in private amenity area. It would also, typically, have a single entry point. The ground floor area is approximately 34 square metres in area. I estimate that circa 6 square metres of the first floor would conform to standard floor to ceiling height.
- 7.4. Given the limited area of usable space, I would concur with the planning authority that this unit as it is currently configured is substandard. The sensory room does not have a window and is overly large for storage space. This could be resolved by reducing the size of this room to the appropriate size for storage. The habitable roof space is limited in area and lacking in daylight. However, the provision of roof lights on the southern slope of the roof would enhance the accommodation at first floor level. The provision of rooflight(s) to the first floor would introduce a new element to the planning

application that is not in the public domain and would in my view, require to be readvertised to allow for public comment.

- 7.5. The first floor window in the eastern elevation is a high level window over the stairwell and is limited in size. It does not give rise to overlooking.
- 7.6. The planning authority has noted its concerns around fire safety. While this is outside the planning code, the internal elements of the building can be altered under the exemption provisions of the Planning and Development Regulations, 2001, as amended, to ensure that it can comply with the requirements of a Fire Safety Certificate. The matter of BER and Building Regulations are also outside the planning code.
- 7.7. In relation to SUDs, I note that the private amenity space is covered part in permeable and part in impermeable materials. I consider that SUDS measures can be provided on site. The connections to the public mains in terms of water supply, drainage and surface water should be clarified.
- 7.8. The area to the front of the dwelling to be retained is set out to provide for a car parking space and a seating area. The quantity of space for the seating area would be in excess of 4 square metres – the minimum area for a studio apartment. It is south facing. There is additional space on the other side of the car parking area. The quality of the open space is acceptable.
- 7.9. In short, while the residential unit is unorthodox, I would concur with the appellant's agent, that its removal would be disproportional to the impacts arising. However, the planning authority is correct that the building is substandard and satisfactory answers should be forthcoming in relation to the connections to mains water supply, foul water and surface water drainage, to confirm that public health has not been put at risk arising from this development.
- 7.10. Internal changes are required to enable the building conform to current standards. Appropriate day lighting to the attic space is necessary. The provision of additional windows would require readvertising. On balance, given the additional requirements necessary that might enable a grant of permission to issue, this is best dealt with in a new application.

8.0 Recommendation

8.1. I recommend that the application be refused.

9.0 Reasons and Considerations

Having regard to the limited size of the development proposed to be retained, it is considered that the development, as currently configured, is substandard in terms of residential amenity for future occupants, particularly in regard to the first floor area, which is lacking in natural light. Furthermore, the Board is not satisfied that the development proposed to be retained, would not be contrary to the requirements for public health as insufficient details have been submitted in relation to water supply, drainage and surface water. The development proposed for retention, would therefore be contrary to the proper planning and development of the area.

Mary Planning	Mac	Mahon Inspector
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28th June, 2022