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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Waterford City and County Council**

**Planning Register Reference Number: 18/883**

**APPEAL** by John Halley care of Peter Thomson Planning Solutions of 4 Priory Grove, Kells, County Kilkenny against the decision made on the 6<sup>th</sup> day of June, 2019 by Waterford City and County Council to grant subject to conditions a permission to Jamie Guidera and Jennifer Morrissey care of Aspect Architecture of Number 5 The Mews, 12 O'Connell Street, Dungarvan, County Waterford.

**Proposed Development:** Replacement of existing dwelling (existing dwelling to be removed) with a new split-level style dwelling, garage, new entrance, site works, wastewater treatment system and percolation area, borewell and all ancillary works at Newtown, Annestown, County Waterford as amended by the revised public notices received by the planning authority on the 14<sup>th</sup> day of May 2019.

**Decision**

**REFUSE** permission for the above proposed development in accordance with the reasons and considerations set out below.

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

On the basis of the information submitted with the application and appeal related to the structure on site, the Board noted the overall disused condition of the structure which was without windows and doors and considered that there is insufficient evidence that the structure constitutes a habitable dwelling. In this regard the proposed development would contravene the objectives set out in Section 7.5 (Variation Number 1) of the Waterford County Development Plan 2011-2017, regarding the allowance of a replacement dwelling for a habitable dwelling in limited circumstances. Furthermore, the site of the proposed development is located within an “Area Under Strong Urban Influence” as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April 2005 and in a ‘Area Under Urban Pressure’ in the Waterford County Development Plan 2011-2017, wherein urban generated housing is directed to serviceable lands in towns and villages. In addition, it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to facilitate the provision of single housing in the countryside, in areas under urban influence, based on the core consideration of demonstrable economic or social need to live in a rural area and having regard to siting and design criteria and the viability of smaller towns and rural settlements and, in rural areas elsewhere, having regard to the viability of smaller towns and rural settlements. Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need to live

in this rural area, or that the applicant's housing needs could not be satisfactorily met in a smaller town or rural settlement. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location. The proposed development would, therefore, be contrary to the Ministerial Guidelines and to the over-arching national policy. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board did not consider that the existing structure on site fell within the definition of a habitable dwelling as set out in Section 2 (Interpretation) of the Planning and Development Act 2000, as amended, as the Board considered on the basis of the information submitted that the condition of the structure on site which was in a disused state and was without windows and doors rendered it derelict. The Board therefore, did not consider that the proposed development of a replacement dwelling in an area designated as an 'Area Under Strong Urban Influence' where the applicants had not demonstrated an economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements, was in accordance with the proper planning and sustainable development of the area.

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**Dave Walsh**

**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board**

**Dated this            day of            2020**