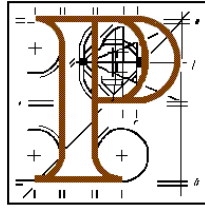


An Bord Pleanála



Inspector's Report

PL26.245614

Development: Dwelling, percolation area and on site effluent treatment system and all associated works.

Location: Battlestown, New Ross, Co. Wexford.

Planning Application

Planning Authority: Wexford County Council

Planning Authority Reg. Ref. No: 20150781

Applicants: Deirdre and Philip Doyle

Type of Application: Permission

Planning Authority Decision: Refuse Permission

Planning Appeal

Appellants: Deirdre and Philip Doyle

Type of Appeal: First Party

Observers: None

Date of Site Inspection 6th of January 2016

Inspector: Siobhan Carroll

1.0 SITE LOCATION AND DESCRIPTION

1.0.1 The appeal site is located in the townland of Battlestown, New Ross, Co. Wexford. It is situated circa 5.5km to the east of the village of Arthurstown and 5km to the north-east of the village of Duncannon. The surrounding landscape is relatively flat in nature and in agricultural use. There is a forested area to the east of the site.

1.0.2 The site has a stated area of 0.3 hectares and it constitutes part of a larger field in agricultural use. The roadside boundary is formed by a mature hedgerow. The site has frontage of circa 42m and extends back for 70m to the east. There is an existing entrance serving some agricultural buildings located on the opposite side of the road 20m to the north-west of the site.

1.1 THE PROPOSED DEVELOPMENT

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

- Site area 0.3 hectares,
- The proposed dwelling has a floor area of 227sq m
- Dwelling ridge height of 5.7m
- Wastewater treatment system and polishing filter
- Private well

1.2 THE PLANNING AUTHORITY'S DECISION

Internal Reports:

Senior Executive Scientist: Further information required

Submissions

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

Decision

Planning Authority decided to refuse permission for one reason.

1. The proposed percolation area is to be located where percolation tests conducted on the site resulted in a failure of the T-test. The site is therefore unsuitable for the development of any on-site domestic wastewater treatment system discharging to ground, as per Table 6.3 Interpretation of Percolation Test Results in the EPA Code Practice: Wastewater Treatment and Disposal System Serving Houses (p.e. ≤ 10). The proposed development would therefore be prejudicial to public health and would be contrary to the proper planning and development of the area.

1.3 PLANNING HISTORY

Reg. Ref. 20150303 – Permission was refused for a single storey dwelling and on-site effluent treatment system. The first refusal reason refers to the failure of the T-test and states that the site would be unsuitable for on-site effluent treatment and would therefore be prejudicial to public health. The second refusal reason refers to size of the proposed dwelling relative to the site exceeding the requirement set out in Section 18.12.2 of the Wexford County Development Plan 2013 – 2019.

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.
- 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 Doyle & Partners Architecture on behalf of Deirdre and Philip Doyle on the 13th of October 2015. The content of the appeal submission can be summarised as follows;

- Permission has been refused by the Planning Authority on the grounds that the T-test results failed. A previous application made on the site by the applicants Deirdre and Philip Doyle was also refused on the grounds that the results of the site suitability tests failed.
- The applicant's engineer carried out new site suitability tests at an alternative location on site from that which had previously failed. The Senior Executive Scientist from Wexford County Council was present on-site on the 16th of July 2015 when the testing of the percolation holes took place.
- The report of the Senior Executive Scientist does not recommend refusal. It provides independent auditing of the results showing that they conform with the EPA Code of Practice for Wastewater treatment and disposal systems serving single dwellings.

- It is noted that the percolation test holes used for the current application were taken at a location 40m from the location used for the previous application.
- The current percolation tests were taken within 15m from the location of the proposed percolation as indicated on the site layout plan.
- A site layout plan has been included with the appeal submission which indicates the location of the percolation test hole used for the current application Reg. Ref. 20150781 and the previous application Reg. Ref. 20150303.

A further submission was received from the applicants Deirdre and Philip Doyle on the 13th of October 2015.

- The details contained in the submission reiterate the points raised in the appeal submission.
- A revised site layout plan was included which indicates the location of the percolation test holes relative to the proposed percolation area.

3.1 Planning Authority response submission

- The previous application was refused on the basis of a failed T-test and inadequate site size.
- This current application made no changes to the application that was refused. The percolation area is proposed in the same location as where it was originally refused. The Planning Authority would have no issue with the percolation area being proposed in the area where good results were achieved.
- The Planning Authority requests 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 areas 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 Battlestown, New Ross 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 Deirdre and Philip Doyle. It is stated in the application form that Deirdre Doyle is from Battlestown and has lived there all her life and that her parents own and run a farm in Battlestown. It is stated in the application form that the applicants do not own a home. On the basis of the information provided on file, I consider that the applicants meet the qualification criteria to build a rural dwelling at this location 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 proposed dwelling has a floor area of 227sq m. The house design is T-shaped, which is a familiar building form in the countryside. The front section of the dwelling is single storey with a proposed ridge height of 5.5m. The

living room, kitchen and utility are shown on the floor plan within this section of the dwelling. The rear section of the dwelling contains the bedroom block with an office at first floor. It is proposed to locate the dwelling a minimum distance of 27m from the public road to the west. There is no other dwelling within the immediate vicinity of the site.

- 4.2.2 The rear section of the dwelling features a barrel-vault roof with a zinc/copper finish which is reminiscent of barns or farm sheds. This section of the dwelling is placed behind the front section which replicates the simplicity of form and portions of a traditional cottage. A natural stone finish is proposed to this section of the dwelling while a rendered finish is proposed to the rear section. 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. Overall, I consider that the proposed dwelling can be successfully integrated within the landscape setting. Accordingly, I would consider that this development can be positively absorbed without any negative impacts on the visual setting and the rural amenities of the surrounding area.

4.3 Site Access

- 4.3.1 It is proposed to develop a new site entrance onto the local road. The proposed location of the vehicular entrance is along a relatively straight section of the roadway where visibility is good. The construction of the entrance would involve the removal of a section of existing roadside boundary of approximately 20m. It is indicated on the site layout plan that sightlines of 65m can be provided to the north and south at the proposed entrance. Having inspected the site and viewed the location of the proposed entrance I am satisfied that an adequate sightline distance is available in both directions. Accordingly, I consider the proposed location of the entrance acceptable.

4.4 Effluent treatment

- 4.4.1 It is proposed to install a Puraflo secondary wastewater treatment system and polishing filter. It is proposed to locate the treatment plant circa 10.5m to the south-east of the dwelling and the percolation is located on the layout plan 18m to the south-east of the dwelling. It is proposed to locate a well 12m to the north-east of the dwelling. 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. There are no watercourses or streams within 250m of the site. The groundwater protection response for the area is R1 which means the site is suitable for an on-site system subject to normal good practice.
- 4.4.2 The site suitability assessment indicates that a T value of 56.24 was recorded on site. Table 6.3 of the EPA Manual – Treatment Systems for Single Houses sets out the interpretation of percolation test results. A T value which is

greater than 50 and less than 75 means that a septic tank is likely to cause ponding on the surface of the percolation area and therefore the location would not be suitable for a septic tank system. It is stated in the manual that the location may be suitable for a secondary treatment system with a polishing filter at a depth of the T-hole. The trial hole depth was 2.1m and it is stated in the site characterisation form that the depth of water ingress was 2.1m. On inspection of the site it was evident that there was water in the trial hole.

- 4.4.3 P tests were also carried out and a P value of 13.03 was recorded. Table 6.3 of the EPA Manual advises that where the P value is greater than 3 and less than 75 then the site is suitable for a secondary treatment system with polishing filter at ground surface or overground. It is proposed to construct a raised polishing filter from imported permeable soil. The proposed soil polishing filter has a thickness of between 600mm and 800mm. It is proposed to discharge the treated effluent to ground water.
- 4.4.4 The report of the Senior Executive Scientist dated the 16th of September 2015 states that permission was previously refused for a dwelling on the site under Reg. Ref. 20150303 as the T value recorded was greater than 90. A second site suitability assessment took place on the 16th of July 2015 and the Senior Executive Scientist was present on site for part of the assessment. The drop in the water level was observed over the course of 70 minutes and it is stated in the report that the drop in the water level is consistent with the reported T value of 56.24. It is concluded in the report that the site is suitable for discharge to groundwater in the area where the percolation test results were carried out. It was noted in the report that the percolation area is located in the same location as the previous application and that the test holes used in the current application were located to the east of the proposed percolation area.
- 4.4.5 The applicants produced a revised site layout plan which indicates the location of the percolation test hole used for the current application Reg. Ref. 20150781 and the previous application Reg. Ref. 20150303. This submission provides clarity on the matter and indicates that the previous percolation tests were carried out on the western side of the site close to the roadside boundary while the current percolation tests were carried out in the south-eastern corner of the site circa 5m from the location of the proposed percolation area. Therefore, this revised site layout plan clarifies that percolation area will be adjacent to the location of the percolation test hole where a T value of 56 was recorded. Therefore this location would be suitable for percolation subject to use of secondary effluent treatment including a raised polishing filter which is proposed.
- 4.5.6 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 consider that site is suitable for the proposed on site secondary 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 Battlestown, New Ross, Co. Wexford. The appeal site is approximately 2.5km from Bannow Bay SAC (Site code 000697) and Bannow Bay SPA (Site code 004033) and 5km from the River Barrow and River Nore SAC (Site code 002162).
- 4.5.2 The Bannow Bay SAC is a relatively large estuarine site, approximately 14 km long. The bay contains large areas of mud and sand. Small rivers and streams to the north and south-west flow into the bay and their sub-estuaries from part of the site. The site is selected as an SAC for the presence of estuaries, tidal mudflats and sandflats, annual vegetation of stony banks, atlantic salt meadows, embryonic shifting dunes, marram dunes and fixed dunes which are a priority on Annex I of the E.U. Habitats Directive.
- 4.5.3 The Bannow Bay SPA is an enclosed estuarine system, with habitats generally of good quality. It is of international importance for Brent Geese and supports a further twelve species in numbers of national importance. Of particular significance is that two species, Golden Plover and Bar-tailed Godwit, are listed on Annex I of the E.U. Birds Directive.
- 4.5.4 The River Barrow and River Nore SAC 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.
- 4.5.5 Having regard to the nature and scale of the development and to the absence of direct connection between the subject site and the European Sites 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 granted for this development for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having regard to the pattern of development in the area, and the compliance of the development with the provisions of the Rural Housing Policy as set out in the Wexford County Development Plan 2013 – 2019, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2.
 - a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.
 - b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3.

- (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 6th day of August, 2015, and in accordance with the requirements of the document "Wastewater Treatment Manual: Treatment Systems for Single Houses", Environmental Protection Agency (current edition). No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.
- (e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and

that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

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

Reason: In the interest of visual amenity.

5. The vehicular entrance shall be located on site as indicated on the site layout plan submitted to Wexford County Council on the 6th of August 2015. The gates shall open inwards only.

Reason: In the interest of traffic safety.

6. No surface water shall be discharged from the site onto the public road. Surface water shall be discharged to soakways on site.

Reason: In the interest of traffic safety.

7. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

8. The site shall be landscaped, using only indigenous deciduous trees and hedging species in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the establishment of a hedgerow along all side and rear boundaries of the site.

Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

**Siobhan Carroll,
Inspectorate
4th of March 2016**