



An
Bord
Pleanála

Inspector's Report

ABP-317370-23

Development	House, vehicular and pedestrian access and all associated works
Location	17 Rathclaren, Killarney Road, Bray, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	23/297
Applicant(s)	Ray and Catherine Finn.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party V Refusal
Appellant(s)	Ray and Catherine Finn.
Observer(s)	None.
Date of Site Inspection	17 th August 2023.
Inspector	Susan McHugh

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1.0 Site Location and Description

- 1.1. The subject site is located in a small residential development to the west of Killarney Road, in Bray, Co. Wicklow. The site forms the side garden of an existing two storey dwelling at No.17 Rathclaren.
- 1.2. The subject site is situated within a mature, established residential area.
- 1.3. The existing development within the roughly triangular landholding outlined in blue on the site location map comprises of a detached two storey dwelling. The general character of the area is characterised by similar house types some of which have garage conversions to the side and mature planting.
- 1.4. The appeal site has a stated area of 292sqm is irregularly shaped and is characterised by mature planting along its southwestern boundary. The site is bounded to the southwest by another detached two storey dwelling house no. 16 Rathclaren.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a two-storey dwelling ostensibly along the existing west facing gable of the existing house. The proposed dwelling house no 17A has a stated area of 91sqm. It comprises two storey house with pitched roof, entrance porch.
- 2.2. One car parking space is proposed, and the site is served by mains water and sewerage.
- 2.3. It is proposed to create a new vehicular entrance and separate pedestrian gate.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority **refused** permission for one reason as follows:

‘Having regard to:

- The character of the proposed dwelling, its prominent position and its inconsistency in design, appearance and siting with dwellings in the Rathclaren housing estate;
- The awkward relationship to No.17 Rathclaren of both the proposed dwelling and its associated car parking and boundary treatments; and,
- The poorly laid out private amenity space and resulting overlooking of the rear garden of the proposed dwelling.

It is considered the proposed new dwelling would overwhelm the existing dwelling, would appear incongruous within, and detract from, the visual amenities of the area, and would not accord with County Development Plan standards, which provide that appropriate infill residential development be in accordance with principles of good design and protection of existing residential amenity, shall generally be at a density that respects the established character of the area in which it is located and protect the residential amenity of adjoining properties. If permitted, the proposal would set an undesirable future precedent for similar types of haphazard development and would be contrary to the proper planning and sustainable development of the area.'

3.2. Planning Authority Reports

3.2.1. Planning Report (dated 15/05/2023)

Basis for planning authority decision.

Principle - acceptable subject to an acceptable design.

Design/Scale/Layout/Impact on Residential Amenity - Design in keeping with existing dwellings, although lower zinc roof will deviate from the existing. Non-use of mock Georgian windows may also be noticeable. Front building line siting is slightly forward of the existing No.17 and noticeably forward of the adjacent N.16. Proposed dwelling to be sited c.300mm from existing house and c.50mm from the site boundary with No.16. Concern regarding proximity of gutters serving the existing and proposed dwellings in terms of maintenance.

Siting and overall design out of keeping with the area and based on the prominent location would be, detrimental to visual amenity.

Impact on Residential Amenity - Overlooking, overshadowing or overbearing impacts on surrounding properties will not be excessive and acceptable.

Private Amenity Space - Acceptable in principle, however, due to the awkward nature of the site, the existing rear conservatory extension proposal will create poor amenity spaces for both the existing proposed units and is haphazard.

Access & Parking - New access points result in a negative impact e.g. parking the new house's vehicle in front (c.100mm) from front living room window of the existing house. Proposed siting of the dwelling does not follow the established stepping of the building line (too close to the public footpath). Proposed parking is haphazard.

3.2.2. *Other Technical Reports*

Water and Environmental Services: Report dated 05/04/2023 recommends further information.

3.3. **Prescribed Bodies**

Irish Water: Report dated 28/04/2023 no objection.

3.4. **Third Party Observations**

One observation was submitted to the Planning Authority on behalf of a number of adjoining residents. The issues raised can be summarised as follows;

- Site Notice location, erection date, provides incorrect information.
- Issue with foul water drainage
- Design does not integrate well into the surrounding houses.
- Traffic safety. Proposed driveway onto choke point of cul-de-sac.
- Private amenity space is insufficient.
- Site is prominent visually sensitive location.
- Increases density negatively.
- Negative impact on light to No.16.

- Low architectural quality

4.0 Planning History

PA Reg.Ref. 16/949

Permission granted for a two-storey extension to west side with hipped roof at No.17 Rathclaren, Killarney Road, Bray, Co. Wicklow.

PA Reg.Ref. 05/630285

Permission granted for a two-storey extension to side to provide sitting room and living room at ground floor and ensuite bedroom and bathroom at first floor at No.17 Rathclaren, Killarney Road, Bray, Co. Wicklow.

5.0 Policy Context

5.1. National and Regional Policy

- 5.1.1. The 'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009' note that, in general, increased densities should be encouraged on residentially zoned lands and that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the potential to revitalise areas by utilising the capacity of existing social and physical infrastructure. Such developments can be provided either by infill or by sub-division. In respect of infill residential development potential site may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.'

5.2. Development Plan

The applicable Development Plan is the Wicklow County Development Plan 2022-2028.

Relevant objectives include the following;

CPO 6.3 New housing development shall enhance and improve the residential amenity of any location, shall provide for the highest possible standard of living of occupants and in particular, shall not reduce to an unacceptable degree the level of amenity enjoyed by existing residents in the area.

CPO 6.4 All new housing developments (including single and rural houses) shall achieve the highest quality of layout and design, in accordance with the standards set out in the Development and Design Standards (Appendix 1) and the Wicklow Single Rural House Design Guide (Appendix 2).

Existing Residential Areas

CPO 6.21 In areas zoned 'Existing Residential' house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity will normally be permitted (other than on lands permitted or designated as open space, see CPO 6.25 below). While new developments shall have regard to the protection of the residential and architectural amenities of houses in the immediate environs, alternative and contemporary designs shall be encouraged (including alternative materials, heights and building forms), to provide for visual diversity.

CPO 6.22 In existing residential areas, small scale infill development shall generally be at a density that respects the established character of the area in which it is located, subject to the protection of the residential amenity of adjoining properties. However, on large sites or in areas where previously unserved, low density housing becomes served by mains water services, consideration will be given to densities above the prevailing density, subject to adherence to normal siting and design criteria.

5.3. **Bray Municipal District Local Area Plan, 2018-2024**

The subject site is zoned '**RE – Existing Residential**' with the stated land use zoning objective 'To protect, provide and improve residential amenities of existing residential areas.'

Description: "To provide for house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity. In existing residential areas, the areas of open space permitted, designated or dedicated solely to the use of the residents will normally be zoned 'RE' as they form an intrinsic part of the overall residential development;) however new housing or other non-community related uses will not normally be permitted."

5.4. Natural Heritage Designations

The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The Bray Head Special Area of Conservation (Site Code:000714)
- The Ballyman Glen Special Area of Conservation (Site Code: 000713)

5.5. EIA Screening

Having regard to the minor nature and scale of the development proposed, the site location in a built-up area outside of any protected site, 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.

6.0 The Appeal

6.1. Grounds of Appeal

The first party appeal against the decision to refuse permission by the planning authority has been lodged by the Tom Duffy Architects on behalf of the applicant. The appeal was accompanied by two medical letters in respect of Mr. Raymond Finn

the owner of the appeal site and applicants' father. The main grounds of the appeal can be summarised as follows;

- *Design* - Proposed house to match existing house.
- *Prominent position* – Proposed house in same position as previously approved extension Reg.Ref.16/949.
- *Finishes* – Roof material and porch differ but this can be addressed by condition.
- *Streetscape* – Proposal infills a gap, roof is substantially lower avoiding overbearing and overshadowing.
- *Relationship with no.17* – House carefully designed to make best use of the site available.
- *Car Parking* – Space can be relocated further away from the existing house and planted. Parking requirement has been met and no objection from Roads and Traffic Dept of the PA.
- *Boundary treatments* – Propose a mix of hard and soft landscaping.
- *Private Amenity Space Layout* – Quantum meets CDP requirements and optimises space available including suds proposals.
- *Overlooking of the Rear Garden* – Minimal and can be addressed by landscaping. The gardens as essentially shared by family and extended family.
- *Overbearing* – Dispute that the proposed dwelling would overwhelm the existing given its overall bulk and massing, contend that it is subordinate in nature and appearance, this is consistent with the planners report.
- *Residential Amenities* – Dispute that the proposed house would be incongruous and detract from residential amenities of the area.
- *CDP Standards* – Proposal is substantially in compliance with standards.
- *Density* – Design respects the character of the area, is subordinate to the existing house and matches in terms of materials eaves height and window proportions.

6.2. **Planning Authority Response**

None.

6.3. **Observations**

None.

7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal, Appropriate Assessment also needs to be addressed. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings;

- Principle of Development
- Residential Amenity
- Car Parking and Boundary Treatment
- Precedent
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. The subject site is zoned as 'RE'-Existing Residential' in the Bray Municipal District Local Area Plan, 2018-2024: with the stated land use zoning objective 'To protect, provide and improve residential amenities of existing residential areas.'

7.2.2. Reason for refusal no.1 refers to Wicklow County Development Plan 2022-2028 standards which provide that small infill development shall generally be at a density that respects the established character of the area in which it is located.

7.2.3. I note that the site is located in an established residential area where public services are available, and that the development of appropriately designed infill housing would typically be encouraged in such areas provided it integrates successfully with the existing pattern of development and adequate consideration is given to the need to protect the amenities of existing properties.

- 7.2.4. While the principle of infill development can be supported within the residential land use zoning, it needs to be ascertained whether the proposed development is in keeping with the established character and pattern of development in the vicinity and would not be detrimental to the amenities of adjoining properties or the character of the area.
- 7.2.5. In this regard I would note that the area is characterised by well established, medium density, two storey, semi-detached suburban type housing.
- 7.2.6. The established pattern and character of development in the area is one of dwelling houses with rear gardens, smaller front gardens and off-street parking. It is noted that houses are typically staggered along the street and that many have extended to the side and or extended to the side and rear.
- 7.2.7. The proposed development results in the subdivision of the site and the construction of a dwelling to the side of the existing house. While I acknowledge that there is an attempt to respect the established building line, the angled façade referencing both the existing properties to the east and west, in my view, is not in keeping with the established pattern and character of development.
- 7.2.8. In my opinion, the subdivision of the site to accommodate an additional dwelling constitutes overdevelopment of the site at a prominent location within the development.
- 7.2.9. I note permission has been granted twice previously for a two storey extension to the side of no.17 Rathclaren. In my opinion, the subject site does not lend itself to the subdivision as proposed and previous proposals to extend the existing house represents a far more desirable use of the site.
- 7.2.10. The applicant asserts that the footprint massing and scale of the proposed house is similar to the extensions previously approved on the site. The key difference, however, is that previously granted permissions for extensions did not rely on the subdivision of the overall site necessary to provide private amenity space and carparking. I would also agree with the planning authority that an extension to the existing house would be more appropriate.
- 7.2.11. I would concur with the planning authority that to permit infill development on this site would represent haphazard development, which would be significantly out of keeping

with the established pattern of development and character of the area. I am of the view that the proposed development would be detrimental to the character of the streetscape and detract from the character of the area.

- 7.2.12. I am satisfied, therefore, that the proposed development which does not in my opinion respect the established character of the area in which it is located, would be contrary to CPO 6.22 of the Wicklow County Development Plan.
- 7.2.13. I am satisfied, therefore, that the proposed development represents haphazard infill development, would constitute overdevelopment of the site, and would be significantly out of keeping with the established pattern of development and character of the area and should be refused.

7.3. Residential Amenity

- 7.3.1. Having regard to the Guidelines for Sustainable Residential Development and the provisions of the current development plan the acceptability or otherwise of the proposed development will be subject to the need to attain a balance between the reasonable protection of the amenities and privacy of adjoining property and the need to provide additional residential development at this location. I propose to address such matters in the following sections.
- 7.3.2. Reason for refusal no.1 refers to principles of good design and protection of existing residential amenity. The PA had regard to the impact of the proposed development on the residential amenity of the proposed and existing house and that of adjoining properties. It notes the awkward relationship to No.17 of both the proposed dwelling and its associated car parking, boundary treatments and private amenity space.
- 7.3.3. It is submitted by the applicant that the proposed development satisfies CDP standards for infill development in terms of design and layout etc. and that the current appeal should be considered favourably by the Board. It further makes the point that the floor area of the proposed house is 91sq.m is generous in scale and complies with the provisions of the Quality Housing for Sustainable Communities – Best Practice Guidelines.
- 7.3.4. The applicant further asserts in the appeal that the design of the proposed house will match the existing house, that finishes to the roof and porch can be conditioned and

that the roof is substantially lower than the existing house such that the proposed house will not be overbearing or give rise to overshadowing.

- 7.3.5. The subject development comprises a two storey dwelling set at an angle from and extending along the gable of the existing dwelling no.17 Rathclaren. It is clear that the shape of the overall site and location of the existing house have dictated the layout of the proposed house. The design the proposed infill house is orientated in a westerly direction and results in a compressed design given the available triangular shape front part of the site.
- 7.4. In my opinion, the design, scale and massing and roof profile of the proposed house in no way reflects the design of the existing house or adjoining houses. I also consider that changes to the fenestration and use of alternative finishes to the roof and porch would not address the fundamental design issue which in my opinion relates to the irregular shape of the house.
- 7.4.1. The private amenity space is provided to the south and east with access door from the kitchen/dining/living area giving level access to the outdoor space. The rear garden of no. 17 is to be subdivided such that the private open space to the proposed house would wrap around the rear of the existing living room and glass conservatory, with a rear garden to the existing house remaining along the south eastern boundary. The private amenity space to serve the proposed and existing house comply with the minimum private amenity space standards.
- 7.4.2. The issue however, is that the proposed configuration of the private amenity space will result in a very poor quality of private open space serving the proposed and existing house, as each will result in overlooking of the other. I do not accept as asserted by the applicant that the issue of overlooking can be addressed with planting, and that the assertion that amenity space will be effectively shared by family and extended family somehow negates the issue.
- 7.4.3. I am satisfied, that the quality of the private amenity space proposed to serve the proposed house and area remaining to serve the existing house is totally unacceptable.
- 7.4.4. I am satisfied, therefore, that the proposed development which does not in my opinion protect the residential amenity of existing and future occupants and would be contrary to CPO 6.21 of the Wicklow County Development Plan.

7.4.5. I am satisfied, therefore, that the reason for refusal should be upheld.

7.5. Car Parking and Boundary Treatment

7.5.1. The existing house includes a vehicular access and driveway. It is noted that the details in relation to car parking for the proposed house indicate that one parking space is proposed along the front of the existing house. The carparking space is located directly in front of the existing living room bay window of no.17.

7.5.2. The reason for refusal refers to the awkward relationship to No.17 of both the proposed dwelling and its associated car parking and boundary treatments. The applicant has indicated in the appeal that that the space can be relocated further away from the existing house and planted. In my opinion the opportunity to do so is extremely limited.

7.5.3. I am satisfied, therefore, that on the issue of carparking and boundary treatments for refusal should be upheld.

7.6. Precedent

7.6.1. Specifically, the reason for refusal states that 'if permitted, the proposal would set an undesirable future precedent for similar types of haphazard development and would be contrary to the proper planning and sustainable development of the area.'

7.6.2. While each application is considered on its merits, I can find no other example of a similar permitted development in the area and I am of the view that to permit this development would not result in a constructive precedent.

7.6.3. I am satisfied, therefore, that on this issue of precedent for refusal should be upheld.

7.7. Appropriate Assessment

7.7.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up area, no appropriate assessment issues arise, and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

8.1. I recommend that permission be **refused** for the reasons and considerations below.

9.0 Reasons and Considerations

Having regard to the pattern of development in the area, subdivision of the site would represent inappropriate haphazard infill development which would conflict with the established pattern and character of development in the area. It is considered that the proposed development would not represent good design or protect existing residential amenity and that of future occupants. The proposed infill development would, therefore, be contrary to objectives CPO 6.21 and CPO 6.22 of the Wicklow County Development Plan 2022-2028.

Furthermore, the proposed development would set an undesirable precedent for similar subdivision of sites and would, therefore, 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.

Susan McHugh
Senior Planning Inspector

18th August 2023