



An
Bord
Pleanála

Inspector's Report ABP-317133-23

Development	Single storey dwelling house, sewerage treatment system, bored well, alterations to existing entrance and all ancillary site works.
Location	Griffinstown Glen, Grangecon, Co. Wicklow.
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	23/109
Applicant(s)	Chloe & Robert Dunne.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party Appeal
Appellant(s)	Carolina Manthei and Ger Loughlin
Observer(s)	None.
Date of Site Inspection	07/09/2023.
Inspector	Adam Kearney.

1.0 Site Location and Description

The appeal site, with a stated area of 0.408 Ha is part of a larger 1.7 Ha holding. The site is located in the townland of Griffenstown Glen approximately 2.5km north of Grangecon. The appeal site is accessed from a local road (L8306-0). The lands can be characterised as agricultural land and are currently used for equestrian activity. Adjoining uses include a forestry plantation to the northeast on the opposite side of the public road and a larger plantation immediately west of the subject site. Rathsallagh Golf & Country Club is 0.5km north and Dunlavin village 4.5km northeast. Immediately south of the site is a private access lane to a dwelling and to the north of the site is a two-storey detached dwelling.

2.0 Proposed Development

It is proposed to construct a single storey dwelling house, sewerage treatment system, bored well, alterations to existing entrance and all ancillary site works

3.0 Planning Authority Decision

3.1. Decision

Grant Permission subject to 12 Conditions

3.2. Planning Authority Reports

3.2.1. Planning Reports

The proposed development was considered to be acceptable in the context of the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports

EHO – No Objections

Environment – No Objections

4.0 Planning History

Ref 21/429 Permission Granted for a dwelling and refused on appeal ABP-311024-21 for following reasons.

1. Economic or Social housing need not established (NPO 19)
2. In the absence of any identified local based need for the house at this location, would result in a haphazard and unsustainable form of development in an un-serviced area.
3. The Board could not be satisfied, on the basis of the information on the file, that the impact of the proposed development in conjunction with existing wastewater treatment systems in the area would not give rise to a risk of groundwater pollution.

5.0 Policy and Context

5.1. National Planning Framework

National Policy Objective 19 (NPO 19)

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.

In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.2. Development Plan

Wicklow County Development Plan 2022 - 2028

6.3.8 Rural Housing

Wicklow's countryside hosts a variety of uses including rural communities, attractive towns and villages, agriculture, forestry, tourism, renewable energy, rural enterprise and scenic landscapes. The Planning Authority will continue to carefully manage demand for housing in the countryside in order to protect natural resources, continue to cater for a variety of land uses, protect the environment and rural landscape, to avoid urban generated rural housing and ensure the needs of those with a bona fide necessity to live in the rural area are facilitated. It is also important that the scale of rural housing permitted does not undermine the role of small towns and villages and threaten their viability.

CPO 6.1 New housing development shall be required to locate on suitably zoned or designated land in settlements and will only be considered in the open countryside when it is for the provision of a rural dwelling for those with a demonstrable housing social or economic need to live in the open countryside.

CPO 6.41 Facilitate residential development in the open countryside for 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.

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. In this regard, persons intrinsically linked to a rural area may include:

- Permanent native residents of that rural area (including Level 8 and 9 settlements) i.e. a person who was born and reared in the same rural area as the proposed development site and permanently resides there;

- A former permanent native of the area (including Level 8 and 9 settlements) who has not resided in that rural area for many years (for example having moved into a town or due to emigration) but was born and reared in the same rural area as the proposed development site, has strong social ties to that area, and now wishes to return to their local area.
- A close relative who has inherited, either as a gift or on death, an agricultural holding or site for his/her own purposes and can demonstrate a social need to live in that particular rural area.
- The son or daughter of a landowner who has inherited a site for the purpose of building a one-off rural house and where the land has been in family ownership for at least 10 years prior to the application for planning permission and can demonstrate a social need to live in that particular rural area.
- Persons who were permanent native residents of a rural area but due to the expansion of an adjacent town / village, the family home place is now located within the development boundary of the town / village.
- Local applicants who are intrinsically linked to their local area and, while not exclusively involved in agricultural or rural employment, have access to an affordable local site.
- Local applicants who provide care services to family members and those working in healthcare provision locally; and
- Other such persons as may have a definable strong social need to live in that particular rural area, which can be demonstrated by way of evidence of strong social or familial connections, connection to the local community / local organisations etc as may arise on a case by case basis.

5.3. **Natural Heritage Designations**

None in the vicinity.

5.4. **EIA Screening**

5.5. 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

- Proposed Development contrary to Sustainable Rural Housing Guidelines, whereby it is stated that the applicants do not have an economic need to reside in the area.
- Development is contrary to objectives in the CDP
- Cannot reasonably qualify for a house when employment is located in urban areas of Kilcullen and Newbridge
- Layout and design of dwelling contrary to the existing pattern of development in the area
- Proposal is contrary to Appendix 4 of SRHG which pertains to Ribbon Development
- Insufficient legal interest/consent to enable sightlines.
- Proposal contrary to the CDP which seeks to protect rural area from urban generated housing, and to protect trees and hedgerow.

6.2. Applicant Response

- Reiterates that they are from the area and have lived 400m from the site for all of their life.
- 2 children born at this location (parents of the applicant and original family home growing up)
- One child in NS other entering pre school
- Younger child has a medical condition and the child's grandmother is his carer

- Applicant suffered an injury that impacted her career, currently employed in a pharmaceutical plant in Newbridge
- Both applicants are from and have Intrinsic links to the area
- Family support is essential due to health circumstances as detailed.
- The family keep horses on their lands and activity is registered as an Equine Business

6.3. **Planning Authority Response**

- None

6.4. **Observations**

- None

6.5. **Further Responses**

- None

7.0 **Assessment**

7.1. I have visited the site and read the file and consider the primary issues to be Housing Need and Wastewater treatment

7.2. The Local Authority accept that the applicants have a bona fide housing need for a dwelling in the area. On appeal in 2021 the board determined that the appellants did not satisfy NPO19 but the Local Authority on this occasion have again Granted permission.

7.3. While the last Board decision ABP-311024-21 is relatively recent I am minded to re-appraise the substantive issue of housing need based on the current application, changed circumstances and the adoption of a new development plan.

7.4. It is important to acknowledge that the Wicklow County Development Plan 2022-2028 would have been appraised by the Office of the Planning Regulator (OPR) who has oversight over the adoption of all statutory plans and with a remit to ensure the wording with regard to Rural Settlement Policy remained true to the overarching

National Planning Framework. The applicants in my mind are eligible by way of the following criteria

‘Local applicants who are intrinsically linked to their local area and, while not exclusively involved in agricultural or rural employment, have access to an affordable local site’.

There is another applicable criterion that refers to caring for family members and although this is usually an adult child caring for an elderly or infirm parent the current situation where the grandparent is caring for the grandchild is equally applicable.

- 7.5. I feel it must be borne in mind that the family currently live in the area and have done so as a couple for 12 years and in the case of their children for the totality of their lives. To demand a family to uproot and relocate to a nearby town where they currently avail of work to support their rural based family is impractical in the extreme and furthermore unlikely to ever happen. A more likely outcome is that the applicants and their children would remain in their current unsuitable arrangement *ad infinitum*.
- 7.6. A preponderance of applications for rural housing declined by the board are justified in that the applicants are quite often residing in an urban area and seeking to relocate to a rural area out of a desire rather than an economic or social need which is the very definition of urban generated housing. However, in this situation I feel the applicants have demonstrated a fundamental housing need and in addition have presented exceptional health circumstance that further support their need for housing in the area.
- 7.7. With regard to the WWTP I note the site characterisation report and the Local Authority satisfaction with the results and ability of the site to treat wastewater from the proposed dwelling. Having visited the site I am satisfied from a visual inspection that the lands are not poor draining and there is not a large concentration of dwellings in the immediate vicinity.
- 7.8. Finally in relation to vehicular access I am satisfied that the entrance can avail of the requisite sightlines as already supported by a previous appeal deliberation and the roads department of the Local Authority.

8.0 Appropriate Assessment Screening

Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site..

9.0 Recommendation

I recommend that permission is Granted for the following reasons and considerations.

10.0 Reasons and Considerations

Having regard to the objectives of the Wicklow County Development Plan 2022 - 2028 and Objective CPO 6.41 which allows for essential rural housing need, it is considered that the applicant comes within the scope of the housing need under multiple criteria and further, satisfies national policy NPO19 which sets out the requirement for a demonstrable social need. Subject to the compliance with the attached conditions it is considered that the proposed development of a modest detached bungalow can be integrated successfully into the landscape, would not give rise to a public health hazard or traffic hazard and would not have a detrimental impact upon the residential amenities of other dwellings in the area. On this basis the proposed development would be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following 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
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	<p>particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.</p> <p>b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.</p> <p>Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.</p>
3.	<p>(a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document entitled "Code of Practice – Domestic Waste Water Treatment Systems (p.e. ≤ 10)" – Environmental Protection Agency, 2021. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.</p> <p>(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.</p>

	<p>(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.</p> <p>(d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.</p> <p>(e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.</p> <p>Reason: In the interest of public health.</p>
4.	<p>The site shall be landscaped, using only indigenous deciduous plants and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Any plants or trees which die, are diseased or damaged shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity</p>
5.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p>Reason: In the interest of visual amenity.</p>

6.	<p>The developer shall enter into water and wastewater connection agreements with Uisce Eireann.</p> <p>Reason: In the interest of public health.</p>
7.	<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>
8.	<p>Details of the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
9.	<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 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>

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.

.Adam Kearney

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Planning Inspector

25th October 2023