



An
Bord
Pleanála

Inspector's Report

ABP-307486-20

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| Development | Construction of 7 detached split-level dwellings. |
| Location | Upper Branch Road, Tramore, Co Waterford |
| Planning Authority | Waterford City and County Council |
| Planning Authority Reg. Ref. | 20150 |
| Applicant(s) | John and Honor Cassidy |
| Type of Application | Permission |
| Planning Authority Decision | Refuse |
| Type of Appeal | First Party |
| Appellant(s) | John and Honor Cassidy. |
| Observer(s) | Michael Richardson Mary Higgins |
| Date of Site Inspection | 30 th of September 2020 |
| Inspector | Caryn Coogan |

1.0 Site Location and Description

- 1.1. The subject site (2.175Ha) is located in Tramore town, Co. Waterford. It is a wooded sloping site fronting onto Upper Branch Road in close proximity to Lower Branch Road and the main approach road into Tramore from Waterford City. The site is elevated overlooking Tramore town and the promenade/ beachfront in the distance.
- 1.2. Tramore House (An elegant, substantial house of reserved Classical detailing that retains its original form and massing, together with most of the original fabric. Positioned on an elevated site overlooking Tramore Bay, the house forms an imposing landmark in the townscape, and contributes to the streetscape quality of Upper Branch Road and Pond Road.) and Japanese Gardens are located to the south of the site.
- 1.3. There are semi-detached dwellings to the immediate north, and a terrace of buildings to the east.
- 1.4. The site is known locally as Bookie Woods and has been an urban woodland area within Tramore for over 100 years.

2.0 Proposed Development

- 2.1. To construct 7No. detached two storey split level dwellings and all ancillary site works at Upper Branch Road, Tramore.

3.0 Planning Authority Decision

3.1. Decision

Waterford City and County Council refused the proposed development for 3No. reasons:

1. Having regard to objectives GI 1, GI 2 and GI 4 of the Tramore Local Area Plan, 2014-2020, and Section 6.2.2 of the Tramore LAP 2014-2020, where the proposed site (Bookie Woods) is identified as a key 'Biodiversity site and ecological corridor' in Tramore, and the layout would result in a substantial loss of trees on the overall site. It is considered the proposed development

would seriously injure the amenities of the area and the unique character of the heavily wooded area and would have potential adverse impacts on protected species and would be contrary to the policy objectives of the Tramore LAP 2014-2020.

2. Having regard to the layout of the proposed development and the resultant high level of tree loss and to the height, design and layout of dwellings,, associated infrastructure and prominent location of the site. It is considered that the proposed development would interfere with the character of the landscape which the planning authority considers necessary to preserve.
3. Having regard to the surface water drainage proposals on site and the lack of capacity in the public sewer, the PA is not satisfied the proposed development would not present a flood risk and in the absence of an acceptable solution the development is deemed premature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The proposed 7No. dwellings are laid out in a linear fashion with 2No. dwellings located along the eastern boundary of the site. A central access road serves the site.
- The Open Space meets with the 15% development plan standard, however its usability is limited.
- Public Infrastructure subject to pre-connection agreement
- Surface Water – concerns regarding soakaways.
- Density of proposed development has been reduced since previous application. However, issues with the site remain in terms of loss mature trees, adverse impacts in terms of biodiversity, habitats and visual impact. The scale of the proposed development involving 7 houses would require extensive clearing which would be detrimental from a visual amenity/ landscape character.

3.2.2. Other Technical Reports

Roads : No response

Water Services: Concern regarding stormwater proposals, as individual soakaways are considered to be unacceptable.

Heritage Officer: The proposal will result in the loss of biodiversity of the site. The Turkey Oak may be over mature but that does not detract from their biodiversity value. Given the Draft TPO relating to the site, the potential for adverse impacts

3.3. Prescribed Bodies

No response.

3.4. Third Party Observations

There were a considerable number of third-party objections to the proposed development from local residents. The main grounds of objection include:

- Adverse impact on ecological, visual, tourism and landscape impacts
- Site is a key biodiversity in the Tramore LAP, one of the last remaining woodlands in Tramore
- Dwelling No. 6 will result in overshadowing, loss of light and overlooking
- Adverse impact on Japanese Garden.

4.0 Planning History

The most current and relevant planning histories are as follows:

4.1 *Planning Reference 13223 (ABP PL 24.214947)*

Permission refused on appeal by ABP for 9 No. dwellings for 2 reasons:

- (a) Having regard to Objectives G1, G2 and G4 of the Tramore LAP and Section 6.2.2. of the plan, where the site is identified as a key biodiversity and ecological corridor in Tramore, and the layout includes a substantial loss of trees would seriously injure the amenities of the area.

(b) The layout would interfere with the character of the landscape which the Board considers it is necessary to preserve.

4.2 **Planning refence 05220 (ABP PL 24.214947)**

Permission granted by the planning authority for 9No. detached dwellings, and An Bord Pleanala upheld the decision to grant permission on appeal.

5.0 **Policy Context**

5.1. **Development Plan**

Tramore Local Area Plan 2014-2020

The subject site is zoned ***Residential*** which is to protect the amenity of existing residential development and to provide for new resident development at a medium density.

The site is situated within a '***Scenic Route***' (Upper Branch Road) in the Scenic Landscape Evaluation.

Policy GI1

The Council will preserve and enhance the amenity and biodiversity value of Tramore by preserving as far as possible trees, woodlands and hedgerows and will consider Tree Preservation Orders in order to protect trees of significance in the Plan area.

Policy GI2

To protect and encourage the creation of sites of local biodiversity value, ecological corridors and networks that connect areas of high conservation value such as tree corridors, hedgerows, earth banks and wetlands.

Policy GI 3

To review and update the Tramore Habitat Map as new information becomes available and to incorporate green infrastructure into future development for the benefit of the natural environment, adoption of climate change and quality of life for the local community.

Section 6.2.2 Bookie Woods is identified as a 'key biodiversity site and ecological corridor'

Tree Preservation Order

A number tree and/ or groups of trees within the site were identified by Waterford City and County Council as been of special amenity value. In accordance with Section 205(1) of the *Planning and Development Act 2000*, the planning authority commenced the process of making a Tree Preservation Order on lands at Bookie Wood, Branch Road, Tramore (TPO No. 1 2016)

5.2. Natural Heritage Designations

The subject site is 0.89km south wets of Tramore Back Strand SPA

The subject site is 0.89km south west of Tramore Dunes and Back Strand SAC

5.3. EIA Screening

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

The woodland site has been in the Power family ownership for more than 100years. In recent years Gemma Power should planning permission for 9No. dwellings om the site. The land use zoning for the site is residential.

In 1997 Waterford Co. Co. granted planning permission for 9No. dwellings on the site (97/341). In March 2006, An Bord Pleanála granted planning permission for 9No. dwellings on the site (PL214947).

The decision by the PA to refuse planning permission for a development with a reduced number of dwelling houses on the site is difficult to understand and reflects at minimum an inconsistent approach to planning control actions relating to the subject site. The site is acknowledged as a candidate site and is identified as a 'key biodiversity site and ecological corridor' in Tramore LAP 2014-2020.

There was a Tree Survey carried out of the subject site, and it concluded the proposed development would leave 0.81ha of land underdeveloped and only three healthy trees and non-native sycamores will be removed.

6.2 **Reason No. 1** – There will not be a substantial loss of trees on the site, the reason for refusal is a distortion of the situation. There are only 3No. healthy trees been removed off the site which are non-native sycamores, and there are over 100 healthy trees on the site. The proposed level of tree removal is minimal.

6.3 **Reason No. 2** – Again reason No. 2 refers to the high level of tree loss across the site. The layout of the site in terms of horizontal and vertical alignment of the road in particular has been carefully planned to achieve the least adverse impact on existing tree population. The development of 7No. two storey dwellings will have some impact on the character of the candidate site, the location of each dwelling has been selected to mitigate the visual impact of the site from key receptors.

The character of the landscape is wholly derived from the extensive tree belt along the eastern side of the site. This proposal accommodates five of the houses at the north western area of the site where there is virtually no tree cover. There are two houses proposed on the eastern side of the access road in 2 pockets where no trees exist on a line that extends the building line of the neighbouring properties to the north. There are options to vary the layout by condition, should the Board decide to permit the development and consider the density needs to be reduced.

The applicant would have no objection to relocating house No. 6 as distance of 4 or 5metres in a southerly direction and the elimination of the north facing lounge to overcome the concerns of the adjoining property owner, Mr. Chris Beattie.

Drawing 1969/PI10 demonstrated that the height of the proposed dwellings will not impact on either the near or distant views to the site. The existing dwellings at Ard Haven to the west of the site will continue to dominate the skyline. The proposed houses will be positioned at a lower level and will be absorbed by the existing tree cover.

6.4 Reason No. 3:- Irish Water have confirmed feasibility to connect to water mains and foul sewer.

Percolation tests were carried out on 15/11/2013 to assess the ground conditions for permeability. The subsoil was confirmed suitable for discharge of surface water runoff. The planning authority has granted a similar development in Tramore in Primrose Hill under planning reference 17847. It was agreed by the PA under the permitted scheme surface water would be disposed of within each site curtilage.

It is proposed to use a rain-water harvesting system within each site to reduce stormwater flows, to use permeable paving system on the house driveways, to use a permeable macadam with a permeable reservoir under to reduce surface water runoff volume from the main access road. Finally, a reserve percolation area within the open space area shall be used to reduce any possible clogging of percolation system.

6.5 Response to Memo from Heritage Officer

The Tree Preservation Order is still in Draft form and has yet to be confirmed since 2016.

The Judicial Review did not proceed because the submission was out of date.

The applicant obtained a tree felling licence FL17695 in January 2016. A total of 33 No. sycamore trees were to be felled until Waterford Co. Co. intervened and subsequently a Draft Tree Preservation Order was put in place.

The nearest proposed dwelling to the boundaries of the Japanese Gardens is 114 metres away. By contrast the existing houses to the east of the Japanese Gardens are as close as 28 metres. The current proposal includes a buffer zone of just under 1 acre between the proposed development and the Japanese Gardens. The applicant will sterilise the acre to guarantee future biodiversity and an ecological corridor.

6.2. Planning Authority Response

There was no further response apart from the Planning report on file.

6.3. Observations

(i) Mary Higgins, 3 Springfeild, Tramore

I will summarise the submission without undue repetition as some of the headings repeat the same concerns.

Tramore LAP 2014/2020

There is plenty of protection afforded to green spaces in Tramore under various policies and objectives.

The applicant must demonstrate there will be no impact on views and vistas. From the Promenade the vista is of Bookie Wood and Tramore house and gardens.

The site is located on a main approach into Tramore. The loss of over 85% of the mature trees on the site represents an unacceptable degradation of the tree line.

The policies were reference in the Board's previous refusal.

Trees

The owner arranged to fell 60No. trees since last application (13/223), including 13No. fine old oaks. There is a significant bat roosting habitat in situ.

There is an elm on site which is endangered.

The overall Dixon/ Brosnan Tree Survey Report is very confusing and fragmented.

The woodland has been the subject of gradual and significant tree loss, particularly arising from trees felled under the Felling Licence and those which fell in Storm Ophelia in 2017.

The Dixon/ Brosnan Report claims that only 3 trees will be removed to facilitate the development and associated Open Space.

Open Space Quality

The proposed open space does not provide usable quality open space eg for playing football.

Groundwater Vulnerability

The Bookie Wood lies over an area of notable groundwater vulnerability.

Protected Species

The site is important for Bats.

Landscape/ Townscape

The photomontages are illegible. The prominence of the site with its presence on a scenic route render the site notable in terms of its townscape qualities in conjunction with the surrounding Victorian architecture.

Tourism

The Tramore Chamber of Tourism and Commerce denotes the visual amenity value to the town Bookie Wood is, and Tramore is heavily reliant on tourism.

Cultural Heritage

The wood has historical significance dating back to the mid-1800s.

Built Heritage

A notable woodland formed part of Tramore House on old OS maps.

Tree Felling License

There is a full page about conifers in the report and there are no conifers on site. The local Forest Service should have read the LAP, and known the value of the trees. Bookie Wood has been degraded over the years with many great trees felled.

Climate Change

Concrete on the site will result in flash floods.

(ii) Michael Richardson, Talbot Place, Tramore

There is a history of planning applications on the subject site. The appeal states that the Council are inconsistent with its assessment of Biodiversity and Ecology. In fact, the planning system is not inconsistent but it is recognised that planning standards have moved on, so that there is a more informed approach to the need for conservation in general, and the preservation of ecosystems. A response to the third party appeal:

Reason No. 1

Following previous planning applications, the owners applied for a received a Tree Felling Licence (Ref. No. 17695). The permitted felling of 32No. trees on the site. The inevitable consequence was the loss of some fine oak trees on the site, which were a major roost for bats, and the sycamore support birds species. Dixon Brosnan now claim, the proposed development will have little adverse impact on the ecology and biodiversity of the site ring hallow.

The replanting proposed will have to be dug up if the development proceeds.

Reason No. 2

The planning authority's description of the trees in the reason for refusal is accurate.

Reason No. 3

The Council's concerns are valid given the number and level of unprecedented storms Ireland is experiencing now and into the future. People living on the lower level of Branch Road have experienced flash flooding, and the appeal response does not address this issue properly.

General Comment

The proposed development would cause irreparable harm to the ecosystem, and the proposal would be refused in line with EU directives, national policy, EPA Guidelines, Waterford City and Council policy and the Tramore LAP.

7.0 Assessment

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

- Local Planning Policy
- Design and Layout
- Other Issues
- Appropriate Assessment

7.2 Local Planning Policy

The relevant development plan for the area is the current Tramore Local Area Plan 2014 -2020. The subject site is a wooded elevated site in the middle of the town

which is zoned '**Existing Residential**'. The proposed development consists of 7No. detached dwellings served by a cul de sac service road which runs centrally up the site. The subject site is known locally as Bookie Wood. The proposed dwellings are split level to take advantage of the overall steep gradient of the site which rises east to west away from Branch Street Upper (a designated Scenic Route).

There are residential developments bordering the subject site on all sides, most notably to the west on a higher ground level overlooking the subject site and Tramore town. In principle the residential use of the site is low density and in keeping with the zoning objective for the site, and the adjoining land uses.

- 7.3 The planning authority refused the proposed development because it considered the proposals were contrary to objectives GI 1, GI 2 and GI 4 of the Tramore Local Area Plan 2014-2020 (as per An Bord Pleanála's decision under appeal reference PL24.214947). These policies are included in Chapter 6 of the LAP, under section 6.2 Green Infrastructure. It is stated in the Plan that trees are a valuable feature of the landscape for their amenity and wildlife value in Tramore because it has one of the lowest levels of tree cover in the county due to its coastal location. Bookie Woods is indicated in the Plan to have woodland value, and the Council attempted to put a Tree Preservation Order on Bookie Woods in 2017, however according to the appeal file the TPO is not fully in place to date.

Policy GI 1 – The Council will preserve and enhance the amenity and biodiversity value of Tramore by preserving as far as possible trees, woodlands and hedgerows and will consider Tree Preservation Orders in order to protect trees of significance in the Plan area.

According to the accompanying Tree Survey and Report on the appeal file, the proposed development of 7No. houses on the entire site would leave approximately 0.81ha of land undeveloped and one healthy tree, a non-native sycamore, will be removed. The report indicates the proposed development is compatible with the tree resources and will not result in a significant loss of the trees. I note from my inspection, there has been a significant loss of trees from the site, and a lot of the site is covered by undergrowth. However, whilst there will be a minimal number of mature trees removed from the site to accommodate the proposed development, the material use, and visual appearance of Bookie Woods will be significantly altered.

Bookie Woods will not longer be a small woodland area within an urban setting, it will become a residential development surrounded by trees. Therefore, the amenity value and biodiversity of Bookie Woods would be lost, and the proposed development is not in compliance with Policy GI 1.

The Tramore Local Area Plan postdates the previous planning applications on the subject site. I note from the planning histories there has been favourable consideration given to the residential development of the site in the past by the planning authority and these were not carried out or the favourable decisions were appealed by third parties to the Board, and this is reflected too in the Residential zoning objective for the site in the current LAP. However, the Tramore Local Plan also emphasises and promotes the preservation of the small pockets of woodland areas within the urban boundary. Having viewed Bookie Wood from Upper Branch Road (a designated scenic route), the Waterford Road and Tramore promenade to the east, I consider the subject site is worth preserving as a woodland area as opposed to developing it as a residential development. The site holds a high amenity value for Tramore, furthermore the residential development of Bookie Woods would be contrary to policy GI 2 as outlined below.

To protect and encourage the creation of sites of local biodiversity value, ecological corridors and networks that connect areas of high conservation value such as tree corridors, hedgerows, earth banks and wetlands.

In my opinion, the residential zoning of the subject site conflicts with planning policies and objectives contained in Chapter 6 of the Tramore LAP. Having regard to the high amenity value of Bookie Woods, and the biodiversity of the site within in a long established segment of Tramore town (Tramore House immediately to the south of Bookie Woods), I believe the Green Infrastructure policies contained in the Plan take prominence over the residential zoning objective on the site, because of the importance of amenity and natural resources to Tramore which is essentially a town dependent of tourism for economic viability and sustainability. Therefore, I recommend the Board uphold the planning authority's first reason for refusal. The Plan recognises there has to be a balance between development and protection of the natural and built environment. This will be achieved through appropriate policies

and objectives that respect the natural and built environment, the economy and the social and cultural needs of the community. The loss of Bookie Wood to create a low density residential development would be a significant loss to the natural environment of Tramore, a significant loss to the visual and townscape amenities of Tramore and a significant loss to the wildlife of the area, and not in keeping with the underlying principles of section 6.2.2 of the Plan, which states '*Key biodiversity sites and ecological corridors in Tramore include Bookie Woods, the Garraun Stream, Glen Road and tree corridors on the approach road from Pickardstown. These green spaces are now being regarded as "green infrastructure" and essential links in the network of our urban areas for a range of services and benefits for our communities.*'

7.4 Design and Layout

The proposed design involves a single access off Upper Branch Road (at the existing entrance to the site) with a cul de sac ascending centrally through the site to provide access to 5No. split level two storey dwellings along the western axis of the site, and 2No dwellings on the lower gradients of the site.

The individual house design includes contemporary brick dwellings with pitched blue black slate roofs, with overall ridge heights of 10.8metres. I note the section drawings reveal the tree lining along Upper Branch Road will be retained to ensure minimal visual disruption caused by the development when viewed along the scenic route. The greatest visual impact will be from the Waterford Road approach and the wider panorama of the Tramore promenade and town.

On balance, I consider the overall design and layout to be acceptable. I consider the design and specification is discreet and there has been an objective to integrate the overall scheme into the woodland area with minimal visual impact and minimal impact on adjoining dwellings backing onto the subject site particularly at a lower gradient.

7.5 Other Issues

The proposed access arrangements are acceptable and there is an existing vehicular entrance at the proposed location. The internal road provides for satisfactory turning area.

The proposed Tree Preservation Order is still in draft form. The applicant did obtain a tree felling licence FL17695 in January 2016, and 33No. trees were felled under the licence

The proposals for surface water collection and disposal are noted, and the four proposals would reduce storm water run-off and perceived flood risk.

Bookie Woods provides foraging for pipistrelle bats which are most likely roosting in suitable trees. The presence of such a woodland in an urban area is a scarce natural resource. It is indicated in the accompanying report that the trees to be felled to accommodate the development have no cavities suitable for roosting bats. The report considered the potential impacts to the bats will not be significant. However, the report contains vague unsubstantiated data and more detailed baseline studies of the site are required in terms of the bat population on site to make an informed decision on this issue.

I note the Heritage Officer's report on file concluded the scale of the 7No. dwellings would necessitate extensive clearance within the site and thus be detrimental to the landscape character and natural environment of Bookie Woods and the proposed should therefore be refused.

7.6 Appropriate Assessment

The proposed development is located within an urban area on zoned lands that are serviced. It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any Natura 2000 designated sites.

8.0 Recommendation

- 8.1. I recommend the planning authority's decision to refuse planning permission for the proposed development be upheld.

9.0 Reasons and Considerations

Having regard to Objectives GI1 and GI 2 of the Tramore Local Area Plan 2014-2020, and section 6.2.2 of the Plan, where the appeal site (Bookie Woods) is identified as a key 'Biodiversity site and ecological corridor' in Tramore, and to the layout proposed which includes the provision of 7No. dwellings and a service road through the woodland area, it is considered the proposed development would materially alter the unique character of the wooded area, would seriously injure the visual amenities of the area, and would be contrary to the policy objectives of the said development plan. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Caryn Coogan
Planning Inspector

30th of October 2020