



An
Bord
Pleanála

Inspector's Report

ABP-305456-19

Development	House, garage, combined entrance, septic tank, percolation area.
Location	Ballymacmague North & Knockacullen, Dungarvan, Co. Waterford.
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	19482
Applicants	James & Siobhan Gough
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party v Refusal
Appellants	James & Siobhan Gough
Date of Site Inspection	2 nd , March 2020.
Inspector	Paddy Keogh

1.0 Site Location and Description

- 1.1.1. The site of the proposed development which has a stated area of 0.32 hectares forms part of a larger family landholding located on the southern side of the N 72 (Dungarvan to Mallow Road). The site is located within a rural area c. 5 km north-west of Dungarvan town centre. The area in the general vicinity of the site is characterised by agriculture and a light scattering of dwellings. The appeal site will be provided from an existing family landholding – the parents of one of the joint applicants lives in an existing bungalow on the overall site which fronts onto the N 72.

2.0 Proposed Development

- 2.1.1. The proposed development involves the construction of a detached single storey dwelling, garage, septic tank, percolation area and all ancillary site works.
- 2.1.2. The proposed development also involves the reconfiguration of the existing vehicular entrance onto the N72 which currently serves the applicant's parent's house in order to provide a combined entrance to serve both the applicant's parent's house and the proposed house.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of a decision to refuse planning permission for the proposed development was issued by the planning authority per Order dated 22nd, August 2019. The single reason for refusal was as follows:

(1) The proposal would give rise to an increase in trip generation and traffic movements on a section of the N72, National Secondary Route, where the maximum speed limit applies, resulting in a negative impact on traffic safety and carrying capacity of this National Road. The proposed development by itself and the precedent it would set, would be contrary to the policies and objectives of Waterford County Development Plan 2011-2017, as extended, and be contrary to the Spatial Planning and National Roads, Guidelines for Planning Authorities 2012 which seek to restrict direct access onto National

Routes to appropriately zoned lands and service centres. The proposed development would therefore give rise to a traffic hazard and establish an undesirable precedent for similar type development contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. A report from the planning authority Executive Planner dated 20th, August 2019 includes:

- The site of the proposed development is zoned for 'Agriculture' in the Waterford County Development Plan 2011 (the 'Development Plan').
- The site is situated within an area 'Under Urban Pressure' in the Development Plan.
- Objective INF 1 of the Development Plan seeks to protect the carrying capacity of the National Roads and associated junctions in the interest of road safety.
- Section 10 of the Development Plan states that it is policy to avoid the creation of any additional access points from new development to which speed limits of greater than 60kph apply in accordance with government policy as outlined within the Spatial Planning and National Roads Guidelines for Planning authorities (2012).
- Based on the information contained within a Supplementary Application Form submitted to the planning authority it is considered that the applicants (one of whom was reared at this location, attended a local primary school, currently works in Dungarvan and provides support and care for elderly parents living in the family home) complies with rural housing policy for a dwelling at this location.
- The proposed single storey dwelling would be well set back and screened from the public road, is acceptable in design terms and would not result in negative impact on the visual and residential amenities of the area.

- The proposed development involves the provision of a combined access (serving parent's house and proposed house) directly onto the N72 at a point where a 100 kph speed limit applies. This is contrary to national and local policy provisions.
- The applicant has indicated 215m sight lines in both directions but the horizontal and vertical arrangement of the road at this location would prevent this being fully achieved particularly in an easterly direction.

The decision of the planning authority reflects the recommendation of the Executive Planner to refuse planning permission.

3.2.3. Other Technical Reports

None

3.2.4. Transport Infrastructure Ireland (TII)

3.2.5. A report from TII dated 8th, August 2019 states that it is considered that the proposed development is at variance with official policy in relation to the control of development on and affecting national roads as indicated in the Spatial Planning and National Roads Guidelines for Planning Authorities (2012). In this regard,

- The proposal, if approved, would create an adverse impact on the national road where the maximum permitted speed limit applies and would, in the Authority's opinion, be at variance with national policy in relation to the control of frontage development on national roads.
- The proposed development would result in the intensification of an existing direct access to a national road contrary to official policy in relation to the control of development on national roads.

4.0 Planning History

4.1.1. There is no record of recent planning history pertaining to the subject site.

5.0 Policy Context

5.1. Waterford County Development Plan 2011-2017

5.1.1. The Waterford County Development Plan 2011-2017 is the current Development Plan for the area. With the establishment of Waterford City & County Council, in June 2014, this plan had its lifetime extended (pursuant to *S. 11A of the Planning and Development Act 2000, as amended*) and remains in effect until the new Regional Spatial and Economic Strategy comes into effect.

5.1.2. The appeal site is located in an area zoned 'Agriculture'. The stated objective of this zoning is '*To provide for the development of agriculture and to protect and improve rural amenity*'

5.1.3. **Chapter 3** refers to *Core Strategy* and identifies Dunmore East as a District Service Centre within the County settlement hierarchy.

5.1.4. The county is divided into three broad categories;

1. Areas Under Urban Pressure
2. Stronger Rural Areas
3. Structurally Weak Rural Areas

The *Rural Area Types Map* contained within the Development Plan identifies the subject site as being located within an 'Area Under Urban Pressure'.

5.1.5. **Section 4.8** refers to Rural Housing Policy

The Council's aim is to

'Minimise the amount of sporadic speculative development which would be more appropriately located on serviceable lands in towns and villages; and

Meet the genuine housing need of rural people and their families who have strong ties to a particular locality and to those who need to reside in rural areas for employment, economic and social reasons subject to the applicant demonstrating a Genuine Local Housing Need.'

- 5.1.6. **Policy SS3** seeks 'To cater for the housing requirements of members of the local rural community who have a genuine local housing need in areas under urban pressure as set out in the Criteria in Section 4.10.'
- 5.1.7. **Policy SS4** seeks 'To direct urban generated housing development in Areas Under Urban Pressure into the adjoining zoned settlements.'
- 5.1.8. **Section 4.10** refers to 'Genuine Local Housing Need'.

Housing Need criteria includes '*A farm owner or an immediate family member (son, daughter, mother, father, sister, brother, heir) wishing to build a permanent home for their own use on family lands.*'....

and

'Persons who were born and reared for substantial parts of their lives (three years or more) in a specific rural area, who then moved away and who now wish to return to their home places to reside near other family members, to work locally, to care for elderly family members....'

- 5.1.9. Objective INF 1 states:

It is an objective of the Council to protect the carrying capacity of the National Roads and associated junctions in the interest of road safety.

- 5.1.10. Section 10.1 states:

It is policy of the Council to avoid the creation of any additional access points from new development to which speed limits of greater than 60 kph apply in accordance with government policy as outlined within the Spatial Planning and National Roads Guidelines for Planning Authorities (2012).

National Policy

5.2. Sustainable Rural Housing Planning Guidelines (2005)

- 5.2.1. The site of the proposed development is located within an area designated as being under strong urban influence.
- 5.2.2. The Guidelines distinguish between 'Urban Generated' and 'Rural Generated' housing need. Examples of situations where rural generated housing need might

apply as set out in the Guidelines include rural houses for ‘*persons who are an intrinsic part of the rural community*’ and ‘*persons working full time or part time in rural areas*’

5.3. National Planning Framework

5.3.1. National Policy Objective No. 19 states

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.

5.3.2. National Strategic Outcome 2 includes an objective ‘to maintain the strategic capacity and safety of the national roads network

5.4. Spatial Planning and National Roads Guidelines for Planning Authorities (Dept. of Environment, Community and Local Government 2012)

5.4.1. Section 2.5 sets out details of ‘Required Development Plan Policy on Access to National Roads’. The provisions of this section states that the policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.

5.5. Natural Heritage Designations

The Blackwater River Special Area of Conservation (SAC) (Site Code 002170) is located c. 3.7 km north-west of the appeal site.

The Comeragh Mountains SAC (Site Code 001952) is located c. 9 km. north-east of the appeal site.

The Helvic Head SAC (Site Code 000665) is located c. 12 km south-east of the appeal site.

The Glendine Wood SAC (Site Code 002324) is located c. 7 km east of the appeal site.

The Dungarvan Harbour Special Protection Area (SPA) (Site Code 004032) is located c. 4 km east of the appeal site.

The Helvic to Ballyquin SPA (Site Code 004192) is located c. 11 km south-east of the appeal site.

The Mid Waterford Coast SPA (Site Code 004193) is located c. 13 km to the east of the appeal site.

5.6. EIA Screening

- 5.6.1. Having regard to the nature and limited scale of the proposed development, to the character of the area and to the nature of the receiving environment it is considered that it would not result in a real likelihood of significant effects on the environment. 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

- 6.1.1. The submitted grounds of appeal include:
- The site of the proposed development forms part of land holding on which the applicant (James Gough) has lived all his life prior to moving to rented accommodation in the area following his recent marriage. (James Gough is employed locally).
 - The applicant wishes to build a house on the family land holding in order to be beside his elderly parents and to support them in their old age and declining health. The submitted application is accompanied by doctor's letters attesting to the many health problems of both parents.
 - The applicants currently call to James Gough's parents frequently throughout the day to provide care. They also transport the parents to hospital and doctor's appointments on a regular basis. The granting of planning permission for the proposed dwelling would mean that support can be given to the parents without the need for the applicants to commute to and from the parent's house on a

regular basis throughout the day thereby reducing the current intensity of vehicle turning movements into and out of the site from the N72.

- The proposed development incorporates an element of planning gain in that the proposed access arrangements provide for a shared entrance to serve both the parent's existing house and the proposed house. This shared entrance will have improved site lined s onto the N72 that those of the existing dwelling.

6.2. Planning Authority Response

6.2.1. None.

6.3. Observations

Transport Infrastructure Ireland (TII)

6.3.1. A report from TII dated 14th, October 2019 states:

- The provision of a new house accessing the N72, national secondary road, at the location concerned, regardless of the housing circumstances of the applicant, will inevitably bring about additional vehicular movements resulting in intensification of access onto and off the N72. This will arise from the day-to-day occupation, pattern of activity associated with same and trips generated by other services, utilities, visitors etc. as well as the applicant. In this regard, TII concurs with the decision of the planning authority to refuse planning permission for the proposed development.
- The proposal to intensify direct private access to the national road at a location where a 100 kph speed limit applies is of concern in terms of road safety.
- The proposed development conflicts with national policy objectives to safeguard the strategic function of the national road network (National Strategic Outcome 2 of the National Planning Framework) and to safeguard the investment made in the transport network to ensure quality levels of service, accessibility and connectivity to transport users. TII is not aware of any exceptional reasons to justify departure from these policies and road safety considerations in the context of the current proposal. Furthermore, TII is not

aware that adequate sight lines to serve the proposed access have been demonstrated.

- TII considers that the proposed development is inconsistent with the provisions of the Waterford County Development Plan 2011-2017, in particular, Section 7.2.1 and associated Objective INF 1 and Policy INF 3.

7.0 Assessment

I consider that the key matters for determination arising out of this appeal are, as follows:

- (1) Access and Traffic
- (2) Rural Housing Policy
- (3) Other Matters

The issue of Appropriate Assessment also needs to be addressed.

Access & Traffic

- 7.1.1. The proposed development involves the construction of a new access onto the N72. This access will replace the existing access onto the N72 that serves the family home and will serve as a combined access for both the proposed dwelling and for the existing family home.
- 7.1.2. The planning authority has highlighted the provisions of the Spatial Planning and National Roads Guidelines for Planning Authorities (2012), (as reinforced by Development Plan policy) particularly policy at Section 2.5. The provisions of this section states that the policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant. The planning authority consider that the proposed development would be contrary to national policy and to Development Plan policy and have refused planning permission for the proposed development on this basis.

Transport Infrastructure Ireland support the decision of the planning authority based on similar reasoning.

- 7.1.3. The submitted grounds of appeal argue that there will be a planning gain associated with the proposed development insofar as the proposed combined access arrangement will provide for the design of a new access with improved sightlines compared to that of the existing access. Furthermore, it is pointed out that the support and care provided by the applicants to their elderly parents require a significant number of visits each day to the family home. The number of daily visits (and associated vehicle turning movements into and out of the site from the N72) would be significantly reduced if the applicants were living on a permanent basis beside the family home.
- 7.1.4. The proposed combined access will be directly onto the busy N72, national secondary road, at a point where the maximum permitted speed limit is 100 kph and where vehicles travel at up to the maximum speed limit. National policy in relation to new accesses onto national roads applies irrespective of the personal circumstances of the applicant. I consider that the applicant has not made a compelling case to ignore the provisions of national (and Development Plan) policy. Notwithstanding the fact that the applicants currently make multiple trips to visit their parents on a daily basis and that there may be an initial fall in the number of vehicle turning movements into and out of the site in the period immediately following the construction of a second house (if permitted) I consider that in the longer term the volume of traffic turning movements generated by two houses will inevitably be greater than the volume of movements generated by a single house. Thus, I agree with the conclusions of the planning authority (and TII) in relation to the impact of the proposed development - to grant planning permission would be contrary to national policy and Development Plan policy.
- 7.2. The submitted grounds of appeal argue that the proposed development will provide for a combined entrance (serving two houses) with improved sightlines onto the N72 compared to the sightlines at the existing entrance onto the N72 serving the existing family home. The submitted documentation indicates sightlines of 215m in each direction from the centre point of the proposed combined access. However, having inspected the site, I consider that due to the poor vertical and horizontal alignment of the carriageway at this location these sightlines cannot be achieved and that sightlines (particularly in an easterly direction towards Dungarvan) are seriously restricted at this

location. The proposed development will be onto a busy national secondary route (Dungarvan to Mallow Road) where vehicles travel at up to the maximum speed limit. Notwithstanding the fact that the proposed combined entrance will replace an existing entrance that suffers from similar problems in terms of sightlines, I consider that the proposed development will facilitate an intensification in traffic turning movements via a substandard combined entrance. Thus, I consider that planning permission for the proposed development should be refused on grounds of traffic hazard resulting from inadequate sightlines (in addition to refusal on grounds of contravention of national and Development Plan policy in relation to new entrances onto national roads)

Rural Housing Policy

- 7.2.1. Documentation on file (including a Supplementary Planning Application Form lodged with the planning authority) provides details of the basis of the applicant's case in respect of compliance with local and national rural housing policy. In this case it is stated that the subject site will be provided from larger family owned lands on which one of the applicants, James Gough, was reared. This applicant attended school locally, has lived all his life in the area and is employed in Glanbia in Dungarvan (c. 5 km away). The current address of the applicant has not been stated. However, it is stated that the applicant only moved out of the family home (to move to rented accommodation on a temporary basis) following his marriage. The applicants now wish to build their own home on family lands to be beside James Gough's parents to offer them support and care in their old age. Both parents are in poor health (mother is registered as legally blind). Medical certification in relation to the health circumstances of both parents accompanied the documentation lodged with the planning application. Documentation on file also highlights the fact that a sibling of James Gough (resident in the family home) also suffers with health issues.
- 7.2.2. It appears that the applicants are not currently resident in the family home. One of the applicants (James Gough) currently works in Dungarvan. It is stated that he has been working since 2002. It is unclear from the documentation on file when this applicant left the family home. In this regard, it may be the case that the applicant has severed his connection with the rural area and can no longer provide an economic justification to live at this location. However, rural housing policy as set out in the Development Plan provides for persons qualifying for a rural dwelling to include *'Persons who were born and reared for substantial parts of their lives (three years or more) in a specific*

rural area, who then moved away and who now wish to return to their home places to reside near other family members, to work locally, to care for elderly family members....' (Section 4.10). Based on this policy provision, I consider that the applicant has established a need for a rural dwelling (in compliance with Development Plan policy) based on social ties to the area including the need to support and care for elderly parents (and possibly a sibling of one of the applicants).

7.2.3. National Policy (in relation to rural areas under strong urban influence) as set out in the *Sustainable Rural Housing Guidelines (2005)* allow for circumstances where rural generated housing need might apply to include *'persons who are an intrinsic part of the rural community'* and as set out in the *National Planning Framework* to include a *'social need to live in a rural area having regard to the viability of smaller towns and rural settlements'* (Objective 19). Based on the submitted documentation and in the absence of details of where the applicants are currently resident (stated to be renting 'locally'), it has not been clearly established that the applicants can be regarded as an intrinsic part of the local community and have sufficient social need to live in the rural area in accordance with national policy. However, on balance, I consider that the applicants have established a strong connection with the rural community including ties based on the need to care for elderly parents (and a sibling). In these circumstances, I consider that the applicants comply with national policy and a refusal of planning permission based on Objective 19 of the National Planning Framework would be unwarranted in this instance.

7.2.4. **Other Matters**

7.2.5. I note that the submitted grounds of appeal are accompanied by a Site Characterisation Report which concludes that the site is suitable to provide for the treatment and disposal of foul effluent by means of a septic tank and percolation area.] The location of the proposed single storey dwelling is well set back from the public road and would be well screened from public view behind existing mature hedgerows. In these circumstances, I consider that the proposed development would not be visually intrusive in the landscape and would not injure the visual amenities of the area.

Appropriate Assessment

- 7.2.6. The application was screened by the planning authority and the need for a stage 2 appropriate assessment was screened out.
- 7.2.7. The nearest Natura 2000 designated sites are The Blackwater River SAC (Site Code 2170) located c. 3.7 km north-west of the appeal site and the Dungarvan Harbour SPA located c. 4 km east of the appeal site. The Blackwater River SAC is located uphill of the appeal site. There appears to be no pathway between the appeal site and the Dungarvan Harbour SPA. All other designated sites are located a significant distance from the appeal site.
- 7.2.8. In these circumstances, I consider that having regard to the nature and scale of the proposed development, to the nature of the receiving environment and to the separation distance to 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 any European site, in light of the sites conservation objectives.

8.0 Recommendation

- 8.1. I recommend that planning permission for the proposed development be refused for the reasons and considerations as set out below.

9.0 Reasons and Considerations

- (1) The proposed development would give rise to an increase in trip generation and traffic movements on a section of the N72, National Secondary Route, where the maximum permitted speed limit (100 kph) applies, resulting in a negative impact on the traffic safety and carrying capacity of this National Road. It is considered that the proposed development, by itself and the precedent that it would set for other similar development, would contravene the policies and objectives of the Waterford County Development Plan 2011-2017 (as extended) and be contrary to the Spatial Planning and National Roads Guidelines issued by the Department of Environment, Community and Local

Government (2012) which seek to restrict direct access to National Routes to appropriately zoned lands and service centres only. The proposed development would, therefore, give rise to a traffic hazard and establish an undesirable precedent for similar type development and would be contrary to the proper planning and sustainable development of the area.

(2) On the basis of the documentation submitted with the current application and appeal, the Board is not satisfied that the applicant has demonstrated how adequate sightlines can be provided to serve the proposed combined access onto the N72, National Secondary Road, at a point where vehicles travel at up to the maximum permitted (100 kph) speed limit. Accordingly. It is considered that the proposed development would endanger public safety by reason of a traffic hazard and would be contrary to the proper planning and sustainable development of the area.

Paddy Keogh
Planning Inspector

6th, March 2020