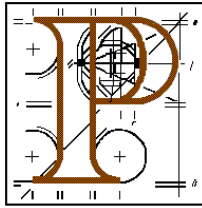


# An Bord Pleanála



## Inspector's Report

**PL26.245969**

**DEVELOPMENT:-** Change of use of a section of agricultural field to a cemetery together with associated site works at Tellarought, Carnagh, New Ross, Co. Wexford.

### PLANNING APPLICATION

**Planning Authority:** Wexford County Council  
**Planning Authority Reg. No:** 20151008  
**Applicant:** Tellarought Cemetery Committee  
**Application Type:** Permission  
**Planning Authority Decision:** Grant

### APPEAL

**Appellant:** Enda McDonald  
**Type of Appeal:** 3<sup>rd</sup>-V-Grant  
**DATE OF SITE INSPECTION:** 18<sup>th</sup> February 2016  
**Inspector:** Colin McBride

## 1. SITE DESCRIPTION

- 1.1 The appeal site, which has a stated area of 0.602 hectares, is located in the small rural settlement of Terrerath, which is approximately 7/8km south east of New Ross. The settlement is defined by a number of existing dwellings including a small housing scheme, a community centre and a church with a graveyard. The site is part of an existing agricultural field. Adjoining uses include the community centre located to the east and north of the site, agricultural land similar in nature to the north, south and west. The site has an existing entrance onto the public road to the east of the site (existing field entrance). The site is relatively flat and has existing boundary treatment including hedgerow along the northern and western boundary, no existing boundary along the southern site boundary and existing embankments along the eastern and northern boundaries where it adjoins the community centre.

## 2. PROPOSED DEVELOPMENT

- 2.1 Permission is sought for a change of use of a section of an agricultural field to a cemetery together with associated site works such as the erection of boundary walls/fences, the erection of a cross and the provision of a new entrance to the graveyard, the provision of extra car parking facilities and the provision of an agricultural entrance to serve the remainder of the field. The site is located adjoining an existing community centre and entails the provision of 119 burial plots, a grassed landscaped area and a car park with 30 spaces. The proposal entails a new splayed vehicular entrance in the same location as the existing entrance to the field and construction of a new agricultural entrance to the south of the entrance to the cemetery.

## 3. LOCAL AND EXTERNAL AUTHORITY REPORTS

### 3.1

- (a) Environment Department (02/12/15): It was considered that the proposal would not impact upon groundwater and a grant of permission was recommended.
- (b) Planning report (03/12/15): The proposal was considered be satisfactory in regards to its location relative to the existing settlement, overall layout, access/traffic and impact upon groundwater. A grant of permission was recommended subject to the conditions outlined below.

#### 4. DECISION OF THE PLANNING AUTHORITY

4.1 Permission granted subject to two conditions which are standard in nature.

#### 5. PLANNING HISTORY

5.1 20130192: Permission refused for change of use of a section of an agricultural field to a cemetery and associated site works.

Refused for one reason...

*1. Given the shale content of the subsoil at 1.7 metres below ground level and the T-values obtained on site, it is considered that the proposed graveyard would have an adverse impact on water quality of the private wells in the area and would therefore be prejudicial to public health.*

#### 6. PLANNING POLICY

6.1 The relevant plan is the Wexford County Development Plan 2013-2019.

6.2 Objectives in regards to graveyards and burial grounds are contained under section 10.9 of the Development Plan.

##### Objective BG01

To provide and facilitate burial grounds or extensions to existing burial grounds at appropriate locations throughout the county subject to complying with normal planning and environmental criteria and the development management standards contained in Chapter 18.

##### Objective BG02

To ensure that burial grounds throughout the county are managed and maintained in a manner that respects their associated culture and heritage.

#### 7. GROUNDS OF APPEAL

7.1 A third party appeal has been lodged by Enda McDonald, Rathwell House, Terrerath, New Ross, Co. Wexford. The grounds of appeal are as follows...

- It is noted that permission for a graveyard was previously sought and refused on site in 2013 due to concerns regarding impact on groundwater. It is considered that the applicants have no justified overturning of this decision.
- It is noted that there are a number of existing wells within 250m of the site including wells that are down gradient of the site. It is noted the guidelines for such developments including from the World Health Organisation and other

EU jurisdictions would render the proposal unacceptable due to its location relative to water sources (guidelines identified).

- It is noted that the Environmental report submitted with the current application is flawed with concerns regarding the assessment of the level of the water table, existing water supplies in the vicinity and the lack of cognisance to guidelines in regards to such developments, such as the Northern Irish guidelines.
- It is noted that the site is over a Regionally Important Fissured Bedrock Aquifer (RF) with a groundwater vulnerability identified as high with the EPA groundwater matrix showing a response of R4 (site not acceptable). The geological characteristics of the area and the location of bedrock so close to the ground surface renders this site unsuitable for the proposed development.
- It is noted that currently existing wastewater treatment systems are causing pollution of existing water supplies in the area with boil water notices applied to several water surfaces in the area. This indicates the sensitivity of the existing groundwater to pollution with the proposal exacerbating this situation.
- It is noted that the EPA was consulted in the Senior Environmental Engineers report and that the advice given was that the Northern Irish and Scottish guidance should be referenced.
- There is not a satisfactory amount of unsaturated subsoil above the bedrock level for the proposed development.
- No site testing of groundwater table heights or flow direction testing and none of boreholes within 250m of the proposed graveyard were bored
- The appeal submission includes details of all private wells within 250m of the site and notes the concerns of the owners of such.

## 8. RESPONSES

### 8.1 Response from the applicant, Tellarought Cemetery Committee.

- The response notes that a 100m separation distance has been adopted in the Midlands regional of the UK and that the legal requirement in Ireland is 100 yards.
- It is noted based on the level of burials a year (on average 6 a year) and separation distances the risk of contamination of private water supplies by the proposed development is significantly lower than by a domestic wastewater treatment system.
- It is note that the water table depth on site is at least 3m from the surface. It is indicated that excavation depth or burials is between 2.13m and 2.44m giving two levels for burial and such would not be located below the water table.
- In regards to existing water supplies it is note that there was a boil water notice for a small housing scheme for a 6 month period and that such has now been lifted with samples of the water supply confirmed to be clear.

## 8.2 Response by Wexford County Council.

- The response refutes a number of claims by the appellant. It is noted that there is no evidence that existing wastewater treatment systems are causing contamination of water supplies. It is noted that the proposal does comply with development plan policy with the site an appropriate location for the proposed development. It is considered that the proposed development does not pose a risk to groundwater or a risk to public health.
- The Planning Authority has provided a number of examples graveyards were there are private domestic water supplies within 250m and in areas with similar geological characteristics. It noted that a restriction of the proposal due to the location of water supplies with 250m would set a significant precedent given the established situation.
- The Planning Authority note that there are no instances in which they have ever come across a water supply/groundwater being contaminated by a graveyard.

## 8.3 Response from the applicant, Tellarought Cemetery Committee.

- The response notes the response by the Planning Authority and note that such is supportive of a favourable decision in regards to the proposed development.

## 8.4 Response by the appellant, Enda McDonald.

- The appellant reiterates the concerns outlined in their appeal submission.
- In response to the Planning Authority's repose the appellant notes the overall aim of Water Framework Directive (WFD) and the objective of the County Development Plan WS 01 which aims to protect existing water resources as per the WFD.
- The appellant notes that the PA is wrong in that the development poses no risk to groundwater and notes that a graveyard in Ramsgrange, New Ross contaminated surrounding water supplies
- The appellant indicates the groundwater flow path and the potential for contamination of existing wells down gradient of the site.
- The appellant notes that they are a qualified site assessor who has the opportunity to assess the trial hole dug for assessment of the project in 2013 with it noted that bedrock started at 1.2m below the ground surface with local authority recording it at 1.7m below ground surface. It is noted that neither is sufficient as a 2.8m depth is required.

- It is noted that there is insufficient test evidence to support the claims put forward by the applicants.

## 9. ASSESSMENT

- 9.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development/development plan policy

Public health/groundwater/water supply

Visual/adjoining amenity

Traffic/access

Other issues

### 9.2 **Principle of the proposed development/development plan policy:**

- 9.2.1 The proposal is for a new graveyard in a section an agricultural field. The site is in a rural area but appears to part of the small rural settlement of Terrerath. The site is adjoining an existing community centre with the existing church and associated graveyard not far from the site. Based on the information on file the existing graveyard serving the area has reached its capacity and there is a need for the proposed development in the area. Although not located in a designated settlement or on zoned lands, there are no policies that would preclude the proposal which is to serve the local community with the site in close proximity to existing community facilities. I would consider that the principle of the proposed development is acceptable subject to the proposal being satisfactory in the context of the visual amenities of the area, the amenities of adjoining properties, environmental considerations such as public health/groundwater protection and traffic impact. These elements of the proposal are to be assessed in the following section of this report.

### 9.3 **Public health/groundwater/water supply:**

- 9.3.1 Permission was previously sought under ref no. 20130192 for a change of use of a section of an agricultural field to a cemetery and associated site works on this site. That permission was refused as it was considered that “given the shale content of the subsoil at 1.7 metres below ground level and the T-values obtained on site, it is considered that the proposed graveyard would have an adverse impact on water quality of the private wells in the area and would therefore be prejudicial to public health”. The report submitted with the application describes the location, topography and surface water drainage characteristics. The report notes the soil and subsoil characteristics noting that the assessment is based on the trial holes excavated in 2013 for the previously refused proposal on site. It is noted that bedrock level is greater than 9m below the surface and that such is based on the information accrued from experienced well drillers in the vicinity of the site with a table showing

typical borehole results including depth of soil and subsoil (5-7m), bedrock, >9m and water inflow level at 20-30m. It is noted that the percolation test results from 2013 indicate that the drainage characteristics of the site are suitable for a wastewater treatment system under the EPA Code of Practice. The report details research/guidance regarding such development in the context of groundwater. The report concludes that the site is suitable for the proposed development due to its elevated location and drainage characteristics. It is noted that the existing wastewater treatment system serving the community centre is not producing an adverse impact in regards to contamination of groundwater and the impact of the graveyard and burial plots is much less in terms of concentrations of infiltration when compared to a wastewater treatment system.

9.3.2 The appellant notes the geology and the soil characteristics of the area and the fact that the site is up gradient of a number of private water supplies within 250m of the site. The appellant notes that the level of bedrock below the ground surface is too shallow and that groundwater in the area is at risk of contamination with a subsequent adverse impact on water supplies, which have been subject to contamination in recent times. The appellant also notes that guidance from the World Health Organisation and from other jurisdictions recommend against the burial of bodies within 250m of private water supplies.

9.3.3 Of relevance is that there has been a previous refusal on site for a similar development due concerns with it noted that “given the shale content of the subsoil at 1.7 metres below ground level and the T-values obtained on site, it is considered that the proposed graveyard would have an adverse impact on water quality of the private wells in the area and would therefore be prejudicial to public health”. In regards to GSI mapping the site is over a Regionally Important Fissured Bedrock Aquifer (RF) with a groundwater vulnerability identified as high with the EPA groundwater matrix showing a response of R4 (site not acceptable). The area is also heavily dependent on groundwater for water supply with a significant number of dwellings in the vicinity having boreholes/wells for water supply. It is noted that the information that the applicant’s assessment and planning authority’s assessment are based on trial hole and percolation tests carried out the first application in 2013 as well as information on the characteristics of boreholes in the area by the drilling company who carried them out (no detail provided of which boreholes in particular and their location relative to the site).

9.3.4 I would consider having regard to the planning history of the site and previous concerns that there is an onus on the applicant to provide a more detailed analysis of the proposal in regards to groundwater impact. I would question whether the applicant has provided significant detail to alleviate concerns and would consider that there is justification for a more detailed hydrogeological

risk assessment at this location, this includes borehole testing and flow direction/path analysis of the area to determine whether the proposal is likely to impact on groundwater and on existing water supplies. In regards to guidance there are no national guidelines regarding burial grounds. The appellant has referred to a number of guidelines including the World Health Organisation, the Scottish Environmental Protection Agency and Northern Ireland Environmental Agency. All of these guidelines state that burial of bodies should be at minimum 250m away from any borehole, spring or well used for the supply of drinking water. In the case of the appeal site there are several water private wells/boreholes within a 250m distance of the site and the burial plots. Having regard to the nature of the proposed development, its location over a regionally important aquifer, prevailing soil characteristics underlying the site and the high dependence on private wells/boreholes for water supply in the area and proximity of a significant number of such to the appeal site, I am not satisfied that it has been demonstrated that the proposal does not pose a significant risk of contamination of groundwater and subsequently existing water supplies in the area. The proposed development would, therefore, be prejudicial to public health.

#### **9.4 Visual/adjoining amenity:**

9.4.1 In regards to visual amenity the proposal is located on a relatively flat site that is not a significantly prominent location and is adjoining an existing settlement including the community centre immediately to the east and north of the site. In terms of physical structures no buildings are proposed and the overall visual impact of the proposal is unlikely to be significant or detrimental to the visual amenities of the area.

9.4.2 In relation to adjoining amenity, there are a number of dwellings in the vicinity of the site including on the opposite side of the public road. I would note that the proposal is not a particularly active use on a constant basis and that it is unlikely to have significant adverse impact in regards to the amenities of adjoining property (excluding consideration of public health). The main impact is likely to be traffic impacts and such are dealt with in the following section. In general I would consider that the overall physical impact of the proposal would be acceptable in regards to the amenities of adjoining properties.

#### **9.5 Traffic/access:**

9.5.1 The site is located off an existing public road with a width of approximately 5m. It is notable that the settlement of Terrerath has an urban speed limit zone of 50kph and the site and its associated access point is located just within the speed limit zone. The proposal entails alteration of the existing vehicular access serving the field (widening and splayed) and the provision of a new vehicular access south of the existing to serve the remainder of the field the site is part of. The horizontal and vertical alignment of the public road



and the location of the proposed entrances is such that sightlines are of an acceptable standard. It is proposed to provide for 61 car parking spaces. There are no specific standards set down under the County Development Plan in relation to parking for graveyards. I would consider that a reasonable amount of parking is available and would note there is a significant level of parking also available within the curtilage of the existing community centre on the adjoining site. I am satisfied based on the aforementioned facts that the proposal would be satisfactory in regards to traffic safety.

**9.6. Other Issues:**

- 9.6.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

**RECOMMENDATION**

I recommend a refusal based on the following reason.

**REASONS AND CONSIDERATIONS**

1. Having regard to the nature of the proposed development, its location over a regionally important aquifer, prevailing soil characteristics underlying the site, and the high dependence on private wells/boreholes for water supply in the area and proximity of a significant number of such to the appeal site, the Board is not satisfied that it has been demonstrated that the proposal does not pose a significant risk of contamination of groundwater and subsequently existing water supplies in the area. The proposed development would, therefore, be prejudicial to public health.

Colin McBride  
11<sup>th</sup> April 2016