



An
Bord
Pleanála

Inspector's Report ABP – 316044-23

Development	Single storey dwelling to north of existing dwelling with entrance vehicular access and driveway from road leading to Vartry Wood development and associated sit works.
Location	Fatima, Ballinahinch, Ashford, Co. Wicklow.
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	22-1331
Applicant	Phillip Mulhall,
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant	Phillip Mulhall
Date of Site Inspection	24 th July, 2023.
Inspector	Jane Dennehy

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1.0 Site Location and Description

- 1.1. The site has a stated area of 2300 square metres and is that of a single storey detached house at the north- western edge of Ashford close to the Vartry Wood residential development and adjacent to No 1 Vartry Wood, a semi-detached two storey house. It has frontage and an entrance onto the east side of the R764 along which mature screen planting is to the west adjacent to a post and rail fencing.
- 1.2. The northern boundary along which there is a two metres' high wall green landscaped section to the Vartry Wood residential development. The ground level within the site are falls towards the west from the east.
- 1.3. There are landscaped open green spaces throughout the Vartry Wood development in which there are pedestrian paths adjacent to the road frontages throughout the development.
- 1.4. The Vartry Wood development comprises one hundred and thirty-three dwellings with vehicular access from the existing roundabout at the R764.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for formation of a rectangular space subdivision from the site of the existing dwelling and for construction of a detached bungalow with a stated floor are of 180 square metres along with off street parking and an entrance, via the adjoining development through a new opening in the wall on the northern site frontage. Private open space is shown to the west side of the footprint of the proposed dwelling. Post and wire fencing and screen planting is to be located along the newly formed boundary with the existing dwelling. The proposed foul and surface water drainage is to the existing connections on the site.
- 2.2. A letter of consent from the developer of the Vartry Woods development to the provision of the access through the adjoining open space is included in the application submission.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 14th February, 2023 the planning authority decided to refuse permission based on the following reason:-

“It is considered that the proposed entrance and driveway across public amenity space would result in the loss of public open space which forms part of the Vartry Wood estate, would create an obtrusive feature in this green area which would detract from the layout, character, function and visual amenities of this open space, and would set a precedent for similar haphazard development. The development would, therefore, seriously injure the residential amenities of property in the vicinity of Vartry Wood estate, would set precedent for further encroachment into this open space and would materially contravene the provisions of the development permitted under Order ABP 307230-20 (PIPR SH/202003). The proposed development 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 officer in his report notes that the area over which the access route is to be provided is designated as public open space to serve the permitted Vartry Wood development and that such a proposal would seriously injure the residential amenities of the surrounding area and in conflict with the grant of permission for the Vartry development (*P. A. Reg. Ref. PPR SH/202003 / ABP 307230-20 refers.*). However, there are no objections on density or design grounds and otherwise in principle infill development would be acceptable although there is no precedent along the section of the R764 on which the site is located according to the report.

Other Technical Reports

3.2.2. The report of the Environmental Scientist indicates a request for details and drawings for design and work methodology for the connection of the foul sewer to demonstrate protection of the riparian zone at the adjacent watercourse.

The report of Irish Water indicates no objection to the proposed development.

4.0 Planning History

P. A. Reg. Ref PPR 22/420:- Permission was refused for a similar development to the current proposal except for location of a vehicular entrance and driveway four metres from the position for the current proposal. The reason attached is similar to the reason for the decision to refuse permission for the current proposal.

5.0 Policy and Context

5.1. Development Plan

The operative development plan is the Wicklow County Development Plan, 2022-2028.

Policies and objectives for housing are in chapter 10 with Policy Objective H 10 for infill residential development.

Development and Design Standards are in Appendix 1.

Ashford is designated as a Level 5 Small Growth Town (Type 1) in the settlement hierarchy. It is one of five Level 5 settlements (Type 1) for which strategic policies objectives and town plans are in Volume 2, Part 2 of the Written Statement.

The overall site area comes within an area subject to the zoning objective Existing Residential: to protect and improve residential amenities of existing residential areas.

5.2. Natural Heritage Designations

The site location is not within the areas of any designated sites.

5.3. EIA Screening

5.4. Having regard to the nature and modest scale of the proposed development, its location in a built-up urban 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. Grounds of Appeal

An appeal was lodged by Liam Cullen Design and Planning on behalf of the applicant on 13th March, 2023 according to which the proposed development would have no negative impact on the level of public open space or the amenities of the Vartry Wood Development. According to the appeal:-

- The refusal of permission for the previous proposal under P. A. Reg. Ref. 22-140 is acceptable because the proposed access was over the centre line of the open space.
- The proposed access in the current application would have little or no negative impact on the dedicated public open space in the permitted development for the Vartry Wood development. It requires just sixteen square metres of the green area adjacent to the entrance and driveway to No 1 Vartry Wood and would not cut the dedicated open space. It is an acceptable solution limiting potential for obtrusive features in the green area.
- It will be an extension to the previously constructed footpath and driveways within the Vartry Wood development and is circa sixteen square metres in area out of a space of circa 1,827 square metres which is the equivalent to the area for just over 1.5 car spaces.
- According to the Inspector's report on the appeal under PL 307230-20 the Vartry Wood development has five areas of public open space the total gross area of which is 12,116 square metres and accounts for twenty-four per cent of the gross site area. This represents 6,000 square metres over the minimum requirement of fifteen percent site area required for open space according to the Wicklow County Development Plan.
- The developer of the Vartry Woods development has given written legal agreement for provision of the access through the adjoining open space.

6.2. Planning Authority Response

There is no submission from the planning authority on file.

7.0 Assessment

- 7.1. The applicant seeks in current proposal to address the issues within the reasoning for the prior decision to refuse permission under P. A. Reg. Ref. PR 22/420, by way of the change in the location for the proposed access route towards the side of the open space adjacent to No 1 Vartry Wood. As such the current proposal significantly ameliorates concerns as to visual obtrusiveness and detracting from the visual amenities of the open space attributable to the previous proposal for which permission was refused. The previous proposal in effect severs the open space by cutting through the centre whereas the current proposal involves severance of an area towards the edge from it which is less sensitive in terms of overall impact on visual and recreational amenity.
- 7.2. Notwithstanding the considerable reduced adverse impact relative to the prior unsuccessful proposal, the current proposal would give rise to precedent for similar development involving interference with dedicated public open space that is in material contravention of the grant of permission under P.A. Reg. Ref. PPR SH / 2020003. (PL 307230-20)
- 7.3. Due to the topography in the area and overall layout of the Vartry Woods Scheme, the dedicated public open space most of which is on sloped ground is a well-designed and positive and visually prominent public amenity within area with a clearly legible continuity and connectivity along the road frontages with the dwellings above and set back.
- 7.4. Further to review of the proposal, *de novo*, it is considered that proposed development would otherwise constitute satisfactory in terms of site configuration, site layout, dwelling form and design, selection of materials and finishes and residential qualitative standards and impact on amenities of adjoining properties. The potential amenity of the private open space which is at the side of the dwelling is reasonable and has good scope for sunlight. Provision is also made for on-site parking with space to facilitate access to and egress in forward gear.
- 7.5. Given the foregoing, it is recommended that the planning authority decision to refuse permission be upheld owing to the material conflict with the grant of permission for the Vartry Woods development in which the space proposed for an access route is within dedicated public open space.

Appropriate Assessment Screening

- 7.6. 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 r 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 AA at an initial stage.

8.0 Recommendation

In view of the foregoing, it is recommended that the planning authority decision be upheld, and that p permission be refused based on the following reasons and considerations.

9.0 Reasons and Considerations

The proposed development would materially contravene the grant of permission under P. A. Register Reference, SH / 2020003. (PL 307230-20) for the adjoining residential development and, would set undesirable precedent for similar development owing to the proposed use of an area within the dedicated public open space as an access route to and from the public road for the proposed development. As a result, the proposed development would 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.

Jane Dennehy
Inspector
27th July 2023.