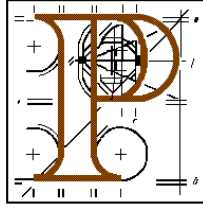


An Bord Pleanála



Inspector's Report

PL.93.245386.

DEVELOPMENT:-

House, outbuilding, proprietary treatment system, percolation area and associated site works at Portally, Dunmore East, County Waterford.

PLANNING APPLICATION

Planning Authority: Waterford City and County Council

Planning Authority Reg. No: 15/344.

Applicants: Jane Dunne and Edmond Brick.

Application Type: Permission

Planning Authority Decision: Refusal of permission.

APPEAL

Appellants: Jane Dunne and Edmund Brick.

Type of Appeal: First Party.

Observers: None.

DATE OF SITE INSPECTION: 23rd October 2015.

Inspector: **Derek Daly.**

1.0 SITE LOCATION AND DESCRIPTION.

The appeal site is located in a coastal rural area in the townland of Portally approximately 3 kilometres southwest of the village of Dunmore East in County Waterford. The site overlooks the coastline. The site is located off a narrow minor road which is off a local road running west from Dunmore East. The road from the main local road to the appeal site has a number of bends leading to the site and is of a narrow width and alignment. The access road serves a relatively high number of dwellings including a group of dwellings east of the proposed site. The road terminates immediately to the west of the proposed access to the site at an access to another dwelling.

In relation to the site it is very irregular in configuration surrounding an existing dwelling site on three sides with a large area of the site located to the south and west of the other dwelling site and a narrow section running southwards along the other dwelling's eastern boundary. Access to the proposed site is immediately to the east of the existing dwelling with the site frontage equating to the width of an entrance to serve the proposed dwelling. There is a laneway running south eastwards along the site's southeastern boundary. The southern and western boundaries adjoin open lands.

The area of site relating to the proposed development is stated as 1.505 hectares.

2.0 PROPOSED DEVELOPMENT.

The proposed development as submitted to the planning authority on the 15th of June 2015 was for a split level single storied dwelling comprising of two connected blocks largely to take into consideration the site's contours. The proposed dwelling is located in the southeastern area of the site approximately 60 metres from the proposed road access.

The dwelling is of a modern design and construction while retaining aspects of traditional scale and proportion with a maximum roof ridge height above finished floor level 5736mm.

There is an outbuilding/ garage to the northeast of the proposed dwelling.

It is proposed to connect to the public mains and to provide foul drainage via a proprietary treatment system septic tank and percolation area located to the southwest of the dwelling.

In supporting material for the application the applicant has submitted documentation relating to housing need, to a connection to the area as the

site is on the family landholding; a design statement; traffic report and a site characterisation report in relation to drainage.

The gross floor area of the proposed development has a stated area of 185.m².

3.0 PLANNING HISTORY.

P.A. 14/600379.

Application for a dwelling on the appeal site withdrawn.

The immediate area has also been the subject of a number of planning applications including refusals on appeal in relation to PL.24.228247, PL 24.234474 and PL.24.236829.

ABP. Ref. No.PL.24.228247 / P.A. Ref. No. 07/1419.

Permission refused for a dwelling for two reasons. The first referred to the settlement strategy of the Waterford County Development Plan 2005, to the provisions relating to settlement strategy and housing in rural areas and that the applicant does not come within the scope of the housing need criteria set out in the development plan for a house at this rural location. The second reason for refusal indicated that “the proposed house is served by an inadequate access route. Furthermore, the applicant has insufficient legal estate or interest in the access route to enable the carrying out of improvement works to bring the route up to a satisfactory standard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area”.

ABP. Ref. No.PL.24. 24.234474 / P.A. Ref. No. 09/300.

Permission refused for a dwelling for two reasons similar to ABP. Ref. No.PL.24.228247.

ABP. Ref. No.PL.24.236829 / P.A. Ref. No. 10/70.

Permission refused for a dwelling for three reasons. The first reason referred to the visually vulnerable designation of the area and that the proposed development would be a visually obtrusive feature in the landscape at this location. The second reason for refusal refers to the proposed development constituting random backland development in an already overdeveloped area and would militate against the preservation of the rural environment, the efficient use of agricultural land and provision of public services and

infrastructure. The third reason referred to “having regard to its location on a minor road which is seriously substandard in terms of width and alignment and, in particular, substandard in terms of levels of visibility available in a northern direction, would constitute a traffic hazard and would endanger public safety by reason of traffic hazard”.

4.0 PLANNING AUTHORITY REPORTS.

The planning report of 30th of July 2015 refers to the planning history; to pre-planning in relation to the site; provisions of the county development plan in particular that the site is located within an area zoned agriculture and under urban pressure. It is accepted that the applicants have a housing need and a link to the area. Reference is made to the pattern of development in the area and the road network. Refusal of permission was recommended.

5.0 PLANNING AUTHORITY’S DECISION.

The Planning Authority decided to refuse planning permission for the development. Two reasons were stated. The first refers to the existing pattern of development; to the excessive density and that the development would perpetuate an ad hoc disorderly pattern of development. The second reason for refusal refers to the road network serving the site which is considered substandard.

6.0 APPEAL SUBMISSIONS.

6.1 FIRST PARTY APPEAL.

The appellants in the grounds of appeal state,

- The pre-planning report offered no objection to the principle of a house on the site.
- There was an objection to the access location and the position of the house.
- A housing need was established.
- There is no alternative site available.
- In relation to the proposal as submitted permissions have been granted for houses on the road network.
- The applicant acquired the site in 2008 from her uncle which is a limited landholding and no land on the holding was sold for sites.
- There is no alternative site available on the landholding.
- A roads report was submitted with the application which concluded the road and junction network is capable of accommodating the proposed development.

- The land is rented for horse grazing and the applicants visit family in the area and there will be an overall reduction in traffic movement arising in relation to the site.
- Reference is made to a previous permission granted on the site and not implemented and other planning permissions were granted on the site over the years on the same road network.
- In relation to the Board refusal on PL.24.236829, there was particular concern with sightline visibility at the site entrance rather than the road network generally. A similar position arose in relation to PL.24.234474.
- It is important to consider in relation to traffic that the planning authority were open to considering alternative sites in the area so the road network and capacity were not at issue in this regard.
- The issue of the house location was the subject of discussion with the planning authority. The access serving the dwelling can be located further eastwards towards the existing lane which would remove the access away from the boundary with the existing house and allow for planting deeper planting between the access and the existing dwelling.
- In relation to density of development there would be no more houses than if the permission previously granted had been implemented and was not raised in previous applications in the area.
- There is no policy in relation to backland and the proposal has its own independent access, there is ample space between dwellings and there will be no negative impact on the existing house.
- Reference is made to the issue of housing need and connection to the area.
- There is an absence of consistency in relation to considering proposals in the area.

7.0 RESPONSES TO APPEAL

The planning authority in a response dated the 23rd of September 2015 indicates,

- The planning authority has set out its position in the planning report in relation to ad hoc disorderly development and road network serving the site.
- The Board in 10/70 refer to substandard nature of the road network which was considered substandard in width and alignment.
- The housing need of the applicants is not in question.
- It is considered a dwelling will give rise to more traffic than visits to a family home or tending to livestock.
- The planning authority is not satisfied that the minor road serving the site can adequately cater for additional traffic.
- A full assessment of a proposal can only occur with a planning application.

- The applicants were informed at pre-planning stage that the planning authority was not favourably disposed to a dwelling at this location.
- The planning authority did give a fair hearing in relation to the proposal and that this application has been ongoing since 2012.
- Portally is not a village it is an ad hoc assembly of one off houses created by pressure for development since the 1970s. There are no urban services in the area.
- The presence of holiday homes is an indication of the pressure for development.
- Housing need is only one criterion in considering an application. There are other matters to consider and the technical matters are not satisfactory.
- Should the planning authority accommodate all relatives in a rural area?
- Dunmore East is one and a half miles from the site and there are many options for site development there and this fits in with policy for development.

8.0 POLICY.

8.1 NATIONAL POLICY.

Guidelines on Sustainable Rural Housing 2005.

- 8.1.1 The site is located in a rural area and in the context of the Guidelines section 3.2 would be in an area would be defined as a rural area under strong urban influence.
- 8.1.2 The guidelines refer to the need for a development plan approach and to having similar defined the rural area types as set out in the NSS within the development plan. The guidelines also indicate that planning authorities must then tailor policies that respond to the different housing requirements of both urban and rural communities and the varying characteristics of rural areas.
- 8.1.3 The Guidelines differentiate between rural and urban-generated housing. The guidelines refer to rural generated housing; to sustaining and renewing rural communities; to accommodating people of a rural area in their area of origin and in section 2.4 to tailoring policies to local circumstances. Section 3.2.3 also refers to rural generated housing and there is reference to “persons who are an intrinsic part of the rural community” on page 22. There is also reference in this regard to “members of an established rural community, and persons who wish to return to reside near other family members or to care for elderly family members”. There is in addition reference to working in rural areas including full and part time farming.

8.1.4 The guidelines also indicate, however, that having defined rural generated housing needs, the development plan should make very clear that subject to satisfying normal considerations relating to siting and design the planning authority will look favourably upon an applicant's proposal for an individual house in a rural area where that applicant comes within the development plan definition of need. Chapter 4 outlines the criteria to be assessed in determining applications in rural areas including assessing housing circumstances, access, protecting water quality and design.

8.2 Environment Protection Agency.

The EPA publications Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10) 2009 and its subsequent clarifications.

The Code of Practice outlines the importance of proper site assessment methodology, the identification of the minimum environmental protection requirements, the need for design of on-site wastewater disposal systems specific to the local conditions and the need for installation, commissioning and maintenance as per design and attendant recommendations / conditions.

8.3 WATERFORD COUNTY DEVELOPMENT PLAN.

8.3.1 The current Development Plan is the Waterford County Development Plan 2011-2017.

8.3.2 Chapter 4 of the plan relates to settlement strategy and outlines what is essentially a settlement led strategy based on the NSS, the RPG and the Guidelines on Sustainable Rural Housing 2005 with an identified hierarchy of settlements. In relation to rural areas the site is within an area identified as under urban pressure. There is also recognition of rural areas and the need to strengthen and sustain rural communities.

Section 4.7 of the plan indicates the need for an overall rural settlement strategy in the context of an overall strategy for the county and 4.8 in relation to rural housing policy refers to a policy which must find a balance between reinforcing and strengthening rural communities whilst protecting the rural environment from over-development. Section 4.9 refers to the identification of rural area types in line with the recommendations of the Sustainable Rural Housing Guidelines.

In this context the following policies are of relevance.

Policy SS3 “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”.

Policy SS4 “to direct urban generated housing development in areas under urban pressure to adjoining zoned settlements”

Policy SS35 “to cater for the housing requirements of members of local rural communities who have a genuine local housing need in areas under urban pressure as set out in Section 4.10”.

Section 4.10 sets out criteria for consideration in relation to the assessment of local need in rural areas in particular under urban pressure. The criteria include a member of the immediate family of a landowner.

Chapter 8 relates to Environment and Heritage. Section 8.4 relates to ground water protection and specifically policy ENV 6 outlines a policy to protect groundwater and surface water quality.

Wastewater is referred to in section 8.6 and policy ENV 8 indicates that “it is a policy of the Council to comply with the 2009 Surface Water Regulations, Waste Water Discharge Regulations (2007), Urban Waste Water Treatment Regulations (2004) and the EPA Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses (2009)”.

Chapter 10 relates to Development Management where policy DM 1 is stated as a general policy requiring compliance with standards as set out in the plan.

Section 10.2 relates to the provision of access setting out standards in relation to a range of roads and also in relation to the formation of accesses, sightlines and boundary treatment.

Section 10.3 indicates standards for new development, table 10.3 outlines minimum standards for individual houses in rural areas and section 10.3.1 requires all planning applications for a single rural house to include a ‘Design Statement’.

Section 10.6.3 relates to the treatment of effluent in unserviced areas.

Appendix A9 relates to Scenic Landscape evaluation and details landscape sensitivity based on the capacity of the environment to absorb new development under the varying classifications including degraded areas; robust areas; normal areas; sensitive and vulnerable areas. The site is within

an area described as normal in the key map for the county but is in relative close proximity to sensitive and vulnerable areas related to the coast.

Section 4 of A9 relating to criteria for evaluation does refer to capacity to absorb development and disproportionate visual impacts. Factors which are important include topography as development in elevated areas will usually be visible over a wide area; vegetation and development.

It is also indicated that all development proposals must satisfy site suitability and technical considerations, including; availability of adequate infrastructure; landscaping and screening; ribbon development; the height, scale, bulk, massing, finishes and detailed design; suitability of site layout; availability of adequate sight distances at vehicular entrance; wastewater treatment; adherence to the scenic landscape evaluation; and the degree to which site development works will scar the landscape / result in site with excessive gradient.

9.0 ASSESSMENT.

9.1 The primary issues in relation to this appeal relate to development plan policy and considerations specific to the site in particular the reasons for refusal stated.

9.2 NATIONAL POLICY/DEVELOPMENT PLAN POLICY.

9.2.1 In section 8 of this report I have outlined relevant provisions in relation to the DoEHLG Guidelines on Sustainable Rural Housing and the current County Development Plan.

The DoEHLG Guidelines distinguish between urban generated and rural generated housing in rural areas and refer to rural generated housing. There is reference to establishing need to reside in rural areas. The guidelines also refer to the need to tailoring policy to meet different types of rural areas.

The site is located in a rural area and in the context of the Guidelines paragraph 3.2 would be in an area defined as a rural area under strong urban influence which are areas will exhibit characteristics of considerable pressure for development of housing due to proximity to such urban areas and pressures on infrastructure such as the local road network. The site is in relative close proximity to Waterford City and the coast and in this context the rural area as defined is reasonable.

The guidelines refer to the need for a development plan approach and having defined the rural area types in the development plan, tailoring policies that

respond to the different housing requirements of urban and rural communities and the varying characteristics of rural areas.

In relation to the current Waterford County Development Plan, the plan essentially follows the guidance and policies outlined in the guidelines. Section 4.9.1 in relation to Areas Under Urban Pressure identifies key development plan objectives in this area as, on the one hand, facilitating the housing requirements of the local rural community, subject to satisfying site suitability and technical considerations, whilst on the other hand directing urban generated development to areas zoned for housing in the adjoining service centres and settlement nodes.

It sets out criteria for consideration of housing outside of settlements within the overriding presumption to strengthen and support existing settlements and in this regard generally adopts the approach set out in the rural housing guidelines.

The plan also defines an overall strategic approach in relation to the county within an overall settlement strategy, tailoring policies to the different rural areas and defines the criteria for permitting housing in rural areas. Section 4.10 of the plan refers to genuine local housing need and the criteria to be adopted in considering prospective applicants.

The county development plan in addition to considering different rural area types has also further refined policy in section 4.13 by also considering other criteria of site suitability and that proposals for residential development in rural areas will be required to satisfy site suitability and technical considerations as set out in Chapter 10, Development Standards.

The overall approach as set out in the county development plan is I consider reasonable and largely follows the general principles of national guidance.

- 9.2.2 In assessing the current proposed development it is therefore necessary to consider the issue of whether the development is or is not rural generated housing and also whether a genuine rural generated housing need is established.

In this regard I note that the guidelines in section 3.2.3 with regard to rural generated housing refer to “persons who are an intrinsic part of the rural community” and there is also reference in this regard to “members of an established rural community, and persons who wish to return to reside near other family members or to care for elderly family members”.

In considering rural generated housing the guidelines also indicate that planning authorities to take a positive approach to applications from such persons in circumstances where permission might otherwise be refused.

The issue of need and whether the proposed development constitutes urban generated rural development is not a stated reason for refusal of this development. The appeal site is located on the landholding of a relative of the applicant's and that the applicants' parents have a long established link to the area. The appellants in the submissions to the planning authority and in the grounds of appeal outline family's ties to the area and the landholding.

These criteria do address matters as set out in the guidelines and also the provisions of the county development plan. The applicant has, based on the information submitted, demonstrated a housing need related to the local area. The proposal, I consider, complies with the overall strategy as set out in the County Development Plan and national guidance in relation to consideration of need.

I am therefore satisfied on the basis of the information submitted that the applicant has established a local need to reside in the area where the site is located.

- 9.2.3 Having considered the issue of rural based housing and housing need, other criteria and issues relating to other provisions of the county development plan require assessment and this approach is reasonable in the context of the guidelines and considering other matters other than housing need. This approach is also contained within the provisions of the county development plan.

The reason for refusal largely relates to issues site specific issues related to the appeal site referring to house location and traffic hazard and these will be addressed in section 9.3 of the report.

- 9.2.4 In relation to designations specific to the site, the site does not appear to be within any specific area of visual importance designated in the key map of Appendix 9 of the county plan which refers to scenic landscape evaluation and is located in what is described as a normal area. The site is, however, located in an area in proximity to the coastal area considered to be sensitive and there is a visually vulnerable area to the north.

The proximity of these areas is an important consideration and A9 does notwithstanding identification of areas does require that all sites are evaluated and must satisfy site suitability and technical considerations, including landscaping and screening; ribbon development; the height, scale, bulk,

massing, finishes and detailed design; suitability of site layout; availability of adequate sight distances at vehicular entrance and wastewater treatment.

- 9.2.5 The county development plan does not, therefore, in principle exclude consideration of the development of the site but does require evaluation of all development suitability on a range of site specific criteria. In effect, therefore however, development requires to be considered on an individual basis and an assessment of the potential visual impact that may arise in the context of the landscape in which it is proposed to locate a proposed development and the capacity of the landscape and the area's infrastructure to accommodate.

9.3 SITE SPECIFIC CONSIDERATIONS.

9.3.1 General / Siting and Design.

The first reason for refusal stated in the planning authority's decision refers to "in conjunction with existing development in the vicinity, would constitute an excessive density of development and perpetuate and ad-hoc, disorderly development pattern in a rural area and would therefore be contrary to the proper planning and sustainable development of the area".

Specific to the site itself the irregular configuration of the site, the termination of the access road to the site and the presence of an existing dwelling within three of its boundary presents issues in relation to siting of a dwelling. As a consequence the dwelling is located to the rear of the adjoining dwelling and within 3 metres of the common boundary with this site. There are habitable rooms on the northern elevation of the proposed dwelling which will overlook the rear area of the existing dwelling. The driveway serving the proposed dwelling is also in close proximity to the common boundary and I note that the appellants could if required relocate the driveway away from this boundary.

In relation to the design of the dwelling the design has taken into consideration the gradual fall in level in a southerly direction in proposing a split level foot print for the dwelling. The design is relatively simple and I have no issue with the scale and height as proposed.

The proposed dwelling has also been designed to minimise visual impact in relation to overall height and the breaking up of the mass of the dwelling. I have no objection to the design as submitted. Given the open nature of the landscape any form of development will be visible but the scale of visual impact will be local to the immediate area and a lower level to road and will not be obtrusive when viewed from the wider area.

The primary concern is the relationship of the dwelling with other property in the vicinity including the adjoining lands and what the planning authority refers to as the ad hoc nature of development and the development pattern in a rural area. There is a loose cluster of development to the east but the proposed development does not adjoin this cluster and does not have a direct relationship to this cluster. I consider that the proposed development constitutes random and disorderly development in what is an already over-developed area in the context of the area and the road infrastructure serving the site and area notwithstanding the absence of any local objection.

I would note that there is reference to previous permissions in the area and lack of consistency but the application requires to be considered in the context of the current position. There may have been a previous permission on the site in the past which was not implemented but circumstances change and it is reasonable to consider the current proposal in the context of what prevails at present and the scale of development which currently exists.

9.3.2 Other site specific considerations.

9.3.3 Services.

The proposal is to provide a water supply via the public mains and I would have no objections in principle to the proposal.

It is proposed to install a septic tank treatment system and percolation area to treat foul effluent located to the southwest of the proposed dwelling. On the 15th of June 2015 details were submitted in relation to the wastewater treatment system proposed for the development including a site characterisation assessment and the basis of the trench lengths are outlined which are based on the T and P values and a population equivalent of 6 persons based on the EPA CoP.

I would note that the site is of an area and configuration to provide an adequate percolation area. I also note that although in the on-site assessment it is indicated that there are no existing wells either uphill or downhill within the specified distances required and the risk to domestic potable water does not therefore arise.

The EPA publications Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10) 2009 and its subsequent clarifications outlines site suitability assessment methodology including site character assessment and suitability tests and a range of scenarios depending on results based on values varying between 3 and 60 including minimum distances, upgrading of percolation areas and the installation of

polishing filters and raised percolation using imported media depending on the treatment plant proposed. Table B.3 outlines recommended minimum distances between a receptor and a percolation area or polishing filter for a range of types of soil/subsoil relative to the nature of water supply.

The site is I consider of an adequate area and it is also proposed to provide for a receiving media of an adequate percolation quality to treat the loading and effluent anticipated to arise. The proposal I consider complies with the EPA Code of Practice and I would have no objections in principle to the proposed method of effluent disposal based on the details as submitted.

9.3.4 Traffic.

The second reason for refusal refers to traffic hazard specifically referring to road as seriously substandard in terms of width and alignment. Submitted with the application was a traffic report which refers to traffic generation arising in the area and the nature of the road network serving as access for the site and which considers the road network satisfactory in the context of the level of traffic which will be generated. T

The site is located on a narrow county road which terminates as a cul-de-sac at the appeal site. The road has a pavement width which varies and which in long sections is approximately 3 metres in width and also has roadside verges which vary in width. There are also a number of bends along the minor local road from the appeal site up the junction with the major local road.

Although there is no specific issues in relation to sightline visibility at the access point to the site previous Board decisions and the current planning authority decision have referred to the minor road serving the site as seriously substandard in terms of width and alignment and I would agree with this position.

I would accept the view stated that traffic levels are likely outside of holiday periods likely to be low but there are long sections of the road serving this site where there is no safe passage for passing vehicles and there are acute bends. The road network serving the site is inadequate to serve the level of traffic in a safe manner and increasing the levels of traffic by permitting further development is not therefore appropriate.

10.0 **CONCLUSION AND RECOMMENDATION.**

Having regard to the foregoing, I recommend that permission be refused for this development for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS.

1. Taken in conjunction with existing development in the vicinity, the proposed development would constitute an excessive density of development and perpetuate an ad hoc and disorderly pattern of development in an unserved rural area and would therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the site's location on a narrow cul de sac road, the nature of the existing alignment of the public road serving the site and the substandard nature of the overall road network serving the site and area it is considered therefore that the additional traffic generated by the proposed development would give rise to a traffic hazard and interfere with the safety and free flow of traffic.

Derek Daly

3rd December 2015

Inspectorate.