



An
Bord
Pleanála

Inspector's Report ABP-318318-23

Development	<i>Proposed Dwelling, Wastewater Treatment System to EPA Standard, Garage, Entrance and associated works</i>		
Location	<i>Ballynapark, Brittas Bay Co. Wicklow</i>		
Planning Authority Ref.	<i>23456.</i>		
Applicant(s)	<i>Ian Casey</i>		
Type of Application	<i>Permission</i>	PA Decision	<i>Refuse Permission.</i>
Type of Appeal	<i>First</i>	Appellant	<i>Ian Casey</i>
Observer(s)	<i>None</i>		
Date of Site Inspection	<i>25/01/2024</i>	Inspector	<i>Andrew Hersey</i>

Context

1. Site Location/ and Description. The site is located along the R773 on part of an agricultural field with a stated area of 0.377ha. There is an existing agricultural entrance to the said field which is currently under pasture. This road, the R773 connects the M11 with the beach at Brittas Bay. Jack Whites pub is located to the west and there is a detached house located to the east where the applicant parents reside. There is a relatively mature roadside boundary

2. Description of development. The proposed development comprises of Permission is sought for:

- A dwelling (single storey 181sq.m.),

- Wastewater treatment system to EPA standards
- Garage
- Entrance
- Associated works

3. Planning History.

- To the east Planning Reg. Ref, 09-901 granted for a part two part single storey house to a Sean O'Neill

4. National/Regional/Local Planning Policy

National Planning Framework 2040

National Policy Objective 19 states that '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

The Wicklow County Development Plan 2022- 2028

- The Wicklow County Development Plan 2022- 2028 is the statutory plan in force at present and came into effect on the 23rd October 2022
- The site is located in an area designated Landscape Category 4 N11 Corridor
- Rural Housing Policy is set out in Section 6.3.8 This section states that: *'Wicklow's rural areas are considered to be 'areas under urban influence' due to their location within the catchment of Dublin, Bray, Greystones, Wicklow-Rathnew and Arklow'*
- Policy CPO 6.41 - Facilitate residential development in the open countryside for those with a housing need based 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.

- Policy CPO 6.44 To require that rural housing is well-designed, simple, unobtrusive, responds to the site's characteristics and is informed by the principles set out in the *Design Guidelines for New Homes in County Wicklow* . All new rural dwelling houses should demonstrate good integration within the wider landscape
- Policy CPO 12.48 New means of access onto regional roads will be strictly controlled and may be considered if one of the following circumstances applies:
 - The regional road passes through a designated settlement and a speed limit of 50km/h or less applies;
 - where the new access is intended to replace an existing deficient one;
 - where it is demonstrated, through the submission of a site access engineering report prepared by a competent engineer, that the proposed entrance will not interfere with the free flow and safety of traffic on the regional road;
 - where it is demonstrated that the entrance is essential and no other means of access is available.

5. Natural Heritage Designations

- The nearest designated site is Buckroney-Brittis Dunes and Fen SAC (Site Code 000729) which is 2.0km to the east of the site

Development, Decision and Grounds of Appeal

6. PA Decision. Permission was refused for the following reasons:

1. The proposed development would not represent a necessary dwelling in this Landscape designated Access Corridor Area, contrary to the settlement strategy for the Rural Area as set out in Chapter 4 of the County Development Plan 2022-2028. This strategy seeks to control development to ensure the protection of the environmental and ecological quality of the rural area and ensuring that the scenic value, heritage value, and or environmental ecological conservation quality of the area is protected.

The Council's settlement strategy is to require new housing to locate on designated housing land within the boundaries of settlements, and to restrict rural housing to 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. It is considered that the applicant does not come within the scope of the housing need criteria as set out under Objective CPO 6.41 of the County Development Plan 2022-2028. The proliferation of non-essential housing in rural landscape areas erodes the landscape value of these areas and seriously detracts from views of special amenity value.

2. Having regard to the nature and location of the proposed development and the provisions of the current Wicklow County Development Plan, it is considered that the applicant has not demonstrated an essential need for a residential entrance off the R773 (Jack White's - Brittas Bay) Regional Road. The proposed development does not comply with CPO 12.48 of the current Wicklow County Development Plan, which generally seeks to restrict new means of access onto regional roads. The proposed development, by itself or by the precedent by which the grant of permission for it would set for other relevant development, would adversely affect the use of the regional road by traffic. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

7. Internal Reports

- Environmental Health Officer - no objection subject to the invert of polishing filter being 500mm above ground level

8. Prescribed Bodies

- TII (9th November 2023) – no observations

9. Grounds of Appeal

An appeal was received by the First Party on the 24th October 2023. In summary the appeal states that

- That the applicant complies with Rural Housing Policy as set out under CPO 6.41 of the Wicklow County Development Plan 2022-2028 and extensive proof regarding the same was submitted with the planning application.
- The site is part of the family landholding
- That with respect of the second reason for refusal which concerns traffic safety the appeal states that there is 120 metres of sight visibility in both directions
- That objective CPO 12.48 relates to new entrances. There is an existing established vehicular entrance to the site at present. It is stated that this access was installed by the local authority.
- The appeal includes a copy of the documentary evidence that was submitted previously with the planning application

10. PA Response

None received

11. Observations

None received.

Environmental Screening

12. EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.

13. AA Screening

Having regard to the modest nature and scale of development, location in an urban area, connection to existing services and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as 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.

2.0 Assessment

2.1. Introduction

- 2.1.1. I have examined the application details and all other documentation on file and I have inspected the site and have had regard to relevant local development plan policies and guidance.
- 2.1.2. I am satisfied the substantive issues arising from the grounds of this third party Appeal relate to the following matters-
- Rural Housing Policy
 - Traffic Safety
 - Visual Amenity
 - Wastewater
 - Ribbon Development

2.2. Policy/Visual Amenity Issues

- 2.2.1. The proposed development is located in an area which the development plan states is an 'Area under Urban Influence'
- 2.2.2. Policy CPO 6.41 of the Wicklow County Development Plan 2022-2028 seeks to facilitate for residential development in the open countryside for those with a housing need based 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.
- 2.2.3. Table 6.3 sets out three criteria which must be met by potential applicants for a rural house in rural Wicklow. These three criteria are as follows:
- Housing Need / Necessary Dwelling - applicant must demonstrate a clear need for housing
 - Economic Need - The Planning Authority recognises the rural housing need of persons whose livelihood is intrinsically linked to rural areas subject to it being demonstrated that a home in the open countryside is essential to the making of that livelihood and that livelihood could not be maintained while living in a nearby settlement.
 - 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.
- 2.2.4. With respect of housing need to reside in the area I note that the applicant has submitted an affidavit stating that he (nor his partner) owns a property in Ireland or elsewhere. I consider this aspect to be acceptable and that the applicant has a housing need
- 2.2.5. With respect of the applicants Economic Need to reside in the area, the applicant states that he is a software engineer whom works from home. It is understood from the details submitted that the applicant helps his stepfather maintain the landholding which from a statement provided by his stepfather is used to produce hay and silage

(on an area of 25 acres).. On the basis of the information submitted, I do not consider that the applicant has an economic need to reside in the area.

2.2.6. With respect of the applicant social need, I note initially that the applicant as not born in the local rural area. He moved to the area when he finished school (in Bray) and then lived with his parents in the adjacent house to the site until he moved into a rented house with his partner. It is understood that he has lived in the area for 12 years. Table 6.3 of the Wicklow County Development Plan 2022-2028 states that (a person is eligible in principle to build if) *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.* The land in question has been in family ownership for at least 10 years having been transferred to the applicants stepfather in 1997. It is further understood that the applicant that has been gifted the site.

2.2.7. With respect of social need, having regard to the fact that he has lived in the area for 12 years and from the details submitted with respect of his involvement with social and sports clubs in the area and having regard to the fact that his parents live directly adjacent to the site, I consider that the applicant has a social need to live in the area and therefore complies with CPO 6.41.

2.3. **Traffic Safety**

2.3.1. Vehicular access to the site is to be via an existing agricultural entrance. I note that the said road where the access is to be located is a Regional Road the R733, linking the M11 with Brittas Bay. I note a speed limit of 80kph on the said road

2.3.2. I note that on an 80kph road that 120metres of sight visibility is required for this speed range. I am of the opinion that this is the operating speed of the said road.. While this is available to the west towards Jack White's cross and the M11 interchange, less than 100metres is only available to the east towards Brittas Bay as a consequence of poor vertical and horizontal alignment of the road in this direction.

2.3.3. I also refer to CPO12.48 which states that *New means of access onto regional roads will be strictly controlled and may be considered if one of the following circumstances applies:*

- *The regional road passes through a designated settlement and a speed limit of 50km/h or less applies;*
- *where the new access is intended to replace an existing deficient one;*
- *where it is demonstrated, through the submission of a site access engineering report prepared by a competent engineer, that the proposed entrance will not interfere with the free flow and safety of traffic on the regional road;*
- *where it is demonstrated that the entrance is essential and no other means of access is available.*

2.3.4. With respect of the above, I consider that the proposal is for a new entrance as traffic movements from the same will be significantly greater than that of the existing agricultural entrance. It is considered that this particular regional road which connects the M11 to the beach at Brittas Bay would be extremely busy during the summer months as a consequence of day trippers to the beach. It is imperative therefore that any proposed entrance would not interfere with the free flow of traffic along this road or be a cause of traffic hazard.

2.3.5. I note there is no report from the roads department of the council on file. The report from TII relates to traffic impacts upon National Roads and therefore is not relevant in this context.

2.3.6. Additionally, there is no site access engineering report prepared by a competent engineer submitted with the application or the appeal. In conjunction with the same I'd question as to whether the entrance is essential and as to whether there is potentially safer means of access to the site other than the one proposed.

2.4. Wastewater

- 2.4.1. The proposed development includes for proprietary wastewater treatment plant and percolation area.
- 2.4.2. The site was dry underfoot on the day of the site visit. Percolation results submitted show favourable infiltration rates.
- 2.4.3. I note the report on file from the Environmental Health Officer which states that there is no objection subject to a raised percolation area being installed 500mm above ground level.
- 2.4.4. I consider therefore that the site is suitable for a Wastewater Treatment Plant and percolation area.

2.5. Visual Amenities

- 2.5.1. The proposed house is for a single storey house and detached garage of circa 180sq.m. I generally consider that the proposed house and garage complies with the standards as set out in the *Design Guidelines for New Homes in County Wicklow*
- 2.5.2. The proposal is therefore compliant with Policy CPO 6.44 subject to the roadside boundary being maintained.

2.6. Ribbon Development

- 2.6.1. This is a new issue which has not been raised in the appeal nor the case planners report.
- 2.6.2. 'Ribbon Development' is defined in the Sustainable Rural Housing Guidelines 2005 as '5 or more houses exist on any one side of a given 250metres of road frontage'
- 2.6.3. The proposed house will represent the 5th house within 250 metres of road frontage at this location and therefore the proposal constitutes Ribbon Development'

3.0 Recommendation

3.1. I recommend that permission for the development be refused permission for the following reasons:

1. Having regard to the nature and location of the proposed development and the provisions of the current Wicklow County Development Plan, it is considered that the applicant has not demonstrated an essential need for a residential entrance off the R773 (Jack White's - Brittas Bay) Regional Road. The proposed development does not comply with CPO 12.48 of the current Wicklow County Development Plan, which generally seeks to restrict new means of access onto regional roads. The proposed development, by itself or by the precedent by which the grant of permission for it would set for other relevant development and having regard to the deficient sight visibility available in an easterly direction along the road, it is considered that the proposed development would adversely affect the use of the regional road by traffic. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. The proposed development would constitute undesirable ribbon development in a rural area outside lands zoned for residential development 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.

Andrew Hersey
Planning Inspector
9th February 2024