



An
Bord
Pleanála

Inspector's Report

ABP-315732-23

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| Development | Construction of a school, hydrotherapy pool, clinician and educational support rooms, play areas, car park and all ancillary site works |
| Location | Lands Associated with the Holy Faith Convent , Kilcoole , Co. Wicklow |
| Planning Authority | Wicklow County Council |
| Planning Authority Reg. Ref. | 221064 |
| Applicant(s) | Waterford and Wexford Education and Training Board |
| Type of Application | Permission |
| Planning Authority Decision | Grant |
| Type of Appeal | Third Party |
| Appellant(s) | Charlie Keddy |
| Observer(s) | N/A |
| Date of Site Inspection | 11.04.2023 |
| Inspector | Mary Mac Mahon |

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1.0 Introduction

- 1.1. This is a Third Party Appeal against the grant of planning permission. The third party, Mr. Keddy has made two appeals on proposed developments in the vicinity of the site. A fourth appeal been lodged (ABP316133.23) against a proposed nursing home south of the current site by the appellant.

2.0 Site Location and Description

- 2.1. The town of Kilcoole is close to the east coast of Co. Wicklow. It is circa 3 kilometres south of Greystones, 14 kilometres north of Wicklow, and about 28 kilometres south of Dublin. The site is located on the western side of the R761 at the northern end of Kilcoole, a fourth level town in County Wicklow. The site is within the 50 kph zone and there are two bus stops and a traffic island on the R761, with narrow footpaths to the front of the site. The road is climbing northwards at this point. Lott Lane is to the east of the site. There is sports grounds and a community centre on Lott Lane near the junction.
- 2.2. The site is located on agricultural lands adjoining the entrance to a former boarding school and convent, which is a protected structure (Ref.13.8), Darraghville House. Darraghville House is set well back from the R761, on a crescent driveway. A primary school is located on the former Holy Faith lands, to the south of the protected structure. The nearest building to the site is the gate lodge to the former convent.
- 2.3. The lands slope from east to west from circa 47mOD to 37.85mOD. The site is generally rectangular, with a linear element connecting to the Kilcoole stream, west of the site. The Kilcoole Stream flows into the Kilcoole Estuary, where 2 no. designated European Sites are located (the Murrough Wetlands SAC (site code 002249) and the Murrough SPA (site code 004186)).
- 2.4. The main body of the site consists of two parts of two fields. The first field is fronted by a wall and hedgerow. It is narrow with two significant individual trees and there is a distinct line of hedgerow to the rear. The second field is in agricultural use. The site area is stated as 2.31 ha.

3.0 Proposed Development

- 3.1. The proposed development is described as the new St. Catherine's Special School. It consists of a split level two storey building with two wings connected by a central block. The proposed building comprises of 25 classrooms, a hydrotherapy pool, clinician and support rooms for circa 158 pupils. The gross floor area is stated as 6,252 square metres. Car parking is provided for 102 car parking spaces, 8 no. minibus setdown bays and 10. No. bicycle stands. Access is via the new road permitted under ABP-311747-21, with two entrances (one for parking and the other for service vehicles).
- 3.2. Additional works include play areas, ballcourt, external store (13.2 square metres in area). Water supply is from the public mains, as is drainage. A rising main is required for the foul water. Surface water is via an attenuation tank to a watercourse. The hedgerow on the boundary between the fields is to be retained. SUDS measures are included in the landscaping and a green roof provided.
- 3.3. At Further Information stage, further details were provided regarding the surface water system.

4.0 Planning Authority Decision

4.1. Decision

- 4.1.1. Grant subject to 7 no. conditions. Condition 5 requires that no development commences until the access road granted planning permission under ABP-311747-21 has been completed to the satisfaction of the planning authority. Condition 7 requires that no occupation shall occur until the parking area and proposed entrance has been completed in full.

4.2. Planning Authority Reports

4.2.1. Planning Reports

At application stage, the planner's report considered the following:

- The proposed development is in accordance with the zoning of the site.

- The proposed development is within the development boundary of the town and is proximate to other community facilities.
- There is a footpath which extends to the site and where bus stops are located.
- The permitted development to the north and the landscaping plan will soften the visual impact. The trees and hedgerow will be retained.
- Due to the separation distance between the site and the protected structure, it will not have a significant negative impact on the protected structure or its curtilage.
- The design is acceptable.
- The site is located in Flood Zone C.
- Noting the submission from the DAU, it is considered that archaeological testing can be conducted at compliance stage.
- A Stage 2 Appropriate Assessment is not required as no adverse impacts are anticipated on the qualifying interests and conservation objectives of any Natura 2000 site.
- An EIA is not required, due to the nature of the receiving environment, outside a protected site, the availability of public services, the limited ecological value of the lands and distance from sensitive locations.
- Further information is recommended in relation to car parking arrangements and associated surface water measures.

4.2.2. Other Technical Reports:

4.2.3. Municipal District Engineers – notes that there multiple pumping stations planned on the former convent lands and an integrated solution is needed. Details in relation to the car parking is sought.

4.2.4. Environmental Section - no justification is required as the site is within Flood Zone C. Additional calculations required in relation to climate change and other details regarding the car park. At Further information stage, the details were considered satisfactory. Conditions are recommended, including a construction management plan that would deal with construction runoff.

4.3. Prescribed Bodies

- 4.3.1. The DAU of the Department of Housing, Local Government and Heritage noted the proximity of the site to archaeological sites and recommends that geophysical survey is carried out and archaeological testing as part of a Further Information request.
- 4.3.2. Uisce Eireann confirmed that connections are available and it is feasible to connect to them.

4.4. Third Party Observations

- 4.4.1. None applicable.

5.0 Planning History

- 5.1. There are two permissions on the adjoining northern part of the two fields. There is a decision to grant planning permission to the south of the site, which has been appealed by the same Third Party.
- 5.2. **ABP – 311747-21 (21469)** for a two-storey administration centre, single storey adult day centre, gym, and respite centre comprising 4 no. accommodation units and a wastewater pumping station and a new access road from the R761, car parking and associated site works, was granted planning permission on 22.06.2022. The gross floor area is stated to be 3,150 square metres on a site area of 0.99 ha. The applicant was St. Catherine's Association, Newcastle, Co. Wicklow.
- 5.3. **ABP-308754-20 (20537)** for a Temporary Adult Day Care facilities, new access road, temporary wastewater plant, car park and associated site works on the same site as above. It was granted planning permission for a three year period, on 10.03.2021. The gross floor area is stated to be 600 square metres on a site area of 0.99 ha. The applicant was St. Catherine's Association, Newcastle, Co. Wicklow.
- 5.4. **ABP-316133-23 (22/921)** – Construction of 3 storey, 109 bed nursing home, with all associated ancillary site works on lands to the north of Darraghville House/ Holly Faith Saint Partick's Convent. This is a third party appeal by Charlie Keddy, undecided at

time of writing. I note that a Natura Impact Statement was submitted with this application.

6.0 Policy Context

6.1. National Planning Framework 2018-2040

- 6.1.1. NPO 28 requires that planning facilitates and delivers a more socially inclusive society to target equality of opportunity and a better quality of life through better integration and greater accessibility in sustainable communities and the provision of associated services.

6.2. Section 28 Guidelines

- *Design Manual for Urban Roads and Streets, 2019*
- *The Planning System and Flood Risk Management: Guidelines for Planning Authorities, 2009*
- *Architectural Heritage Protection: Guidelines for Planning Authorities, 2004.*

6.3. RSES, 2019-2031

- 6.3.1. A range of community facilities and services should easily accessible in short walking and cycling distances or accessible by public transport in larger settlements. Shared use and co-location of facilities should be encouraged.

6.4. Development Plan

- 6.4.1. The *Wicklow County Development Plan 2022-2028* is the current development plan for the county. Kilcoole is a Level 4 Self Sustaining Town. It is described as having a weak employment base, which requires targeted 'catch-up' investment to become more self sustaining.
- 6.4.2. A new Local Area Plan is to be prepared for Greystones-Delgany-Kilcoole between 2022-2024.
- 6.4.3. CPO 7.11 requires that school sites are highly accessible, pedestrian, cycle and public transport friendly locations.

- 6.4.4. CPO7.14 the clustering of educational, community, recreational and open spaces is encouraged.
- 6.4.5. Protected Structure 13.08 – Kilcoole Holy Faith Convent (refers to the building only and no other structure).
- 6.4.6. CPO 17.23 Encourages the retention of hedgerow and other distinctive boundary treatments.
- 6.4.7. R08 – long term road objective to develop a link between the R761 intersection with Lott Lane and R774 (the permitted access road forms the first part of this road objective).
- 6.4.8. CPO 17.5 Projects giving rise to adverse effects on the integrity of European sites (cumulatively, directly or indirectly) arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning or from any other effects shall not be permitted on the basis of this plan.

6.5. **Wicklow Local Economic Plan 2016-2022**

- 6.5.1. Seeks to address access to education and training to increase life opportunities for all.

6.6. **Natural Heritage Designations**

- 6.6.1. The Murrough is a proposed Natural Heritage Area (Site Code 000730).

6.7. **EIA Screening**

- 6.7.1. Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.0 The Appeal

7.1. The appeal grounds are summarised below.

7.2. Grounds of Appeal

- The Regional Plan, 1999, made Kilcoole a greenbelt. No development should be permitted on greenbelt. This is contrary to the law.
- It is inappropriate that agricultural lands should be used for building purposes and there is a loss of biodiversity.
- The applicants are not from the area and the proposed development is a replacement unit for St. Catherine's, located on the grounds of Newcastle Hospital. There is more than sufficient land at that location for the proposed development.
- The village is overdeveloped.
- The appeal includes letters to the editors, newspaper articles and photographs.

7.3. Applicant Response

7.3.1. A response was submitted by Coady Architects, the grounds of which are summarised below:

- The proposed development is in accordance with the zoning and development plan policies.
- The Board granted permission for the Adult Day Care and Respite Centre to the north.
- There is no merit in the Third Party's submission and should be rejected,

7.4. Planning Authority Response

7.4.1. None received.

7.5. Observations

7.5.1. None received.

7.6. Prescribed Bodies

7.6.1. The DAU of the Department of Housing, Local Government and Heritage noted the proximity of the site to archaeological sites and recommends that geophysical survey is carried out and archaeological testing as part of a compliance enabling condition. If finds are made, mitigation measures are recommended, depending on the significance of the finds.

8.0 Assessment

8.1. The main issues in the appeal are:

- Zoning of the Site
- Overdevelopment / Location at Kilcoole
- Accessibility
- Design
- Landscape
- Biodiversity
- Flooding
- Stormwater
- Foul water drainage
- Water supply
- Cultural Heritage
- Construction

8.2. *Zoning of the Site*

8.2.1. The land use zoning of the site in the Greystones Delgany and Kilcoole Local Area Plan, 2013-2019 was 'CE'- Community and Education – the objective of which is to provide for civic, community, institutional, health, education facilities and burial grounds. A school is permitted in principle in this zoning. The site is not zoned Green Belt. Therefore I consider that there is a presumption in favour of the proposed development, subject to detailed consideration.

8.3. *Overdevelopment / Location at Kilcoole*

8.3.1. The site is located within the development boundary of Kilcoole. The development plan identifies Kilcoole as requiring more employment generating development. The proposed development will assist in generating more employment locally. Therefore, I do not consider that Kilcoole can be described as overdeveloped.

8.3.2. The provision of a Special School at this location to replace a similar facility in Newcastle is not a planning matter, *per se*. However, I note that the existing facility is not in the grounds of Newcastle Hospital and its access is from a rural local road without footpaths. Therefore, from an accessibility perspective, the site is more accessible by sustainable modes of transport.

8.4. *Accessibility*

8.4.1. The site is served by footpaths and a bus stop. It is easily accessible from the regional road network so can facilitate connections to the wider Wicklow area. Access to the site will be from the permitted road. The proposed development provides for mini-bus access, plus private car. EV parking will be provided in 11 no. spaces and ducting will be provided to future proof the remaining. The car parking required is higher than the norm because of the pupils that the school will serve (158) and specialist nature of the staff (circa 97).

8.4.2. The extent of private car parking is relatively large, however, this is acceptable given the necessity for a high ratio of staff to pupils. In addition, there is a range of social and recreational facilities in proximity to the proposed school, which can be accessed on foot. This complies with development plan policies CPO 7.11 and 7.14.

8.4.3. The permitted road connection with the R761 and Lott Lane is a signalised junction and I am satisfied that it will have adequate capacity for the traffic generated by the proposed development.

8.4.4. Roadplan Consultancy has prepared a Road Safety Audit Stage 1 and 2 for the proposed development. Problems are identified and the design team agreed and noted the issues.

8.5. *Design*

8.5.1. The proposed school building has been designed to take advantage of the topography of the site, providing a split level building with an upper ground floor and lower ground floor. The main entrance is from the eastern elevation. There are two linked blocks.

8.5.2. A green roof is provided on the southern end of the western block. A PV panel array is provided on the south facing roof of the northern side of the building.

8.5.3. Finishes are brick and render. Windows are aluminium framed and curtain walling. Fins and coloured spandrel panels are provided on the façade.

8.5.4. The building is well considered and will sit into the site, reducing the height of the proposed school when viewed from the road (circa 105 metres from the regional road). The placement of car parking to the front of the site is not ideal. However, its visual impact is mitigated by the landscaping plan proposals. I am satisfied that the design of the proposed development is acceptable and that there will be minimal visual impact arising.

8.6. *Landscape*

8.6.1. The eastern and southern boundaries of the site are lined with hedgerow and there is another line of hedgerow running north to south that parallels the front boundary wall of the site. There are 23 no. trees on site. Three of the trees are Category 'A', 13 no. are Category 'B' and 7 no. are Category 'C'. The oak tree to the front of the site is the most important tree on the site. CMK Horticulture and Arboriculture Ltd. state that only 3 Category 'C' trees will be removed. Mitigation measures are proposed where construction comes close to trees. The hedgerow is a hawthorn hedge, of Category 'B' standard. This is to be retained and supplemented.

8.6.2. A landscaping plan has been prepared by Mitchell and Associates. The site will be landscaped to provide for play areas, a ballcourt, a multisensory garden. Raised planters will screen the parking area from the classrooms and a horticultural garden provided to the south of the site.

8.6.3. The existing eastern boundary wall will be retained. A 1.5m high steel railing on a 0.3m rendered wall will form the northern boundary. A 2.0m paladin fence will form the southern and western boundaries.

8.7. *Biodiversity*

8.7.1. The landscaping plan provides for the retention and improvement of landscaping features on site. Habitat creation and planting schemes will new tree and shrub planting, marginal zones, swales and varying mowing regimes for grass and meadow. The third party is concerned that the provision of a building on this site will result in a seriously loss of biodiversity to the area. I consider that the proposed development will enhance the range of habitats on site, which will help to mitigate the extent of building.

8.7.2. No bat survey has been provided. This raises questions in regard to the suitability of the public lighting plan and whether there is a need for bat boxes.

8.8. *Flooding*

8.8.1. A site specific flood report has been submitted by Donnachadh O'Brien Associates. It notes that the main part of the site is in Flood Zone C. The report indicates that the CFRAMS map shows that Kilcoole Stream has flooded where the proposed outfall is to be located. This arose due to surface water run-off from the R761. Mitigation measures proposed under ABP-311747-21 (kerbing to prevent surface water from the road entering the site) will reduce the likelihood of flooding in the future. The access entrances will be via a raised table, thereby preventing overland flows through the site. The Finished Floor Levels of the building is 38.425m, providing a minimum freeboard of 5.025m above the 1 in 1000 year flood event.

8.9. *Stormwater*

8.9.1. The control of stormwater on site includes rain gardens to collect rainwater from internal road) and a green roof on the connecting block, porous asphalt road surfacing, attenuation tank to cater for the 1 in 100 year storm event, plus 20% climate change allowance, rainwater harvesting and a Class by-pass petrol interceptor. The current flow is calculated as 5.2 litres per second. Attenuation of 929 cubic metres is required. This is provided under the porous asphalt and an attenuation storage system under the ballcourt.

8.10. *Foul water drainage*

8.10.1. As the public mains located along the R761 is at a higher level than the site, a pumping station is required. The existing foul drain requires upgrading so the effluent will be pumped to Lott Lane where it will connect to the public mains.

8.11. *Water supply*

8.11.1. Water supply is available from the R761.

8.12. **Cultural Heritage**

8.12.1. The site is some 300 metres from the protected structure, the former convent, RPS ID 13-08, NIAH Reg. 16401302 (regional rating). This is a late 18th century house of five-bay, two storey over basement with Venetian windows and a round-headed doorcase, known as Darraghville House. The house was built by John Darragh, a former Lord Mayor of Dublin in 1782. It was bought in 1894 by the Holy Faith Sisters and renamed St. Patrick's Convent. The house had originally two gate houses at either end of the driveway, but the one to the south was demolished in 1968 to make way for St. Anthony's Church. A ballaun stone is located on the church grounds WI013-062001.

8.12.2. The First Edition Ordnance Survey 6-in (1840) map shows that the area to the front of the site to be covered in trees and integrated into the field to the rear. By the Third Edition (1910), shows the boundary line delineated by the hedgerow now in place.

8.12.3. Given the separation distance from the protected structure, circa 160m and the limited visibility of the proposed development, I am satisfied that the proposed development will not impact on the setting of the protected structure. I note the location of the gatehouse, which is in the attendant grounds of the protected structure and adjacent to the proposed development. It is not listed as a specified feature in the record of protected structures nor is it listed on the NIAH. I am satisfied that the retention of the trees and additional planting will ensure that the setting of the gate lodge will not be unduly compromised.

8.12.4. Satellite imagery of the site was inspected by Archaeological Consultancy Services Unit and no obvious archaeological features were found. However, the area is known to rich in archaeology, from previous excavations. Archaeological testing is recommended in the Archaeological Impact Assessment submitted. The submission from the DAU confirms the need for appropriate archaeological testing. A suitable condition could be attached to an order.

8.13. *Construction*

8.13.1. No construction management plan has been submitted with the application. Having regard to the gradient of the site and proximity to the Kilcoole Stream, which is a direct hydrological connection to two Natura 2000 sites, I am of the opinion that a construction management plan is necessary to ensure that adequate account has been taken of the construction risks associated with the proposed development, particularly considering the permitted development to the north could be under construction at the same time. I note that CPO 17.5 of the Wicklow County Development Plan prohibits projects that give rise to adverse effects on the integrity of European sites.

9.0 **Appropriate Assessment**

- 9.1. The site is not located within a Natura 2000 site. There are three Natura 2000 sites within 3 kilometres of the site. The Murrough Wetlands SAC (site code 002249) is circa 1.3 km east of the site; the Murrough SPA (site code 004186) is 1.8km southeast of the site and the Glen of the Downs SAC (site code 719) is 3km to the northwest. I am satisfied that no other Natura 2000 could be connected to the site.
- 9.2. The Murrough Wetlands SAC has been designated for Annex 1 habitats which include Atlantic Salt Meadows, calcareous and alkaline fens. The Murragh SPA has been designated for its freshwater wetlands and coastal habitats, which supports the red throat diver, greylag goose, brent goose, wigeon, teal, black headed gull, herring gull and little tern. The Glen of the Downs SAC has been designated for its Annex 1 habitat with include old sessile oaks.
- 9.3. Having considered the location of the Glen of the Downs SAC, I am satisfied that there is no connection between the site and the habitat for which the SAC has been designated and so no impacts arise.
- 9.4. There is a potential direct impact on the two remaining Natura 2000 sites, as surface water from the site discharges to the Kilcoole Stream, which flows out to the Murrough Wetlands SAC and the Murrough SPA, providing a hydrological connection to Natura 2000 sites. There is approximately 3km from the site to the Natural 2000 sites, via the watercourse. The screening report concludes that without any mitigation measures, construction could take place without having any significant impact on the stream, as

the school site is 200 metres from the stream. I would concur that most construction impacts in relation to dust etc. concentrate close to the main site. I note that the works in proximity to the stream are limited to the installation of a surface water pipe (250mm in diameter) and headwall and that the distance from the stream to the coast would provide sufficient settlement of solids. Should any accidental spillages arise, effects would be limited due to the distance to the stream from the main part of the site and the dilution capacity of the stream.

- 9.5. There is an indirect impact on the above two sites via the Kilcoole Wastewater Treatment Plant could occur. The plant has a PE capacity of 4,000 PE and provides for tertiary treatment. The Uisce Eireann website indicated that this plant has spare capacity and a letter of Confirmation of Feasibility has been submitted with the application. I am satisfied that the indirect link will not be likely to give rise to significant effects.
- 9.6. There has been two permissions granted in the vicinity of the site - ABP-308754-20 and ABP-311747-21. The latter includes a pumping station in the permitted car park. Surface water is to be discharged to ground. The former, on the same site, provides for connection to the foul water system and discharge of surface water to ground. The former is much smaller in size, as outlined in Section 5. Only one of the two permissions can be implemented at the same time. I am not satisfied that if the two sites are under construction at the same time, in the absence of mitigation measures, that there would not be a need for more stringent protection of the Kilcoole Stream.
- 9.7. During operation, the foul water will discharge to the Kilcoole Wastewater Treatment Plant. At operation stage, the surface water will discharge to ground and will pass through the soil and groundwater prior to reaching the stream. This would provide sufficient treatment prior to entry to the stream. I am satisfied therefore, that any in-combination effects at operation would not be likely to give rise to significant impacts on the Natura 2000 sites.
- 9.8. The applicant's Stage 1 AA Screening Report provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. It identifies direct and indirect impacts, as well as potential in-combination effects.

9.9. Taking into account the nature and scale of the proposed development, the nature of the receiving environment, the distance to the nearest European Sites and hydrological pathway considerations, and the information submitted as part of the Applicant's AA screening documentation and engineering documents; it cannot be concluded that, in combination with other development, plans and projects in the vicinity, the proposed development would be likely to have a significant effect on any European Site in view of its conservation objectives, without mitigation measures and that a Stage 2 Appropriate Assessment is therefore, required.

10.0 Recommendation

10.1. I recommend refusal of permission due to the absence of a Construction Management Plan and the in-combination effects of the construction of two developments in such closed proximity, on sloping sites, where there is a hydrological connection to Natura 2000 sites. Furthermore, no bat survey has been provided and no bat mitigation measures are included. I note that these are new issues in the appeal and the Board may consider issuing a Section 137 notice to the parties and request that submissions be made in writing on the matter.

11.0 Reasons and Considerations

1. Having regard to the sloping nature of the site; the permission granted under ABP311747-21 and the disposal of surface water to the Kilcoole Stream, the Board is not satisfied that, in the absence of a Construction Management Plan, the in-combination effects of the proposed development and permitted development would not be likely to give rise to significant effects on Natura 2000 sites (Murrough Wetlands SAC (site code 002249) and the Murrough SPA (site code 004186)) and that an Appropriate Assessment (Natura Impact Statement) is required under these circumstances. The proposed development would contravene materially an objective indicated in the *Wicklow County Development Plan 2022-2028* for the conservation and preservation of

European Sites and would be contrary to the proper planning and sustainable development.

2. Having regard to the location of the site on the periphery of the built up area of Kilcoole, the presence of mature trees and hedgerow on site and close to the Kilcoole Stream, the Board is not satisfied that in the absence of a bat survey, that the proposed development would not adversely affect a species in Annex II of the Habitat Directive for which the site may host.

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.

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|--------|----------|-----------|
| Mary | Mac | Mahon |
| Senior | Planning | Inspector |

18 April, 2023