



An
Bord
Pleanála

Inspector's Report ABP315956-23

Development

Retention for a single storey bedroom and bathroom extension and retention of a well and a secondary sewage treatment system which serves both the existing year-round home on the land and this tourist/short-stay facility and for the provision of a new polishing filter

Location

Ballynabrocky Manor, Blessington, Co. Wicklow, W91 C7Y

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

22668

Applicant(s)

Ben Gorman

Type of Application

Retention Permission and Permission

Planning Authority Decision

Grant Permission with conditions

Type of Appeal

Applicant vs Financial Contribution

Appellant(s)

Ben Gorman

Observer(s)

N/A

Date of Site Inspection

N/A

Inspector

Andrew Hersey

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1.0 Site Location and Description

1.1. The subject site which is a stated area of 0.7ha is located in a rural area c5km to the south east of the Kilbride Settlement.

2.0 Proposed Development

2.1. The proposed development is for

- Retention for a single storey bedroom and bathroom extension and
- Retention of a well and
- Retention of a secondary sewage treatment system which serves both the existing year-round home on the land and this tourist/short-stay facility and
- Permission for a new polishing filter and the
- Permission for the use of the garden and parking areas within this site by resident guests

3.0 Planning Authority Decision

3.1. Decision

The planning authority granted permission subject to conditions on the 20th February 2023. Condition No. 2 states the following:

Before development commences, the developer shall pay the sum of €3,360 (three thousand, three hundred and sixty euro) to the Planning Authority as a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority.

The contribution sought is in accordance with Wicklow County Council's Development Contribution Scheme for the area in which the site is located and Section 48(1) of the Planning and Development Act 2000.

Where the contribution remains unpaid the monies payable shall be updated in accordance with the Wholesale Price Index as published by the Central Statistics Office on the 1st January of each year following the date of the Final Grant.

REASON: The public infrastructure and facilities included in the Development Contribution Scheme will facilitate the development and it is considered reasonable that the developer should contribute towards the cost thereof.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The report of the Planning Officer (dated 15th February 2022) reflects the decision of the Planning Authority.
- Details regarding the contribution are set out in a separate report (Carol Murphy SSO dated 17/02/2023) Contributions are based on a floorspace of 70sq.m. and on a contribution per square metre of €48.00 for commercial development

3.2.2. Other Technical Reports

- Not relevant

3.3. Submissions/Observations

- None received

4.0 Planning History

- None

5.0 Policy and Context

5.1. Development Plan

5.1.1. Wicklow County Development Plan 2022-2028

- Policy with respect of tourism accommodation is set out under Section 11.3 Tourism and Recreation Objectives

5.2. Wicklow County Development Contribution Scheme 2015

- Section 4.10 of the scheme states that there will be no double charging. Development contributions will not be paid on a change of use permission where the change of use

does not result in a significant intensification of use of demand on public infrastructure

- Section 4.6 states; Holiday homes, B&Bs and other similar types of tourist accommodation will be treated as being in the commercial category for the purposes of the scheme.

5.3. Section 28 Planning Guidelines

5.3.1. Development Contributions: Guidelines for Planning Authorities 2023 (Department of the Environment, Community and Local Government)

- Section 2 - Key Messages: While it is expected that planning authorities will ensure that developers make an appropriate contribution towards the costs of public infrastructure and facilities, the local authority must ensure that it avoids levying development contributions that are excessively high – development contributions are ultimately designed to offset only a portion of the costs of public infrastructure and facilities

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

- #### 5.5.1.
- Having regard to the nature and modest scale of the proposed development, its location in a rural area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and 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. An appeal against Condition No 2 (Section 48 Contributions) has been lodged by the first party

6.2. **Grounds of Appeal**

- That the most part of the holiday home was an existing building and therefore the contribution should be on the basis of the area which is seeking retention i.e. 33sq.m.

6.3. **Planning Authority Response**

6.4. A response was received 28th April 2023 which states that the Planning Authority has sought over the years contributions for change of use proposals, in particular where the change of use is from residential to commercial use. The Planning Authority in this instance states that the change of use from residential to commercial would result in an intensification of demand on public infrastructure. In this case no previous contributions have been paid for the subject structures, the previous authorised use was residential and the proposed use is commercial

6.5. **Observations**

- None

6.6. **Further Responses**

- None

7.0 **Assessment**

7.1. Section 48 (10)(b) of the Planning and Development Act 2000, as amended, provides that an appeal may be brought against a development contribution condition where the applicant considers that the terms of the General Development Contribution Scheme have not been properly applied. Therefore, the Board, is restricted to considering the merits of condition number six only and cannot consider the proposed development de novo.

7.2. Condition number two requires the payment of a development contribution of €3,360 in respect of public infrastructure and facilities benefitting development within 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 Wicklow County Councils Development Contribution Scheme

- 7.3. The terms of applying Development Contributions is set out within the South Dublin County Council Development Contribution Scheme 2021-2025 (hereunder referred to as SDCC DCS) Calculations are provided on a separate report (Carol Murphy SSO dated 17/02/2023) Contributions are based on a floorspace of 70sq.m. and on a contribution per square metre of €48.00 for commercial development
- 7.4. The proposed development as permitted includes for
- Retention permission of a single storey bedroom and bathroom extension with a floorspace of 33sq.m. and for retention of the use of the overall structure for tourist and short stay accommodation of up to three months in duration. Retention is also sought for a well and a secondary wastewater treatment system
 - Permission is also sought for a new polishing filter and use of the garden and parking areas within the site by resident guests.
- 7.5. I consider that contributions would apply to the first of the items above i.e. the retention of the extension and the retention of the change of use
- 7.6. Contributions would not apply to the proposed infrastructural elements of the proposals which the appellant sought retention and permission i.e. the well, the secondary treatment plant and the proposed polishing filter
- 7.7. The appellant consents to development contribution charges on the proposed extension for retention ie. 33sq.m. and states that based on a contribution charge of €48/sq.m. would result in a contribution of €1584.00. He asks the Board therefore to reduce the contribution to this amount
- 7.8. The appellant does not consider that contributions are applicable to the change of use element of the proposal i.e. the main part of the building which comprises of a combined kitchen and living room.
- 7.9. It is not clear from the documentation submitted with the application what the use of the building was prior to its commercial use. The documentation submitted including the development description refers to the structure in question as a building or a structure and that the said extension subject of retention was constructed 15 years ago. It is not clear as to

when the structure which pre-existed the extension was converted to residential use or if it had always been a residential use. It may have been that the structure in question was it a shed ancillary to the use of the house. Possibly its previous use was for agricultural purposes. It is accepted that the said structure existed pre 1963 and as such precluded from the requirement for planning permission. However, it is not clear, nor has the applicant submitted any documentation to suggest that a residential use existed pre 1963.

- 7.10. If the use was agricultural or storage then I would be of the opinion that a contribution regarding change of use would apply in this instance. Taking account of the fact that the development description refers to the structure as a building as opposed to a house or as a self-contained residential unit and without any evidence to support its use before the extension was constructed it is concluded that it is unlikely that a residential use existed in this building prior to the extension being built.
- 7.11. I further note with respect of the above that there has been no previous applications for planning permission in the said site
- 7.12. Section 4.6 of the Wicklow County Council Development Contribution Scheme states;
Holiday homes, B&Bs and other similar types of tourist accommodation will be treated as being in the commercial category for the purposes of the scheme.
- 7.13. The proposed development is for tourist accommodation and therefore a contribution of €48.00/sq.m. applies (as set out in Table 4.3 of the scheme)
- 7.14. With respect of the proposed extension for retention a contribution of €1584.00 would apply i.e. 33 (floorspace of extension) x €48/sq.m.
- 7.15. With respect of the change of use element and having regard to the fact that a contribution for its residential use has not been previously paid it is considered that a contribution of €1776.00 i.e. 37 (floorspace of area for change of use) x €48/sq.m.
- 7.16. The total contribution therefore would be €3360.00 which is contribution imposed by Wicklow County Council.
- 7.17. **Appropriate Assessment Screening**

Having regard to the nature and scale of the proposed development, the absence of emissions therefrom, the nature of receiving environment as a built up urban area and 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 the Board upholds condition no. 2 and impose a contribution of €3360.00

9.0 Reasons and Considerations

- 9.1. Section 48 of the Planning and Development Act 2000, as amended, requires planning authorities to make development contribution schemes which provide for the payment of a contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority and that is provided, or that it is intended will be provided, by or on behalf of a local authority. The Wicklow County Council Development Contribution Scheme 2015 (updated 2021) states that tourism related developments are treated in the commercial category and Table 4.3 states that commercial development is charged at the rate of €48.00/sq.m. Having regard to the same and having regard to the proposed development which includes for the retention of an extension and the retention of use of an existing building for tourism purposes both of which cumulatively measure 70sq.m., then the contribution applicable to this development is $48 \times 70 = €3360.00$, being the contribution imposed under Condition No. 2.
- 9.2. The Board therefore directs that condition 2 be upheld.
- 9.3. 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

5th July 2023