



An
Bord
Pleanála

Inspector's Report
ABP317564-23 R

Development

Removal of existing structure, refurbish farmhouse building to provide a dwelling with a new wastewater treatment tank and percolation area and all other associated works.

Location

Tithewer, Newtownmountkennedy, County Wicklow.

Planning Authority

Wicklow County Council.

Planning Authority Reg. Ref.

22/1334.

Applicant(s)

Audrey Nolan & Dara Cooke.

Type of Application

Permission.

Planning Authority Decision

Permission Refused

Type of Appeal

First Party v Refusal.

Appellant(s)

Audrey Nolan & Dara Cooke.

Observer(s)

None.

Date of Site Inspection

15th Day of November 2023.

Inspector

Ann O'Leary.

1.0 Site Location and Description:

The subject site measuring .44ha is situated within a rural area of open countryside which has been designated as an Area of High Amenity in the Wicklow County Development Plan 2022-2028. The site is part of a larger holding and is overlooked by the Great Sugar Loaf Mountain to the north and the Vartry Reservoir is situated to the west. The site features an unoccupied old stone farmhouse in ruins and an occupied (by the applicant) pre-fabricated dwelling.

These are accessed via an undeveloped road / farm track from the farm entrance which shares an access road with the 'Hilltop Sporting Club' from its junction with the R765 Kilpeddar / Roundwood Road. The farm entrance at the junction with the R765 is located 4.7 km west of Newtownmountkennedy, County Wicklow. Other onsite farm boundaries were not noted.

2.0 Proposed Development:

Permission is sought for the following;

- The removal of an existing pre-fabricated occupied dwelling and the refurbishment of an existing stone farmhouse building, currently in ruins, to provide a dwelling together, with waste water treatment tank and percolation area and all other associated works.
- The proposed dwelling measures 143 m² in floor area and circa 7 m at the highest point. The part of the building to be demolished is 45 m².
- The proposed refurbished and extended building would consist of a four-bedroom dwelling part single storey and part two storey. The proposed external finishes are stone bonded with concrete.
- The application was accompanied by the following documentation within the time extension allowed to the applicant.
 - Declaration from the applicant that he works and manages the family farm full time and needs a dwelling for himself and his family;
 - Declaration from the applicant's father that he has retired from farming and that the applicant has inherited the farm.

- Letters from the GAA and the local school that the applicant has strong ties with the area.

3.0 Planning Authority Decision (15th day of June 2023)

Permission was Refused for the following three reasons:

1. The proposed development would contravene the objectives of the County Development Plan as due to the ruinous nature of the existing structure it does not meet the necessary support criteria for conversion / reinstatement under objective CPO 6.43 of the development plan.
 - the original walls must be substantially intact – rebuilding of structures of a ruinous nature will not be considered;
 - buildings must be of local, visual, architectural or historical interest;
 - buildings must be capable of undergoing conversion / rebuilding and their original appearance must be substantially retained; (a structural survey by a qualified engineer will be required with any planning application); and
 - works must be executed in a sensitive manner and retain architecturally important features wherever possible and make use of traditional and complementary materials, techniques and specifications.
- 2 Given the ruinous nature of the existing structure the proposed development would constitute a new rural dwelling and would not represent a necessary dwelling in this landscape designated 'Area of High Amenity' contrary to the Settlement Strategy for the Rural Area as detailed in the County Development Plan Objective 6.41 and the criteria set out in Table 6.3.
- 3 Having regard to the inadequacy of the access laneway serving the site in terms of width/alignment and structural condition, it is considered that the laneway is unsuitable to service the proposed dwelling and would be contrary to the proper planning and sustainable development of the area.

Planning Authority Reports

3.1 Planning Report:

The planner's report dated the 8th day of June 2023 recommended refusal; the main points of the planner's report are as follows:

- Having regard to the ruinous state of the existing structure the proposed development would constitute a new rural dwelling. It is considered that the proposal would not represent a necessary dwelling in this landscape designated Area of High Amenity contrary to the settlement strategy for the area as set out in Chapter 4 of the Wicklow County Development Plan 2022–2028
- The applicant does not come within the scope of housing need criteria as set out under objective CPO 6.41 of the County Development Plan 2022–2028 as a functional, social and economic need to live in this area designated an Area of High Amenity has not been established.
- Having regard to the inadequacy of the access lane serving the site in terms of width alignment and structural condition it is considered that the laneway is unsuitable to service the proposed dwelling and would be contrary to proper planning and sustainable development.
- The Planners Report recommended refusal.

3.2 Other Technical Reports:

- **Roads Report:** None received.
- **Senior Environmental Health Officer:** recommends approval of the proposed waste water treatment system subject to condition.

The planning authority invited observations from An Taisce, Failte Ireland and The Heritage Council, with no responses received.

4.0 Planning History

- **PA Reg Ref. 90/5842** Outline Permission with nine conditions was granted on the 11th day of October 1990 to Patrick Cooke for the demolition of an existing farmhouse and the provision of a new road and entrance and house.
 - This grant of permission was not acted upon and Mr Cooke continues to live in the house on the farm in which he lived in 1990 when the permission was granted. The current permission being sought by his son Dara is for the same site.
- Other permissions granted on family land.
- **PA Reg Ref 02/7036** Permission granted to Dara Cooke on the 14th day of July 2005 with 13 conditions for a four bed-roomed bungalow, well & septic tank.

5.0 Policy Context

5.1 Wicklow County Development Plan 2022-2028

Objective 4.14 of the County Development Plan commits to the protection of key assets in rural areas / open countryside and to support quality of life and economic vitality.

Objective 4.15 commits to the protection and promotion of the quality, character, and distinctiveness of the rural landscape and landscapes located within an area of high amenity.

Objective CPO 6.41 commits to 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.

Table 6.3 Rural Housing Policy Housing Need / Necessary Dwelling This is defined as those who can demonstrate a clear need for new housing.

Objective 6.43 supports the conversion / reinstatement of abandoned residential buildings back to residential use in rural areas subject to qualifying criteria as follows.

- the original walls must be substantially intact – rebuilding of structures of a ruinous nature will not be considered;
- buildings must be of local, visual, architectural or historical interest;
- buildings must be capable of undergoing conversion / rebuilding and their original appearance must be substantially retained; (a structural survey by a qualified engineer will be required with any planning application); and
- works must be executed in a sensitive manner and retain architecturally important features wherever possible and make use of traditional and complementary materials, techniques and specifications.

Objective 12.34 promotes sustainable transport under the guidance of and general compliance with relevant Design Manuals, Guidelines, Traffic Management, and Site Development Works for Housing as appropriate.

Objective 13.16 provides for Private Wastewater Treatment Plants for single rural houses.

It is policy of the County Development Plan to protect, promote, enhance, and facilitate the natural and cultural heritage, and biodiversity within rural areas / open countryside and those located within an area of high amenity.

5.1.1 Natural Heritage Designations

There are no natural heritage designations relevant to this case.

5.1.2 EIA Screening

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. The Appeal

6.1 Grounds of Appeal

This is a first party appeal against the decision by the planning authority to refuse planning permission for the reinstatement / conversion to residential, of an old stone farmhouse in ruins on the subject site to provide a necessary dwelling for the applicant and his family; the grounds of the appeal are as follows:

- Objective CPO 6.41 of the CDP commits to 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.
- Table 6.3 Rural Housing Policy Housing Need / Necessary Dwelling. This is defined as those who can demonstrate a clear need for new housing.
- Under the provisions of CPO 6.41 and Table 6.3 of the CDP the applicant claims a demonstrable functional social and economic need to live in the open countryside in order to work and manage the family farm ownership of which has been transferred to him, documentary support supplied.
- The proposed dwelling will be a necessary dwelling in the rural landscape as the applicant needs a suitable home on the farm holding for himself and his family in which to live as he continues to work and manage his farm on a full-time basis.
- Under the provisions of objective 6.43 and Table 3 of the CDP which supports the conversion / reinstatement of abandoned residential buildings

back to residential use in rural areas for those with a need to live in the open countryside the applicant claims a right for the reinstatement of the existing farmhouse and the demolition of the prefabricated dwelling in which he currently resides alone as it is an unsuitable dwelling in which to raise a young family.

- The applicant claims a precedent for the granting of planning permission has been set as outline planning permission was granted to the applicant's father Mr Patrick Cooke (PA Reg Ref. 90/5842) for the demolition of the existing farmhouse and the construction of a new house, road and farm entrance.
- Planning permission was also granted to the applicant for a four bedroomed bungalow on 14th day of July 2005 (PA Ref 02/7036). This dwelling has been transferred to the applicant's sister as part of her inheritance of the family farm. Documentary support provided Land registry Folio number WW32044F.

6.2 Planning Authority Response:

None received.

6.3 Observations

None received.

7.0 Assessment

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

- Rural Housing Need
- Conversion / Reinstatement of the existing farmhouse
- Access to the proposed development
- Other Matters - Precedent

7.1 Rural Housing Need

The applicant claims a clear functional, social and economic need to live in the open countryside under the provisions of Objective 6.41 and Table 6.3 of the CDP in order to work and manage his farm full time and raise his family. He argues therefore that the proposed dwelling will be a necessary-dwelling in the open countryside.

Documentary support has been submitted on the activities and economic viability of the farm.

Reason for refusal no. 2 has not been addressed by the applicant in the grounds of appeal, and the decision of the PA should be upheld.

7.2 Conversion / Reinstatement of the existing farmhouse

The applicant claims that the existing structure is suitable for conversion / reinstatement as a family dwelling under the provisions of Objective 6.43 and Table 6.3 of the CDP. It is further stated that the design features of the proposed dwelling can be agreed upon if the development is accepted in principle to ensure it sits seamlessly into this High Amenity Landscape.

Objective CPO 6.43 of the Wicklow County Development Plan supports the reinstatement / conversion of residential properties subject to qualifying criteria: due to its ruinous nature the proposed development does not comply with the qualifying criteria as set out in Table 6.3 of the CDP.

The subject site is located within an area designated in the Wicklow County Development Plan 2022-2028 as an Area of High Amenity in which un-necessary development is restricted: The proposed development would contravene the objectives of the CDP to protect Areas of High Amenity.

The design and visual impact of the proposed dwelling is not in keeping with the character of buildings traditional to the countryside, there are concerns regarding its height and floor area. The proposed development would consist of a four-bedroomed dwelling on two floors, part single storey and part two storey.

It is clear that the ruinous nature of the existing structure precludes it from meeting the necessary support criteria for conversion / reinstatement under objective CPO 6.43 of the CDP.

Likewise, the ruinous nature of the existing structure in combination with details of the proposed development would constitute a new rural dwelling which would not represent a necessary dwelling in this landscape designated 'Area of High Amenity'.

Reason for refusal no. 1 has not been addressed by the applicant in the grounds of appeal, and the decision of the PA should be upheld.

7.3 Access to the proposed development

The applicant states that as the access laneway serving the site is in the ownership of the applicant therefore this reason for refusal can be conditioned if planning permission is granted.

The access laneway serving the site is unsuitable in terms of width, alignment, and in some sections, structural condition for residential traffic, and a Road Engineer's report has not been submitted.

Reason for refusal no. 3 has not been addressed by the applicant in the grounds of appeal, and the decision of the PA should be upheld.

7.4 Other Matters - Precedent

The applicant states that a precedent has been set by the granting of planning permission to him in 2005 for a four bedroomed bungalow (PA Reg Ref 02/7036) which has now been transferred to his sister as her share in the family farm inheritance. Land Register folio WW32044F. Precedent has also been set by the granting of Outline Planning Permission to the applicant's father Mr Patrick Cooke PA Reg Ref. 90/5842 with nine conditions on the 11th day of October for the demolition of the existing farmhouse structure and the provision of a new house, road and farm entrance which has not been acted on.

The outline planning permission given in 1990 to Patrick Cooke, the applicant's father, (PA Reg Ref 90/5842) was for the demolition of the existing structure and the relocation of the proposed dwelling to a site on the northern boundary of the field in the interest of control of development in a landscape area of special control; furthermore, the use of the then proposed house was limited to its use as a dwelling by a person engaged in working on the farm.

7.4.1 Appropriate Assessment

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 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 AA at an initial stage.

8.0 Recommendation

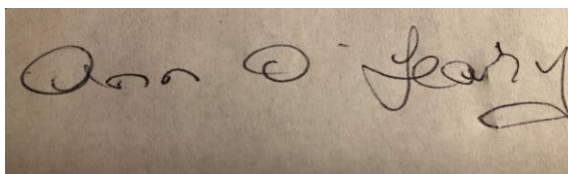
I recommend that Planning Permission be Refused.

9.0 Reasons and Considerations

1. It is the policy of the planning authority that development outside of designated urban centres should be strictly limited to local need. The proposed development would contravene objective CPO 6.41 which commits to 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. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development would contravene objective CPO 6.43 of the Wicklow County Development Plan, as due to the ruinous nature of the existing structure it does not meet the necessary criteria as set out in Table 3 for conversion / reinstatement of abandoned residential buildings back to residential use in rural areas. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The site is located in an area which is designated in the current Wicklow County Development Plan 2022-2028 as an Area of High Amenity, in relation to which it is a policy of the planning authority to control development in order to maintain the scenic values, recreational utility and existing character of the area. This designation and policy are considered reasonable. The proposed development would detract to an undue degree from the rural character and scenic amenities of the area. It is considered, therefore, that the proposed development would contravene this policy and be contrary to the proper planning and sustainable development of the area.
4. The proposed development is located along a minor laneway which is inadequate in width, alignment and structural conditions and would therefore, endanger public safety by reason of a traffic hazard.

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.

A photograph of a handwritten signature in dark ink on a light-colored, textured surface. The signature appears to read 'Ann O'Leary' in a cursive, flowing script.

Ann O'Leary
Planning Inspector

14th Day of December
2023