



An
Bord
Pleanála

Inspector's Report ABP315936-23

Development	Construction of new single and part two storey dwelling; construction of new vehicular entrance; connection to public mains, sewage, and public services & associated drainage; all associated landscaping to front and rear gardens, perimeter fence and associated site development works
Location	Ballygarret, Woodstock Road, Newtownmountkennedy, Co. Wicklow, Co. Wicklow.
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	22/1275.
Applicant(s)	Nicholas O'Loughlin and Georgina Smyth.
Type of Application	Permission.
Planning Authority Decision	Refused.
Type of Appeal	First Party

Appellant(s)	Nicholas O'Loughlin and Georgina Smyth.
Observer(s)	None
Date of Site Inspection	16 th June 2023.
Inspector	Louise Medland

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1.0 Site Location and Description

1.1. The site is located at lands at Ballygarret, on the northern side of Woodstock Road (L1048-0) Newtownmountkennedy, Co. Wicklow. The lands are currently grazing land for horses in association with a stable yard to the east which are within the ownership of the applicant. The land is relatively level throughout. The roadside boundary is defined by mature established hedging. The site is located within landscape category 4 – eastern corridor area.

2.0 Proposed Development

2.1. The proposal seeks permission for the construction of new single and part two storey dwelling; construction of new vehicular entrance; connection to public mains, sewage, and public services & associated drainage; all associated landscaping to front and rear gardens, perimeter fence and associated site development works.

2.2. The dwelling is proposed to consist of two rectangular blocks joined by a single storey 2.4m wide flat roofed link. The western block has a proposed ridge height of 5.3m from finished floor level and a length of 17.6m, with the eastern storey and half block a proposed ridge height of 6.9m from finished floor level and extend to 21.4m long. Both blocks are proposed to have a gable depth of 5.5m. External finishes include render, composite timber cladding and slate roof covering.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 1st February 2023 Wicklow County Council issued a notification of a decision to refuse permission for the proposed development for the following reasons:

- The proposed development would not represent a necessary dwelling in this Landscape designated Corridor Area, contrary to the settlement strategy for the Rural Area as set out in Chapter 4 of the County Development Plan 2022-2028. This strategy seeks to control development to ensure the protection of the environmental and ecological quality of the rural area and ensuring that

the scenic value, heritage value, and/or environmental/ecological/conservation quality of the area is protected. The Council's settlement strategy is to require new housing to locate on designated housing land within the boundaries of settlements, and to restrict rural housing to those with a housing need based on the 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. It is considered that the applicant does not come within the scope of the housing need criteria as set out under objective CPO 6.41 of the County Development Plan 2022-2028 as he appears to have been born and reared in the urban settlement of Newtownmountkenny. The proliferation of non-essential housing in rural landscape areas erodes the landscape value of these areas and seriously detracts from views of special amenity space.

- Objective CPO 6.4 and CPO 6.44 of the County Development Plan 2022-2028 provides that rural houses shall achieve the highest quality of layout and design, should be simple, unobtrusive, respond to the site's characteristics and be informed by the principles set out in the Wicklow Single Rural House Design Guide. The proposed dwelling, due to its design, (which incorporates a number of suburban features and elements alien to the Irish Rural Landscape), large mass and floor area, would form a highly incongruous feature in this area, would militate against the presentation and protection of the rural and visual amenities of the area and would therefore be contrary to the objectives of the County Development Plan and to proper planning and sustainable development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Wicklow County Council Planning Report forms the basis for the decision. The report provides a description of the site and subject proposal, it sets out the planning history of the site and surrounds, summaries the observation on the planning file and

sets out the policy that is relevant to the development proposal. The report identifies the site as being located within a Level 10 Rural area and as such, the Applicant is required to demonstrate that they qualify for special consideration to build in this area in accordance with the Policy CPO 6.41 of the Wicklow County Development Plan, 2022-2028. The Planning Report refers to the various documentation submitted in support of the application. However, it is considered by the Planning Authority that the Applicant would not qualify for special consideration under policy CPO 6.41. The design of the proposed dwelling was also deemed contrary to policies CPO 6.4 and CPO 6.44

3.2.2. External Reports

Irish Water – No objection

3.2.3. Other Technical Reports

MDE- No objection

4.0 Planning History

- P.A Ref. 16496 - 1. new single storey dwelling comprising 145sqm, 2. new vehicular entrance, 3. revision of site boundaries, 4. connection to public sewer, 5 connection to all public services, 6. all necessary ancillary works to facilitate this development – Withdrawn
- P.A Ref. 102211 - single storey dwelling of 193.8 sqm, an equestrian stable of 69.7 sqm, new connection to public sewer, new surface water soakpit, new site entrance and all ancillary site development works – Refused 27th April 2010

5.0 Policy and Context

5.1. National Policy 5.1.1. Project Ireland 2040 National Planning Framework (NPF) Local Policy

5.2. National Policy Objective (NPO) 19 states it is an objective to ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere. 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. Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES).

5.4. Section 4.8 (Rural Places: Towns, Villages and the Countryside) of the RSES indicates that support for housing and population growth within rural towns and villages will help to act as a viable alternative to rural one-off housing, contributing to the principle of compact growth. Regional Policy Objective (RPO) 4.80 is relevant to the development proposal which notes that 'Local authorities shall manage urban generated growth in Rural Areas Under Strong Urban Influence (i.e. the commuter catchment of Dublin, large towns and centres of employment) and Stronger Rural Areas by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstrable economic or social need to live in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.5. Sustainable Rural Housing Guidelines for Planning Authorities, 2005.

5.6. The overarching aim of the Guidelines is to ensure that people who are part of a rural community should be facilitated by the planning system in all rural areas, including those under strong urban based pressures. To ensure that the needs of rural

communities are identified in the development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated. Circular Letter SP 5/08 was issued after the publication of the guidelines

5.7. Development Plan

5.8. Wicklow Development Plan 2022 – 2028

- Level 10: The Rural Area (open countryside)
- Settlement Strategy
- Single Rural Houses Design Guidelines Appendix 2

5.9. Natural Heritage Designations

5.10. There are no designated natural heritage sites in the vicinity.

5.11. EIA Screening

5.12. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

- Appellants are first time home owners.
- Appellant is intrinsically linked to this rural area born and reared with strong social ties to the area.

- Due to the expansion of the development limit the family home is now included within the urban settlement development limit
- Reference to provision within the plan re conflict in regard to the settlement strategy a person who qualifies under policy CPO 6.41 their needs shall be supreme.
- Design of the proposed dwelling is of vernacular language, a narrow plan design with a palette of finishes in accordance with the Wicklow County Council's design guidelines as well as naturalised planting.

6.2. Planning Authority Response

- None

6.3. Observations

- None

6.4. Further Responses

- None

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- Case of need
- Design, scale and massing

7.2. Case of need

7.3. On the basis of the information provided, the appellants have demonstrated housing need in that they are first time home owners.

7.4. In respect of social need, the fundamental issue relates to the birth and rearing of the appellant. The appellant has provided information in relation to his family home at Ard Na Gaoithe, Dublin Rod, Newtownmouontkennedy and his social ties to the area,

being born in 1994 and residing at the family home. However, the appellant argues that when the family home was purchased in 1987 that it was a rural dwelling until 2002.

7.5. The evolution of the Wicklow County Development Plan has over time has resulted in the family home being contained within the urban settlement boundary for Newtownmountkennedy. The appellant argues that the family home was purchased in 1987 as a rural dwelling and therefore the appellant should be treated as a rural dweller.

7.6. The appeal must be considered under the prevailing planning policy which in this instance is the Wicklow County Development Plan 2022-2028 which designated the family home within the urban area. However, the plan explicitly states, '*In the event of conflict of any other settlement strategy objective / Landscape Zones and categories, a person who qualifies under policy CPO 6.41 their needs shall be supreme, except where the proposed development would be a likely traffic hazard or public health hazard*'.

7.7. I agree that this caveat allows the needs of the appellant to be supreme to the conflict arising from the settlement strategy as he was a permanent native resident but due to the expansion of the settlement boundary is now located within the development limit.

7.8. **Design, scale and massing**

7.9. The LA deemed the design of the dwelling to consist of an excessive number of block shape, set backs and heights, mismatched fenestration and bulky appearance deeming the proposed dwelling unbalanced and out of character of the area.

7.10. The proposed dwelling is formed of two linear blocks connected by a subservient link, breaking up the bulk of the two rectangular blocks. This reflects the guidelines set out in appendix 2 for single rural house designs. It is my opinion that the block formation of the dwelling can be interpreted as being agricultural form akin to traditional farm steadings.

7.11. The fenestration consists of a mix of vertical emphasis and larger expanses of glazing, however the length to width ratio ensures the vertical emphasis remains appropriate and a greater solid to void ratio is implemented.

7.12. Overall, I consider the design of the proposed dwelling to have vernacular features with a modern accent and finishes. I consider the scale and massing of the dwelling to be acceptable, with linear blocks of differing ridge heights, connected with a single storey link with gables taken from traditional farm steadings and in accordance with appendix 2 – single rural houses design guidelines.

7.13. **Appropriate Assessment Screening**

7.14. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site/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 and carrying out of an EIA at an initial stage.

8.0 **Recommendation**

8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and that permission be approved for all elements of the development for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

- The appellant qualifies under CPO 6.41 and their needs are supreme to the conflict of the settlement strategy, as he was a permanent native resident but due to the expansion of the settlement boundary is now located within the development limit.
- The proposed design, scale and massing is considered to be in accordance with the design principles set out in appendix 2 for single rural houses and considered to be acceptable.

10.0 **Conditions**

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 1 st December 2022 except as may otherwise be required in order to comply with the following
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	<p>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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The design and layout of the modified vehicular entrance shall comply with the requirements of the Planning Authority, details of which shall be submitted to the Planning Authority for written agreement prior to the commencement of development on site.</p> <p>Reason: In the interest of proper planning and sustainable development.</p>
3.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p>Reason: In the interest of public health.</p>
4.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p>Reason: In the interest of public health.</p>
5.	<p>Existing hedgerows, trees and shrubs on site shall be preserved, except where required to be removed to accommodate the entrance. New site boundaries shall consist of timber fencing backplanted with hedgerow of species native to the area. Planting shall commence no later than the first planting season prior to the commencement of development on site.</p> <p>Reason: In the interest of proper planning and sustainable development.</p>
6.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the</p>

	<p>commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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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 judgment in an improper or inappropriate way.

. Louise Medland
Planning Inspector

21st August 2023