



An
Bord
Pleanála

Inspector's Report

ABP-304962-19

Development	Proposed erection of a fully serviced, 5 bedroom two storey detached dwelling with two storey guest house together with all other associated site works
Location	Coxtown, Dunmore East, County Waterford
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	18798
Applicant(s)	Dunmore Advisers Ltd.
Type of Application	Permission
Planning Authority Decision	Granted with Conditions
Type of Appeal	Third Party
Appellant(s)	1. Paul Barlow 2. Woodstown Bay Shellfish Limited 3. Noel McDonagh
Date of Site Inspection	29 th of November 2019
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1. The area of the application site is 0.79Ha, and is the lower part of a large field that is 1.25Ha in area. The field is located within walking distance of Dunmore East Harbour and the village centre. It is positioned to the west of the village, north of the harbour area. It is served by a footpath and public lighting.
- 1.2. There are dwellings to the north, south east and west of the property, the prevailing landuse is residential. The site is currently grassland with a mature hedge along the roadside boundary.
- 1.3. Access to the proposed development will be from the Coxtown Road via a designed entrance and service road which will also serve the remainder of the field. The submitted drawings indicate a future retirement development. The proposed access is immediately opposite *The Lemon Tree* restaurant, and is located midway along the roadside boundary. There is a stone wall along the roadside boundary, with a mature hedgerow along this boundary.
- 1.4. There are houses backing onto the site along the eastern site boundary in the vicinity of the proposed dwelling. These dwellings are positioned at a lower ground level than the subject site. There are dwellings overlooking the site along the western and northern site boundaries.
- 1.5. There are panoramic views from within the site over towards Hook Head in Wexford. The topography of the site is descending from west to east.

2.0 Proposed Development

- 2.1. The proposed development is a large contemporary dwelling house, total floor area cited as 763sq.m. (8220sq.ft), which is a five bedroomed house, within a two-storey building envelop, and the proposal includes an additional semidetached guest house.
- 2.2. The house includes a basement, external garage, terraces, a swimming pool, storage areas, leisure areas. There is a large terrace at first floor level overlooking the bay in Dunmore East.

- 2.3. The house is located on the lowest, eastern half of the landholding.
- 2.4. The house design has a light weight monopitch roofing system and terraces to reduce the visual impact of the development and to maximise views. It is a contemporary
- 2.5. According to the application there is a masterplan for the overall landholding (subject to a separate planning application) for 24No. retirement homes, 2No. retirement bungalows and a residential home to include 10No. beds.

3.0 Planning Authority Decision

3.1. Decision

Waterford City and County Council granted the proposed development on 27th of June 2019 subject to 10No. conditions.

Condition No. 2 a 1.8m screen to the terrace area to the eastern, western and southern elevations to be provided at the location of the proposed glass balustrade at edge of terrace at ground floor.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

The Planning report recommended permission be granted on the site following the submission of the further information requested. It was considered the applicant had addressed the planning authority's concerns, and that the site was zoned for residential development.

Further Information Received 27/08/19

- Ecological report
- Assessment of impact to single storey properties to the east
- Sightlines

3.2.2. *Other Technical Reports*

Heritage Officer: applicant should submit a report regarding allegations the common Newt resides on the site.

3.3. **Prescribed Bodies**

The application was not referred to statutory bodies.

3.4. **Third Party Observations**

There were a number of third-party objections to the proposed development which can be summarised under the following key points:

- The dwelling has an extensive balcony that will overlook dwellings to the south
- Loss of privacy
- Traffic and access
- What is the use of the dwelling is it private or commercial
- Is the development linked to the proposed retirement village on site
- The proposal is premature pending the adoption of a new development plan for the area
- Entrance is too narrow
- The public notices do not refer to the fact this is phase 1 of a larger development
- Convent Road heavily congested and inaccessible
- Loss of newt habitat

4.0 **Planning History**

Planning Reference 06/154 (ABP PL 24.221804)

Planning permission refused for 32No. dwellings, new entrance, carpark, entrance, internal road layout, new boundary treatment and all associated works in October 2007 for 2No. reason:

- Inadequate capacity and the existing deficiencies of the Dunmore East public sanitation services system, and public health issues
- Poor layout and relationship with surrounding area.

5.0 Policy Context

5.1. Development Plan

Waterford City and County Development Plan (as extended⁴) 2009 is the current plan serving Dunmore East.

The subject site is zoned **Residential** with a site specific objective, DO11 that's states

The Council will facilitate the development of medium density housing. The developer shall be required to have regard to the topography of the site, and the proposed design shall have an appropriate/ sympathetic approach to design which utilises the existing contours and respects the established pattern of development in the vicinity.

5.2. Natural Heritage Designations

000764 Hook Head SAC, Co. Wexford is 3km east of site on other side of the bay

0021262 Special Area of Conservation: River Barrow And River Nore SAC is 3.61km of site

004027 Tramore Back Strand SPA is 4.8km to the west of the site

5.3. EIA Screening

Having regard to the infill nature of the site within an existing built up urban area, together with the modest scale of the proposed development for a single dwelling on serviced lands, 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

There are a number of third party appeals against the planning authority's decision to grant planning permission for the proposed development. The following is a summary of the all the issues raised. A number of appeals have raised the same issues. In order to avoid undue repetition, I will summarise the 3No. appeals collectively. The appeals were from:

1. Paul Barlow, Winfield, Circular Road, Dunmore East
2. Woodstown Bay Shellfish Limited
3. Noel McDonagh, Coxtown, Dunmore East

6.1.1 Prematurity pending replacement of Waterford County Development Plan 2011-2017

The plan was adopted in 2011 and the residential land supply has not been reviewed since. There is approximately 40ha of undeveloped residential zoned land in the village, which has the capacity to deliver 1000 houses at 25units/ ha. The development strategy for Dunmore East is outdated. There have been major developments permitted in the village recently which have the potential to increase the village's population significantly. Under 18/367 permission as granted for 61No. dwellings remote form the village centre.

The Planning Report on file states the 2011 development plan will remain in place until the Regional Spatial Strategy is made and the new county development plan is adopted.

To permit a very large dwelling on this large site may or may not play a role in meeting future housing needs in Dunmore East.

There are two village cores in Dunmore East, one at the harbour and one at the strand, and these should drive development not large undeveloped sites in the village. The village should develop from the core out. There is an undeveloped parcel of land to the north of the site closer to the harbourside of village which is 1.45Ha and has a more favourable gradient and access than subject site. The Vacant sites legislation could be applied to encourage the land to be developed, enabling the village to be expended in a sustainable manner.

6.1.2 The overall site

The applicant has stated the remainder of the site is part of a masterplan to develop a retirement village. The proposed dwelling and guesthouse could be an essential element of the retirement village. This was not addressed by the planning authority during the assessment of the application.

The occupancy potential of the dwelling is 12No. persons, which has a sewage loading of at least 5No. houses and 6No. cars. The planning authority grossly underestimated the impact of the proposed development.

6.1.3 Traffic

The overall site should have been taken into consideration. There are potentially 51No. car parking spaces required. The sightlines have been incorrectly assessed and cannot be achieved.

The entrance is opposite a busy restaurant, and parking occurs on both sides of the road due to the popularity of the restaurant. Road improvements are required the application site back to the centre of the village.

6.1.4 Sewerage network loading

The system is known to overload and malfunction at particular times especially during heavy rainfall. There have been reported overflow instances to Irish Water, whereby sewage has flowed out onto public roads, and no further developments should be permitted in the village until back ups and overflows are prevented.

One of the appellants shellfish company is dependent on impeccable water quality. Sea water is abstracted to wash oysters. There have been recent improvements to the capacity of the wastewater treatment system, but the problem of overflows has not been addressed. In overflow occurred in December 2018, and a reoccurrence in June 2019, sewer overflows from manholes are still occurring during heavy periods of rain resulting in sewage flowing out onto public roads, which is drained towards the sea, contaminating the water.

There are no details as to how the large indoor pool will be drained. This will be treated with chlorine chemicals which are harmful to the environment if not disposed off properly. No consideration has been given to this issue.

6.1.5 Surface Water

No account taken of where the swimming pool would drain, no tests were done to establish the characteristics of the ground to absorb such large volumes of water. Irish Water were not consulted about the planning application, it is not a single dwelling the development includes guest accommodation and a swimming pool.

6.1.6 DO11

This is a site-specific policy for the entire property, which anticipates main stream medium density housing on the land which is respectful of the topography. The three-storey dwelling is not respectful of the topography and is completely out of character with the surrounds.

6.1.8 In 2007, the Board refused planning permission under reference 24222821 for a two-storey extension onto the Lemon Tree restaurant, because the development would appear visually dominant and overbearing when viewed from the east. The restaurant is on the opposite side of the road to the proposed development.

6.1.9 Lizards

The proposed development involves removing the boundary stone wall, and the common lizard lives in the wall. The report addresses the local Newt, but does not mention the lizard. The planning permission granted has failed to address under the Wildlife Habitat Act, proper procedures to protect the habitat. The conservation of common lizard and its habitat is protected by Irish and European law.

6.2. **Applicant Response**

The response includes a feasibility letter from Irish Water and supporting architectural and engineering drawings.

6.2.1 Replacement of Waterford County Development Plan 2011-2017

The current development plan states the lands are zoned residential, and is unlikely to have a different zoning under a new development plan given the established characteristics of the area.

Waterford County Council and Irish Water have spent significant funds on improving, upgrading and investing in a new wastewater treatment system and sewer network in Dunmore East that serves the lands.

The site is within a fully established residential area and has all main infrastructure services and adequate capacities.

The argument is without substance, and the proposed development is in full accordance with the current development plan.

6.2.2 Site selection

The applicant Mr. Power is from the area and works abroad. The purpose of the development is to provide necessary housing facilities for his family upon returning to Dunmore East. The proximity to the village and the views of the sea, are the reason he bought the site. The retirement homes are a future business for the family. The current application is for his family home, and the plans also illustrate the bigger portion of the subject lands and the intended accommodation as retirement homes. The intended Waterford based operator for the retirement homes was not in a position to engage with the applicant at the present time regarding the retirement homes, so it was decided to apply for the dwelling house independently.

The dwelling is positioned on the lower portion of the site detached from the future retirement homes. The retirement homes will be lower bungalows. The proposed dwelling is split level, and it is non-intrusive, and it will be perceived as single storey.

Overlooking has been avoided because of the substantial distance between properties. The rooms on first floor level are facing a wide balcony. All bedrooms are located on lower level.

Parking for the restaurant across the road can be accommodated on site during evening times.

It should be noted under planning reference 06154 there were 32No. dwellings granted planning permission.

6.2.3 Intended Use

Although the application refers to one dwelling, the applicant has been transparent about the entire future use of the site.

6.2.4 Traffic/ Sightlines

The required sightlines are indicated on Drawing RP/01, and regarding a Traffic Impact assessment, the Board should note the application is for a single dwelling.

6.2.5 Wastewater services impact

Irish Water have confirmed feasibility for the connection to the public sewer.

6.2.6 Impact on Wildlife

There is no evidence of lizards in the area or in the stone wall. The same appellant made an observation during planning process over his concerns regarding smooth newts on the site. The applicant commissioned an Ecological Report, which found there was no suitable breeding habitats for Newts on the study site. The ecological concerns of the appellant are not substantiated and are an attempt to discredit the proposed development. The applicant will work with an ecologist to assist in the removal of part of the wall to provide an access.

6.3 **Further Response from Appellants**

There were no new issues raised on appeal, most of the comments made re-iterate the appeals content. The proposed dwelling could not be considered medium density under the provisions of the development plan. The applicant has made no attempt to demonstrate why the site is sequentially preferable to all other undeveloped residential zoned lands in Dunmore East.

The fact the applicant has offered parking on the site for the restaurant is an indication they are aware of the shortfall of parking in the area.

The existing sewerage system was upgraded recently however there are still malfunctioning issues at times.

6.4 **Planning Authority Response**

There is no further response from planning authority.

7.0 **Assessment**

7.1. This appeal will be assessed under the following headings:

- Development Plan
- Residential Amenities
- Traffic

- Other Matters
- Appropriate Assessment

7.2. Development Plan

The subject site is located in the middle of a built area of Dunmore East village where the prevailing landuse is residential. The site is zoned '**Residential**' under the provisions of the current development plan *Waterford County Development Plan 2011-2017*. The planning application is for two dwellings units (the main dwelling and an integral guesthouse), which is in keeping with the zoning objective for the area. A sequential approach to the development of the village as suggested by one of the appellants does not apply in this instance because it is not development plan policy to impose sequential testing of residential applications within the development boundary. Furthermore, the site is located in an existing built environment, and I would consider it to be an infill site and it is not edge of town location whereby sequential tests are normally applicable.

There is a site specific objective associated with the subject site in the development plan, DO 11:

The Council will facilitate the development of medium density housing. The developer shall be required to have regard to the topography of the site, and the proposed design shall have an appropriate/ sympathetic approach to design which utilises the existing contours and respects the established pattern of development in the vicinity.

A single dwelling and associated guest house on 0.79Ha represents a low density for serviced lands, and does not comply with the essence of the site specific objective for the lands. However the application documents do include proposals for the remainder of the property, which is a retirement village. These plans are indicative only, and do not form part of the current proposal, however, it demonstrates that the applicant intends to apply for medium density development on the remainder of the site.

National Guidance in respect of residential development is set out in the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009*. The site can be classified as inner suburban/ infill, and by definition under

section 5.9 of said Guidelines, infill residential, *'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 privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. The local area plan should set out the planning authority's views with regard to the range of densities acceptable within the area. The design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities, i.e. views, architectural quality, civic design etc.'* On examining the neighbouring residential developments, there is low density to the north of the site, which more in-depth and medium density on the outskirts of the village. Immediately south of the site are one off dwellings, and single storey dwellings to the east. A higher density would be more in keeping with the site specific objective and the underlying essence of the guidelines. Given the proximity of the single storey dwellings along the eastern site boundary, and the fact they are located on a lower ground level, it is prudent to keep a significant separation distance between the existing and proposed developments. In order to achieve this a sizable portion of the site is required. Given the pattern of development within the immediate vicinity of the site, and the future proposals for the entire site area, I consider the one dwelling and integral guest house is acceptable in terms of the development plan policy and site specific objective. The proposal, in my opinion, respects the established and abutting pattern and layout of residential development in the area.

7.3. Residential Amenities

There are three existing bungalows abutting the proposed development along the southeast boundary. These 3No. dwellings back onto the site, and they each have very narrow rear garden areas ranging from 5-10metres in depth. The proposed footprint is angled away from direct overlooking of the 3No. dwellings. The proposed dwelling is positioned on a higher ground level to the 3No. bungalows, and the proposed development is two storeys along the opposing elevation, and includes a large outside terrace at first floor level. The proposal may seem obtrusive when viewed from the abutting properties, however there is a separation distance of 30-45 metres from the rear building lines of the bungalows. I note the cross sections and

the Visual Impact Assessment submitted with the planning application. The applicant has proposed by way of further information, a screen fence along the south east site boundary which will enhance the current sod and hedgerow screening into the properties. The design and layout of the dwelling is to optimise the views across the bay to Hook Head not into the rear of adjoining properties. The proposed tall glass panelling does not increase overlooking onto adjoining properties, as the overlooking will occur at eye level only.

There will be no overshadowing of adjoining properties. The proposed development is discreetly sited on the site which an organic contemporary design that ensures the building will not be oppressive when viewed from the surrounding area and properties.

7.4. Traffic

The site is located a short distance from the harbour and the village centre. There are residential estates located beyond the site location on the village fringe. The application is for a single dwelling, therefore the concerns regarding the impact on traffic along Coxtown Road has been greatly exaggerated by the appellants. During my inspection, there was no parking and very little traffic along Coxtown Road. Seasonal traffic and on street parking associated with the restaurant on the opposite side of the road are not relevant to the current proposal for a single dwelling.

There are 55m sightlines provided in both directions at the proposed entrance, which is acceptable for the speed limit and the site's urban location.

I have no traffic concerns regarding the proposed development and consider the grounds of appeal on this issue to be unsubstantiated and unfounded.

7.5. Other Matters

The submission documents clearly indicate a layout for the residual area of the landholding to include 26No. residential units and a 10No. bed retirement home. According to the appeal file, this will be operated by a local management company that has a number of these facilities in the Waterford area. The appellants attempted to include this element of the development in the grounds of appeal and

assessment of potential impacts. However, this appeal relates solely to an individual dwelling and guesthouse.

An Ecological Report was commissioned by the applicant following an objection by one of the appellants at the planning application stage, stating the development would impact on the habitat of the Smooth Newt (*Lissotriton vulgaris*). The report found there was no suitable breeding habitat for the Newt within the site and it is unlikely to support a breeding ground for the species. There is no evidence to suggest the site supports the common lizard as stated on appeal. The appellant has not submitted any evidence that common lizards live in the boundary stone wall. In any case, only a section of the wall is to be removed to provide access to the site, the residual wall shall be retained.

Irish Water has indicated in its letter of 6th of August 2019 that the connection to the sewerage system can be facilitated. Upgrading of the local infrastructure was completed recently. The allegations of the current system malfunctioning have not been substantiated by the appellants, and this single dwelling is unlikely to result in a material impact to existing services.

7.7 Appropriate Assessment

Having regard to the nature and scale of the proposed development located within an existing built up serviced urban area, resulting in no material impact to existing services, and 3.61km from 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.

8.0 Recommendation

8.1. I recommend the planning authority's decision to grant permission for the proposed development be upheld for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the residential zoning objective of the site the current Waterford County Development Plan 2011-2017 (as extended), the abutting residential land

uses, and having regard to its design and scale and the established pattern of development on and in the vicinity of the site, it is considered that the proposed development would not seriously injure the visual or other amenities of the area, would be acceptable in terms of traffic safety and convenience, and would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application [as amended by the further plans and particulars submitted on the 27th of May 2019 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 particulars.

Reason: In the interest of clarity.

2. Prior to the commencement of the development, a 1.8metre screen fence shall be provided along the full-length eastern site boundary to the rear of the existing properties.

Reason: In the interests of residential amenity.

3. The proposed guesthouse shall be used as an incident element of the main dwelling or an integral part of the main dwelling. It shall not be let, sold, leased or otherwise used as a separate dwelling unit.

Reason: In order to comply with the planning appeal submission documents.

4. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Water supply and drainage arrangements, including the [attenuation and] disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

6. a) All foul sewage and soiled water shall be discharged to the public foul sewer.

(b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.
7. Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of pedestrian safety.

8. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

9. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Caryn Coogan

Planning Inspector

24th of January 2020