



An
Bord
Pleanála

Inspector's Report ABP315549-23

Development	New dwelling, new garage, well, secondary treatment system with percolation area, new entrance and associated site works
Location	Gormanstown, Kilbride, Co. Dublin
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	22450
Applicant(s)	Derek Goucher
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Derek Goucher
Observer(s)	None
Date of Site Inspection	29 th June 2023
Inspector	Andrew Hersey

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision.....	3
3.1. Decision	3
3.2. Planning Authority Reports	3
4.0 Planning History	4
5.0 Policy and Context.....	4
5.1. Development Plan - Wicklow County Development Plan 2022-2028	4
5.2. National Planning Framework 2040.....	5
5.3. Section 28 Guidelines – Sustainable Rural Housing Guidelines 2005	5
5.4. Natural Heritage Designations	5
5.5. EIA Screening	5
6.0 The Appeal	6
6.1. Grounds of Appeal.....	6
6.2. Planning Authority Response	7
6.3. Observations.....	7
6.4. Further Responses	7
7.0 Assessment	7
7.1. Introduction	7
7.2. Principle of Development.....	7
8.0 Recommendation	12
9.0 Reasons and Considerations	12

1.0 Site Location and Description

1.1. The proposed development is located in the townland of Gormanstown in Kilbride, Co. Wicklow to the southwest of Wicklow town. The site is located in a rural area and to the east side of a narrow local tertiary road. There are three adjacent dwellings to the north of the said site and one to the south. The site is rectangular in shape with mature trees along the south eastern boundary. Works have been carried out on site in the form of excavation for a foundation and access to the site has been made and is now gated with an agricultural style gate. There is a shipping container located in the west corner of the site.

2.0 Proposed Development

- 2.1. The proposed development comprises of the following: Permission for
- Dwellinghouse - 4 bedroom split level single storey house with a floorspace of 232sq.m. Ridge height 5.5 metres
 - Garage pitched roof single storey with a floorspace of 36sq.m.. 5.28 metres in height
 - Wastewater Treatment Plant, percolation area, well and new road entrance

3.0 Planning Authority Decision

3.1. Decision

Refuse Permission

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (dated 8th December 2022) reflects the decision of the Planning Authority. In summary the reasons for refusal are as follows:

- That the proposed development contravenes national and development plan rural housing policy by reason that the applicant has no economic or social need to live in this rural area

3.2.2. Other Technical Reports - Environmental Health (dated 2nd September 2022)

- No objection subject to conditions

3.3. Submissions/Observations

- None

4.0 Planning History

4.1. The site has been subject to one planning applications as follows:

- 06/5812 in the name of John Jameson c/o McAulay Rice Architects for Permission for dwelling, effluent treatment system, percolation area, well, proposed new entrance and associated site works Granted Permission -

5.0 Policy and Context

5.1. Development Plan - Wicklow County Development Plan 2022-2028

5.1.1. Rural Housing Policy is set out in Section 6.3.8 This section states that:

- Wicklow's rural areas are considered to be 'areas under urban influence' due to their location within the catchment of Dublin, Bray, Greystones, Wicklow-Rathnew and Arklow
- Policy CPO 6.41 - Facilitate residential development in the open countryside for those with a housing need based core consideration of demonstrable functional social or economic need to live in the open countryside in accordance with the requirements set out in Table 6.3.
- Policy CPO 6.42 Occupancy Clause for 7 years in the event a rural house is granted permission
- Policy CPO 6.43 The conversion or reinstatement of non-residential or abandoned residential buildings back to residential use in the rural areas will be supported

- Policy CPO 6.44 To require that rural housing is well-designed, simple, unobtrusive, responds to the site's characteristics and is informed by the principles set out in the Wicklow Single Rural House Design Guide. All new rural dwelling houses should demonstrate good integration within the wider landscape
- The site is located in an area designated Landscape Category 4 Eastern Corridor

5.2. National Planning Framework 2040

- National Policy Objective 19 states that 'In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements

5.3. Section 28 Guidelines – Sustainable Rural Housing Guidelines 2005

- 'People who are part of the rural community should be facilitated by the planning system in all rural areas, including those under strong urban-based pressures'
- Section 4.3; planning authorities should recognise that exceptional health circumstances – supported by relevant documentation from a registered medical practitioner and a disability organisation – may require a person to live in a particular environment or close to family support.

5.4. Natural Heritage Designations

The site is not located within or adjacent to any Natural Heritage Designations nor is there any hydrological link to the same

5.5. EIA Screening

Having regard to the nature and scale of the proposed development it is considered that there is no real likelihood of significant effects on the environment arising from

the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

A First Party Appeal was lodged by the applicants on the 16th January 2023

6.1. Grounds of Appeal

- That the principal of a house at the location has been established under Planning Reg. Ref. 065812
- That building works have already commenced on site and since then has remained in an unfinished and unsightly condition since 2006/2007. The proposal would address this issue.
- The Planning Authority as set out in the planners report have no technical reason to refuse the proposed development. The reason for refusal is solely based on Rural Housing Policy
- That the applicant has lived in the rural area for 13 years and that as a landscaper and builder with rural clients that he would qualify under rural housing policy
- The applicant has lived in rural Rathdrum for the last 13 years
- The applicants father Jack lives in rural Rathdrum and is a rural landowner and property owner. The applicant lived at his father's house since 2013 with his children. The lands are farmed part time by the family
- That the applicants son has medical needs to live in the rural area
- That the applicant needs a rural site to store machinery associated with his building/landscaping business.
- That the proposed development can be assessed under policy CPO 6.43 of the Wicklow County Development Plan 2022-2028 which allows for the conversion or reinstatement of non-residential or abandoned residential buildings back to residential use in the rural areas.

6.2. **Planning Authority Response**

None

6.3. **Observations**

None

6.4. **Further Responses**

None

7.0 **Assessment**

7.1. **Introduction**

7.1.1. I have examined the application details and all other documentation on file and I have inspected the site and have had regard to the relevant local development plan policies, history files and other relevant guidance documents.

7.1.2. I am satisfied the substantive issues arising from the grounds of this first party appeal relate to the following matters-

- Principle of Development/Rural Housing Policy
- Services
- Visual Amenity
- Traffic Safety

7.2. **Principle of Development**

7.2.1. The proposed development is located in an area which the development plan states is an 'Area under Urban Influence'

7.2.2. Policy CPO 6.41 of the Wicklow County Development Plan 2022-2028 seeks to facilitate for residential development in the open countryside for those with a housing need based core consideration of demonstrable functional social or economic need

to live in the open countryside in accordance with the requirements set out in Table 6.3.

7.2.3. Table 6.3 sets out three criteria which must be met by potential applicants for a rural house in rural Wicklow. These three criteria are as follows:

- Housing Need / Necessary Dwelling - applicant must demonstrate a clear need for housing
- Economic Need - The Planning Authority recognises the rural housing need of persons whose livelihood is intrinsically linked to rural areas subject to it being demonstrated that a home in the open countryside is essential to the making of that livelihood and that livelihood could not be maintained while living in a nearby settlement.
- Social Need – the Planning Authority recognises the need of persons intrinsically linked to rural areas that are not engaged in significant agricultural or rural based occupations to live in rural areas.

7.2.4. It is noted that permission for a house was granted previously on this site to a John Jameson under Planning Reg. Ref. 06/5812. Some of the works were carried out mainly earthworks associated the then permitted development. It is understood from the documentation submitted that works ceased on site due to the recession.

7.2.5. It is understood from the documentation submitted with the application and in the appeal report that the applicant bought the site during the recession and that the site has remained in the same condition it is currently in since the applicant bought the site.

7.2.6. The applicant was born in Wicklow town and moved to the rural area outside Rathdrum with his father at 7 Glenmalure Pines. I understand that there is an unstated area of land in the ownership of the family which is farmed on a part time basis. While the house is located in a rural area, it would appear from aerial photographs that the house is part of a larger development of up to 24 houses in the same estate. This house is located some 20km to the west of the proposed development site

7.2.7. The applicant owned a house previously in Rathdrum village where he lived with his then partner and children. This relationship ended and he then moved back in with

his father. It is stated that his ex-partner is the main carer of his children. It is understood that his ex-partner now lives in Wicklow Town with his children and therefore the proposed development site being proximate to the same is suitable for his housing needs.

- 7.2.8. The applicant states in the information submitted with the application that his son is diabetic and that living in a rural area along with having his own sensory room is beneficial to his condition. I note a letter from a medical practitioner on the file which verifies the same. The proposed house is a 4 bedroomed house and one room within the same can be dedicated to his son.
- 7.2.9. In term of the applicants economic need to reside in the area, the applicant states that he is a builder/landscaper and that many of his clients are rural based. He also states that the needs a large area around his house to store machinery associated with his business. I note that the proposed development does not include for commercial storage of machinery associated with the applicants building business
- 7.2.10. I refer to Table 6.3 of the Wicklow County Development Plan 2022-2028, as set out in paragraph 7.2.3 above which sets out three criteria that an applicant must comply with in order to qualify in principal to get permission for a rural house. These three criteria are: housing need, economic need and social need.
- 7.2.11. In terms of housing need, I am satisfied that the applicant does not currently own a house and that he requires one for himself and his children (when they reside with him on a part-time basis)
- 7.2.12. In terms of economic need, the plan supports applications from those whose business / full time employment is intrinsically linked to the rural area that can demonstrate a need to live in the vicinity of their employment in order to carry out their full time occupation. The applicants profession is a landscaper/builder and while he states that many of his clients live in the rural area, I am of the opinion that this business is not rural related. i.e. he could run this business whilst living in a settlement. I note that he states that his family runs a farm on a part time basis, I note that these lands are 20km from the said site and in any rate the amount of land farmed is not stated. The applicant in any rate states that his profession is a landscaper/builder. The applicant therefore does not have an economic need to live in this rural area.

- 7.2.13. In terms of social need, the plan recognises the need of persons intrinsically linked to rural area. The applicant appears to have no links to the rural area other than the fact that his children reside in Wicklow Town whom he looks after on a part time basis. The applicant has not submitted any evidence that he has familial connections with this rural area where the site is located and therefore the he has no social need to live in this rural area.
- 7.2.14. With respect of his son and his medical needs, I am of the opinion that these needs could also be met in a house in a settlement.
- 7.2.15. On the basis of the above, it is considered that the applicant has no economic or social need to live in this rural area and therefore the proposed development would be contrary to NPO19 of the National Planning Framework 2040 and CPO 6.41 of the Wicklow County Development Plan 2022-2028
- 7.2.16. The appeal further suggests that the proposed development can be assessed under policy CPO 6.43 of the Wicklow County Development Plan 2022-2028 which allows for the conversion or reinstatement of non-residential or abandoned residential buildings back to residential use in the rural areas.
- 7.2.17. CPO 6.43 is a policy which allows for the renovation/conversion of existing buildings which are substantially intact, are of visual, architectural or historical interest and which are capable of undergoing conversion. I do not consider that this policy would apply to the said site subject of this appeal

7.3. Services

- 7.3.1. The proposed development is to be served by a wastewater treatment plant and percolation area. With respect of the same I note the recommendation from the Environmental Health Officer whom states that the same is acceptable subject to conditions. In this respect, I consider the same acceptable as a method of the disposal of domestic effluent
- 7.3.2. The applicant proposes to bore a well to serve the proposed house. The well is located circa 78 metres from the proposed percolation area and is therefore complaint with the thresholds as set out in the EPA's Code of Practice of domestic

wastewater treatment systems. The proposal for a well is therefore deemed acceptable

7.4. Visual Amenity

- 7.4.1. The proposed development is located in an area designated as Landscape Category 4- Eastern Corridor. In terms of importance, this landscape category is the fourth of six categories of landscape, the first and most important being Mountains and Lakeshore and the sixth being the urban areas., The proposed development site is therefore located in an area which is deemed to be less than moderate in terms of landscape importance.
- 7.4.2. Policy CPO 6.44 of the Wicklow County Development Plan 2022-2028 requires that rural housing is well-designed, simple, unobtrusive, responds to the site's characteristics and is informed by the principles set out in the Wicklow Single Rural House Design Guide. All new rural dwelling houses should demonstrate good integration within the wider landscape
- 7.4.3. The site is not elevated and there is a mature backdrop of trees on the southern boundary. There are adjacent dwellings to the north and south of the site. The proposed house is a single storey split level type and is of the same design as that granted previously under Planning Reg. Ref. 06-5812. I would consider that the design generally complies with the Wicklow Single Rural House Design Guide. I note that the FFL is to be 100.750 which is to be 150mm above the existing ground levels and the ridge height is just over 5.5 metres.
- 7.4.4. Having regard to the above, and having regard to the landscape category applicable to the area, I am satisfied that the proposed development will not have an undue impact upon the surrounding or wider landscape.

7.5. Traffic Safety

- 7.5.1. The proposed development includes for an vehicular access onto the adjacent public road. This same access was permitted under Planning Reg. Ref. 06-5182 and I note that these works have been partially implemented in that access has been made to the site and gated with a galvanised entrance gate. Wing walls and associated works

have not been completed nor has the roadside boundary to the south been set back as proposed. While sight visibility is restricted to the south at present, this will be opened up when the boundary is set back. Visibility to the north is sufficient and exceeds 90 metres. Having regard to the same I am satisfied that the proposed development will not result in any traffic safety implications.

7.6. Appropriate Assessment Screening

- 7.6.1. Having regard to the nature and scale of the proposed development, the distance from any European site and the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS.

8.0 Recommendation

I recommend that permission be refused for the following reason:

9.0 Reasons and Considerations

1. Having regard to
 - The location of the site within a rural area under urban influence as identified in the 'Sustainable Rural Housing Guidelines for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government in April 2005,
 - National Policy Objective 19 of the National Planning Framework (February 2018) which, for rural areas under urban influence, seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements, and
 - The provisions of the Wicklow County Development Plan 2022- 2028 (including the site's location within an area under urban influence, and to Development Plan Objective CPO 6.41 of the Wicklow County Development

Plan 2022 - 2028 which facilitates the provision of rural housing for local rural persons building in their local rural area,

the Board could not be satisfied on the basis of the information on the file that the applicant comes within the scope of either economic or social housing need criteria as set out in the overarching National Guidelines or the definition of a local rural person in accordance with the relevant criteria of the development plan. The proposed development, in the absence of any identified locally based need for a house at this location, would result in a haphazard and unsustainable form of development in an unserved area, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and undermine the settlement strategy set out in the development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way

Andrew Hersey
Planning Inspector

1st August 2023