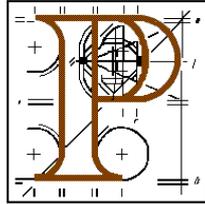


## An Bord Pleanála



### Inspector's Report

**PL26.245612**

**Development:** Dwelling, domestic garage and on site effluent treatment system.

**Location:** Duncannon, Ballyhack, Co. Wexford.

### **Planning Application**

Planning Authority: Wexford County Council

Planning Authority Reg. Ref. No: 20150787

Applicants: Annette and Brendan Butler

Type of Application: Permission

Planning Authority Decision: Refuse Permission

## **Planning Appeal**

**Appellants:** Annette and Brendan Butler

**Type of Appeal:** First Party

**Observers:** None

**Date of Site Inspection** 6<sup>th</sup> of January 2016

**Inspector:** Siobhan Carroll

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.0.1 The appeal site is located in the townland of Duncannon, Ballyhack Co. Wexford. It is situated circa 1km to the north of the village of Duncannon along the local road the L4052. This road links the R373 at Duncannon to the R733. The site is situated on the western side of the coastal route and the location of the proposed dwelling lies close to the edge of cliff which overlooks Waterford Harbour/Suir Estuary. There are wide views across the Harbour to Co. Waterford and south towards the Creadan Head. Duncannon lighthouse which is a protected structure is located circa 160m to the north of the site.
- 1.0.2 The site has a stated area of 0.6226 hectares and it comprises the lower section of a large open field which is planted with fodder beet. The site is has frontage of circa 50m. The site extends back over 230m to the south-west. The slope of land fall gradually towards the cliff edge.

## **1.1 THE PROPOSED DEVELOPMENT**

Permission is sought to construct a dwelling, garage and on site effluent treatment system. Features of the scheme include;

- Site area 0.6226 hectares,
- The proposed dwelling has a floor area of 302.56sq m
- Dwelling ridge height of 3.5m
- Domestic garage with floor area of 36.70sq m
- Wastewater treatment system and polishing filter
- Private well

## **1.2 THE PLANNING AUTHORITY'S DECISION**

### **Internal Reports:**

Senior Executive Scientist: No objections.

Environment Department: No objections subject to condition.

Coastal Engineer: If permission is granted there is medium confidence that no coastal erosion will occur.

### **External Submission:**

An Taisce: The site location between the road and the sea would be visually obtrusive and the proposed development would impact upon the visual amenities of the area.

### **Submissions**

The Planning Authority did not receive any submissions or observations in relation to the application.

### **Decision**

Planning Authority decided to refuse permission for four reasons. The first reason refers to the proposed development being contrary to objective CZM13 of the Development Plan and that it would have a significant detrimental impact on the visual amenity of the area. The second reason refers to the proposed development being contrary to objective CZM13 of the Development Plan where it is the policy to prohibit development where it poses a significant or potential treat to coastal features. The third refusal reason refers to the inadequate sightlines at the proposed entrance which would give rise to a traffic hazard. The fourth reason refers to the detrimental impact the proposed development would have on the setting of Duncannon Lighthouse Protected Structure.

## **1.3 PLANNING HISTORY**

None

## **2.0 PLANNING POLICY**

### **2.1 Development Plan**

The Wexford County Development Plan 2013 – 2019 is the statutory Development Plan for the area. The relevant sections of the Development plan as they apply to this development are as follows;

- The site is within an area defined as Stronger Rural Area in the Rural Area Types Map No. 6 attached to the development plan.
- The site is within located with the designated coastal zone as indicated on Map No. 11 attached to the development plan.
- Objective RH03  
To facilitate the development of individual houses in the open countryside in

'Stronger Rural Areas' in accordance with the criteria laid down in Table No. 12 and subject to compliance with normal planning and environmental criteria and the development management standards laid down in Chapter 18.

- Table 12 in the Development Plan sets out definitions for 'Local Rural People' as those who were born in or have lived for a minimum of 5 years in a local rural area. A local rural area is 15kms radius of where they live or have lived. Where the site is of a greater distance but the applicant can demonstrate significant ties with the area for example immediate family or long term landownership then these applications will be considered on their merits.

## **2.2 National Policy**

### **The Sustainable Rural Housing Guidelines for Planning Authorities, April 2005**

The above Ministerial guidelines refer to criteria for managing rural housing requirements whilst achieving sustainable development. The subject site is located within an Area Under Strong Urban Influence as identified in Map 1: Indicative Outline of NSS Rural Area Types in the DOE Rural Housing Guidelines. The key development plan objectives in these areas should be to on the one hand to facilitate the housing requirements of the rural community as identified by the planning authority in the light of local conditions while on the other hand directing urban generated development to areas zoned for new housing development in cities, towns and villages in the area of the development plan.

### **EPA's Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses**

This policy document provides guidance on the assessment of on-site wastewater disposal systems for single house. The government considers that the implementation of the Code is a key element to ensure that the planning system is positioned to address the issue of protecting water quality in assessing development proposals for new housing in rural areas and meeting its obligations under Council Directive (75/442/EEC).

## **3.0 APPEAL**

A first party appeal was submitted by Fergus Flanagan Architects on behalf of Annette & Brendan Butler on the 13<sup>th</sup> of October 2015. The content of the appeal submission can be summarised as follows;

- The Wexford County Council refused permission for the proposed development for four reasons. The first stated the development would be contrary to Objective CZM13 and that it would impact upon the visual amenity of the area. The second stated that the development would be contrary to

Objective CZM16 which seeks to prohibit development where it poses a significant threat to coastal features. The third reason states that the required sightlines were not provided. The fourth reason states that the proposed development would interfere and have a detrimental impact on the protected structure of Duncannon Lighthouse located to the north of the site.

- Regarding the first refusal reason it is contended that the proposed dwelling would not be visible from the road or the surrounding area including from the harbour or in the context of the lighthouse. It is proposed to build the single storey dwelling into the site incorporating an earth bank to screen the dwelling. The level of the roof is proposed at 90.8m the road level is above that of the proposed dwelling and is 106.3 which is a difference of 15.5m.
- A site section and a number of photographs from the surrounding area are included with the appeal submission. It is stated that the proposed dwelling would not be visible from the road to the east. Additional screening is proposed including a 1m high earth bank with planting on top which would provide a 2m high screen prior construction.
- The second refusal reason refers to the development posing a significant threat to the coast. It is contended that the proposed dwelling would be satisfactorily screened and would not be a threat to coastal features.
- Amended drawings have been submitted which indicate that the required 65m sightlines can be provided in both directions. The applicant's father is the owner of the whole field and has agreed to facilitate the provision of revised sightlines as required.
- It is contended that the proposed dwelling would not interfere with or have a detrimental impact on Duncannon Lighthouse which is a protected structure. The proposed dwelling would be located at a lower level than the lighthouse and the neighbouring lands project out beyond the site and provides a natural screen between the site and Duncannon Harbour to the south.
- The appellants request that the Board take into consideration the issues raised in the appeal and overturn the decision of the Planning Authority to refuse permission.

### **3.1 Planning Authority response submission**

- The site is located on the cliff edge overlooking Waterford Harbour and it was never included in the built up area within Duncannon. The principle of a dwelling in this coastal zone is not acceptable and permission should be refused on that basis.

- Objective CZM16 of the Development Plan states that development shall be prohibited where it poses a significant or potential threat to this part of the Wexford coastline. The proposed dwelling would be highly visible from the Waterford Harbour and from the coastal area between Crooke and Creadan Head in Co. Waterford.
- The proposed site entrance would be located at a point on the road where a continuous white line is present. The applicants have changed the redline site boundary and revised the proposed location of the site entrance to demonstrate adequate sightlines. This may prove to be more dangerous as the traffic turning right into the site from the north would be closer to the bend of the road. Therefore the proposed development would be likely to give rise to a traffic hazard.
- It is considered that the proposed development which is immediately to the south of Duncannon lighthouse Protected Structure, will impact negatively on its natural setting in the landscape overlooking Waterford Harbour/Suir Estuary.
- The Planning Authority therefore request that the Board uphold the decision to refuse permission in this instance.

#### **4.0 ASSESSMENT**

Having regard to the above, and having inspected the site and reviewed all documents on file, the issue to be considered in the assessment of this case is as follows:

- Rural Housing Policy
- Design and Visual amenity
- Site Access
- Effluent treatment
- Other issues

#### **4.1 Rural Housing Policy**

- 4.1.1 With regard to compliance with rural housing policy the proposal should be in accordance with the provisions of the Sustainable Rural Housing Guidelines and the provisions of the Wexford County Development Plan 2013 – 2019, as it relates to settlement in rural areas. The appeal site is located in an area identified as an Area Under Strong Urban Influence on Map No.1 – Indicative Outline of NSS Rural Area Types in the Sustainable Rural Housing Guidelines. These area are typically close to larger urban centres which are under pressure for housing in the countryside and have road networks which

are heavily trafficked. The guidelines suggest that certain classes of persons e.g. those occupied full time or part-time in agriculture, forestry, those who are an intrinsic part of the rural community, sons/daughters of farmers and returning emigrants, may be considered for housing in the countryside.

4.1.2 Chapter 4 of the Wexford County Development Plan 2013 – 2019 sets out policy in relation to rural housing. The site at Duncannon, Ballyhack Co. Wexford is located within an area designated as being a “Stronger Rural Area” in Map 6 attached to the development plan. For the purposes of assessing what classes of persons should be facilitated in rural areas “local rural people” are considered to be those who fulfil the criteria set out in Table 12 of the plan. These are persons who were born or who have lived in an area for 5 years, persons who have lived there in the past or are returning emigrants, those who were born in a rural area but are now within a settlement or zoned land, persons who have links by virtue of being a long term rural landowner or the son or daughter or successor of such a person. The local rural area has a radius of 15kms from where the person has lived or is living.

4.1.3 The applicants are Annette and Brendan Butler. The site is owned by Mr Richard Butler the father of Brendan Butler. It is stated in the application form that Mr Butler is from Duncannon and has lived there all his life and that he is self-employed in the local area as a plumbing contractor. It is also stated in the application form that Mr Butler already owns a home. Details of the location of his current home and his parent’s family home have not been provided. In the absence of such detail it is not possible to determine that the applicants have a rural housing need. Accordingly, having regard to the details provided with the application and the appeal, I do not consider that the applicants have demonstrated a rural housing need in accordance with the provisions of the Development Plan and the provisions contained in the Rural Housing Guidelines.

## **4.2 Design and Visual Amenity**

4.2.1 The first, second and fourth refusal reasons issued by the Planning Authority refer to the siting of the proposed dwelling being contrary to Development Plan policy and also detrimental to the setting of Duncannon Lighthouse which is a Protected Structure. The subject site is within an open field at a cliff edge location which overlooks Waterford Harbour/Suir Estuary. Duncannon lighthouse is located circa 160m to the north of the site. The site is located within the designated Coastal Zone and in a visually sensitive location on the eastern side of Waterford Harbour/Suir Estuary. The proposed dwelling is single storey with a maximum ridge height of 3.5m. It is proposed to construct a 1m high earth bank with planting on top to the east of the dwelling. The appellant’s have contended in the appeal that having regard to the proposed siting and design of the dwelling that it would not be visible from the public road to the east. I would concur with this assertion as the existing road level is circa 15m above the proposed roof level of the dwelling, that it would not be highly visible from the local road.

- 4.2.2 Objective CZM13 of the Development Plan refers to the requirement to ensure development is sensitively designed in order to protect the visual amenity of the area. Objective CZM16 of the Development Plan refers to the requirement to prohibit development where it poses a significant or potential threat to coastal features. Having regard to the location of the site it should be assessed in terms of these Development Plan objectives. The siting of the proposed dwelling should also be considered in context as being visible from the west from the water i.e. Waterford Harbour/Suir Estuary and also across from Co. Waterford particularly from the coastal area between Croke and Creadan Head as stated by the Planning Authority in their response to the appeal.
- 4.2.3 The coast in the vicinity of the subject site features rocky cliffs it is a relatively unspoilt location with very limited residential development in the vicinity. Duncannon Lighthouse which is a Protected Structure (RPS No.WCC0865) is an attractive existing feature in the coastal landscape. Notwithstanding the single storey nature of the proposed dwelling and the proposals to provide screen planting having regard to the visually sensitive nature of the site specifically its prominent coastal location, I consider that proposed development will have a serious visual impact on the scenic amenities of the area. Furthermore having regard to the proximity of Duncannon Lighthouse I consider that the proposed development would have a detrimental impact upon the setting of the Protected Structure.

### **4.3 Site Access**

- 4.3.1 It is proposed to develop a new site entrance to the north of the existing field gate onto the local road the L4052 which links the village of Duncannon to the R733. The proposed location of the vehicular entrance is relatively close to a bend in the road to the north and at a section of the road where there is a continuous white line. The construction of the entrance would involve the removal of a section of existing roadside hedgerow of approximately 35m. It is indicated on the site layout plan that sightlines of 65m can be provided to the north and south at the proposed entrance.
- 4.3.2 Having regard to the limited sightlines available, the proximity of the bend to the north circa 30m from the proposed entrance and the location of the subject site outside the 50kph speed limit area, I consider that the proposed vehicular entrance onto the L4052 at a location would endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.

### **4.4 Effluent treatment**

- 4.4.1 It is proposed to install a Biocrete wastewater treatment system and polishing filter. It is proposed to locate the treatment plant circa 8m to the north-west and downhill of the dwelling and the percolation is located on the layout plan 12m to north-west the of the dwelling and also downhill. It is proposed to locate a well immediately to the north of the dwelling and uphill of the effluent

treatment system. Table 6.1 of the EPA Manual – Treatment Systems for Single Houses sets out the minimum separation distances, the minimum distance from a watercourse or stream to a percolation area is stated as 10m and the minimum distance from a road to the a percolation area is stated as 4m. The site is an elevated coastal site which adjoins the Suir Estuary and there is a small stream 40m to the south of the site.

- 4.4.2 The site suitability assessment indicates that a T value of 22.44 was recorded on site. A T value of greater than or equal to 3 and less than or equal to 50, means that the site is suitable for the development of a septic tank system or a secondary treatment system discharging to groundwater. The trial hole depth was 2.5m and the watertable was encountered at a depth of 2.10m below ground level during the site testing. The groundwater protection response for the area is R2<sup>1</sup> which means the site is suitable for an on-site system subject to normal good practice.
- 4.4.3 P tests were also carried out and a P value of 7.56 was recorded. It is proposed to construct the polishing filter from imported permeable soil. The proposed soil polishing filter has a thickness of 550mm and a trench length of 72m. It is proposed to discharge the treated effluent to ground water.
- 4.4.4 Having regard to the information submitted including the site characterisation report and the proposal to install a secondary treatment system with soil polishing filter, I would concur with the assessment of the planning authority that site is suitable for the proposed on site effluent treatment system subject to the system being constructed and maintained in accordance with the details submitted.

## 4.5 Other issues

### Appropriate Assessment

- 4.5.1 The site located in the townland of Duncannon, Ballyhack, Co. Wexford. The appeal site is approximately 40m from the River Barrow and River Nore SAC (Site code 002162). The Natura site comprises the freshwater stretches of the Barrow/Nore River catchments as far upstream as the Slieve Bloom Mountains and also includes tidal elements at Creadan Head in Waterford. The site is selected as an SAC for the presence of alluvial wet woodlands and petrifying springs and priority habitats on Annex I of the E.U. Habitats Directive.
- 4.5.2 Having regard to the nature and scale of the development and to the absence of direct connection between the subject site and the European Site and to their conservation objectives I am satisfied that 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.

## **5.0 Recommendation**

- 5.0.1 I have read the submissions on file, visited the site, and had due regard to the provisions of the Development Plan and all other matters arising. In the light of this and the assessment above, I recommend that permission be refused for this development for the reasons and considerations set out below.

### **REASONS AND CONSIDERATIONS**

1. The site is located in a rural area under strong urban influence, as set out in the 'Sustainable Rural Housing Guidelines for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government in April, 2005. Having regard to the location of the site within the designated Coastal zone in the Wexford County Development Plan 2013 – 2019, it is considered that the proposed development of an additional house not linked to an essential rural housing need at this location would add to the proliferation of development threatening to degrade the coastal landscape and consequently would result in the erosion of the area's character and scenic quality and be contrary to the said Ministerial guidelines. The Board is not satisfied that the proposed dwelling is required to be located in a rural area. The proposed development would, therefore, be contrary to the said development plan and would be contrary to the proper planning and sustainable development of the area.
2. The proposed vehicular access is via a new entrance onto the L4052 at a location where sightlines are restricted and close to a bend in the road. The Board is not satisfied that the proposed development would not endanger public safety by reason of traffic hazard and obstruction of road users and would, therefore, be contrary to the proper planning and sustainable development of the area.
3. Having regard to the siting and design of the proposed development and its location on a prominent and exposed cliff edge site overlooking Waterford Harbour in close proximity to Duncannon Lighthouse a Protected Structure, it is considered that the proposed development would be contrary to objectives CZM13 and CZM16 of the Development Plan and would fail to integrate into the coastal landscape and would represent a visually incongruous and obtrusive feature which would seriously injure the visual amenities of the area and have a detrimental impact upon the setting of the Protected Structure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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**Siobhan Carroll,**  
**Inspectorate**  
**29<sup>th</sup> of February 2016**