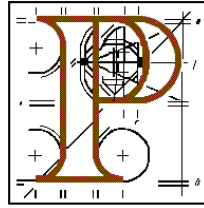


An Bord Pleanála



Inspector's Report

Reference: PL93.246010

P.A. Reference: 15/594

Title: House, garage, entrance, wastewater treatment system and ancillary works

Location: Ballyguiry East, Dungarvan, County Waterford.

Applicant: Shane and Aoife McGrath

Appellants: Joann Whelan

Observers: None

PA: Waterford County Council

Type of Appeal: Third party against grant

Decision: Planning permission granted with conditions

Date of Site Visit: 25th April 2016

Inspector: Philip Davis

1. Introduction

This appeal is by a local resident against the decision of the planning authority to grant permission for a single dwelling in a rural area close to Dungarvan in County Waterford. The grounds of appeal relate to policy issues, rural amenity and the pattern of development.

2. Site Description

Photographs of the site and environs are attached in the appendix to this report.

Ballyguiry East, County Waterford

Ballyguiry East townland is located on the north-east facing slope of the extended uplands which run inland from An Rinn at the coast, with a wide plain separating these uplands from the Comeragh Mountains to the north. The lands at Ballyguiry East all have fine views over the plain and Dungarvan Bay to the east. Dungarvan town is some 5 km to the north-east. The land falls from the 263 metres peak of Kilnafarna Hill to the south-west of the townland to the River Brickey near sea level to the north in about 2-km linear distance. The townland is served by a single third class road (the L2022) which runs directly from Dungarvan, winding up the hill before joining a network of third class roads serving the farms, houses, conifer plantations and windfarms in the uplands. The townland is mostly upland farmland, transitioning between good grazing land on lower levels to heath and conifer on higher ground. There is a string of dwellings along the L2022, many taking advantage of fine views to the north and east. There is one commercial operation, a car breaking yard, within the townland.

The site and environs

The appeal site is a roughly rectangular shaped field with a site area given as 0.253 hectares and is around 120 metres AOD. It is on the south side of the L2022 as it meanders up the side of the hill. The site is elevated by around 1.5 metres above the level of the road, and continues to rise in levels to the south. It is tightly grazed well drained farmland. It bounds the road to the north with a hedgerow with a steep short bank down to the road level. It is bounded on either side to the east and west by bungalows, all taking advantage of views to the north. To the south, there is an electric wire fence, with further fields beyond on rising ground.

3. Proposal

The proposed development is described on the site notice as follows:

Bungalow with attached garage, entrance, wastewater treatment system & ancillary works.

4. Technical Reports and other planning file correspondence

Planning application

The planning application, with plans and supporting documentation including permission from the landowner, a site suitability report and details of family background was submitted to the planning authority on the 23rd October 2015. The application also includes a planning note regarding policy requirements for the site.

Internal and External reports and correspondence.

One objection is on file, from the current appellant.

There are no internal or external consultee records on file.

Appropriate Assessment: A Habitats Directive Project Screening Assessment indicates that significant impacts can be ruled out.

Planners report: A planners report on file notes a previous refusal by the Board in the vicinity (the site across the road), in addition to other refusals in the vicinity. The site is noted to be in a 'stronger rural area' and states that housing need is the main criteria. It is considered that the applicant complies with the housing needs criteria as outline within Section 4.10 of the Waterford County Development Plan 2011-2017. The site is considered to be an 'infill' site and so it is not 'ribbon development' and the sightlines are considered to be in accordance with development standards. A grant of planning permission was recommended.

5. Decision

The planning authority decided to grant permission subject to 11 no., mostly standard conditions. Condition 11 sets a 7 year occupancy requirement.

6. Planning Context

Planning permissions – appeal site

No records on file.

Planning permissions – adjoining areas

In January 2015, the Board, on appeal, upheld the decision of the planning authority (**14/600012**) to **refuse** permission for a dwelling across the road (north) of the appeal site, for three stated reasons: plan policy with regard to housing in rural areas, ribbon development and the visual impact (**PL93.243771**). There were five different previous refusals on file for this site.

Development Plan

The site is in open countryside in an area where rural settlement strategy (as set out in Section 4.7 of the Waterford County Development Plan 2011-2017) applies. It is apparently within an area considered to be a ‘stronger’ rural area. Policy ENV 5 relates to development in visually sensitive upland areas.

Relevant extracts from the current Waterford County Development Plan are attached in the appendix to this report.

7. Grounds of Appeal

- It is argued that there is insufficient information on the file to indicate that the applicant qualifies under ‘local person’ criteria. The appellant was refused permission by the Board (**PL93.243771**) despite having similar claims. It is claimed there has been inconsistency in how the criteria has been applied by the planning authority.
- It is argued that the access is dangerous and notes the Boards previous refusal for a similar access.
- It is submitted that the proposed development would be visually intrusive – previous refusals for this reason are noted.
- It is argued that it represents ribbon development.

8. Applicants response

- The applicant submits additional information, including a map, indicating the applicants qualification under the planning authorities requirements for a ‘local person’s qualification.
- It is stated that there is an historic entrance onto the site – and that appropriate sightlines can be established and have been accepted by the planning authority.
- It is noted that the site is located between two existing dwellings and will be of a modest size and will be screened and hence will not have a major impact on the local landscape.

- It is noted that the site has a past history of planning permission s- it was granted permission in 95/579.
- It is argued that it is in line with development plan policy and the Sustainable Rural Housing guidelines – on this basis it is submitted that it is ‘infill’ housing and not ‘ribbon development’.

9. Planning Authority’s Comments

The planning authority has not responded to the grounds of appeal.

10. Assessment

Having inspected the site and reviewed the file documents, I consider that the appeal can be addressed under the following headings:

- **Principle of development**
- **Pattern of development**
- **Traffic safety**
- **Visual impact**
- **Public health**
- **Appropriate Assessment and EIA**
- **Other issues**

Principle of Development

The appeal site is in open countryside on elevated lands some 5-km outside the town of Dungarvan. The area is unzoned, about 2-km outside the green belt designated around Dungarvan. Rural Settlement strategy applies, as set out in Section 4.7 (Rural Settlement Strategy) of the Waterford County Development Plan 2011-2017. This section of the Development Plan largely follows the recommendations 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.

The information on file is somewhat contradictory as to what type of area it is considered to be for assessing a rural house. The report on file describes it as a ‘strong rural area’, while the ‘planner’s advice note’ provided to the applicant before the application described it as an ‘area under strong urban pressure’. The development plan refers to a map designating unzoned rural areas, but the online version does not provide such mapping, and the relevant appendix does not appear to have the map in the copy of the development plan provided to the Board. On the basis of my site visit, I would consider that the site should correctly be considered to be ‘under strong urban pressure’ as there is clearly an overspill of development in the area, presumably from Dungarvan if not from Waterford City, although it seems likely from the information on the history file that the planning authority

consider it to be a 'strong rural area'. The relevant policies for areas under urban pressure are policies SS3 and SS 4, while for stronger rural areas is SS5, SS 6 and SS7, although they are essentially the same, restricting housing development and seeking to direct it to zoned settlements except for members of the local rural community, as defined under section 4.10.

The appellant has claimed the applicant does not qualify under section 4.10. The criteria is somewhat vague and there appears, from the planning history of the site and general area, to be a somewhat subjective application of the criteria, but as the planning authority seem satisfied that the applicant does indeed qualify, I would give the benefit of the doubt in this regard. I would therefore conclude that the applicant qualifies under policies SS3 and SS5, so the application should be considered under normal planning criteria.

A planning permission was apparently granted for a dwelling on the site in the 1990's, but I do not consider that this is particularly relevant as there have been significant changes to both national and development plan policy since this time. I note a significant number of applications in the immediate area, most of which are refusals, including a recent Board decision to refuse permission on a site across the road, for reasons relating to policy, ribbon development, and visual impact.

Pattern of Development

The site is elevated and prominent, on a 500 metre long section of road where there are seven houses in a discontinuous line along the southern side of the road, in addition to another house set back somewhat, and a car breakers yard. The planning authority considers it to be an 'infill' site. The Sustainable Rural housing Guidelines define 'ribbon development' as 5 or more houses along 250 metres. Taken from the last of the dwellings to the west of the site, this would be the fifth house in a 250 metre stretch, and what appears to be the ninth in total along a 500 metre stretch.

As such, it fulfils what would be defined as 'ribbon development' in national guidelines. I do not consider that this stretch of housing constitutes a 'cluster' for which it might be considered 'infill'. I would therefore consider that on the basis of definitions set out in national guidelines, the proposed development would represent ribbon development.

Traffic safety

The site is on an L road, although in terms of alignment and width it is more like a typical regional road, and I observed relatively high speed traffic as two vehicles can pass quite comfortably. The planning authority has stated that a 55 metre sight line is adequate and acceptable in line with the requirements for local roads as set out in the Development Plan for 80kph areas. I would state that in my opinion

this road would require a far longer sightline due to the observed speeds – from the context I would have considered a 55 metre sight line to be only acceptable for narrow roads where the alignments naturally controls traffic speeds. This road has an alignment which actively encourages cars to go to at least the 80kph level. Cars approaching from the east cross a blind corner approximately 65 metres from the proposed entrance. I would not consider this to be safe or appropriate, but it would seem that the entrance is acceptable to the planning authority and in line with their published guidelines.

Visual Impact

This site is in a very attractive location, with very fine views over the valley and Dungarvan Bay. The immediate area does not have any specific landscape designation and there are no designated views or prospects in the vicinity, although there are a number of policies in place with regard to protecting views from the N25 to the east. Policy ENV 5 of the Development Plan states:

Development in areas outside of settlements, along the coast road (from Youghal to Cheekpoint) and in upland areas, will only be considered where such proposals do not have an adverse impact on the landscape and where they satisfy the criteria set out under the settlement strategy policy contained in Chapter 4 County Settlement Strategy.

The proposed house is to be sited on a cut and fill platform at 106 metres AOD – the dwellings on either side appear to be lower down, within platforms cut into the natural slope. The proposed design is low key and modest.

I note that the Board have recently refused a dwelling on the opposite side of the road, on a lower level, essentially below road level, for the reason that it was considered to be contrary to policy ENV 5 of the development plan with regard to developments on prominent upland sites. I would consider the impact of the proposed development to be similar or worse than that previously refused, so in the interests of consistency I would recommend that the Board repeat this reason for refusal.

Public health

The proposed development is to be served by a proprietary wastewater treatment system. A full site assessment has been submitted. The test pits were still visible at the time of my site visit and I can confirm that the land is on moderately permeably subsoil, with no apparent groundwater or rock down to 2 metres depth. The site does therefore appear to be suitable for a septic tank with discharge to the underlying geology. I would note that the site overlies a locally important aquifer of high vulnerability, and there is something of a proliferation of septic

tanks in the area, but having regard to the size and general suitability of the site I do not consider this to be grounds for refusal.

Appropriate Assessment and EIA

There are no Natura 2000 sites within 5 km of the site and no likely pathways for pollution. There are no watercourses close to the site apart from road drains. The lands ultimately drain to a tidal river in the valley below, which in turn drains to the Dungarvan Bay SPA, designated for a variety of migratory and coastal birds, but there is no basis for considering that there could be any impact.

I therefore consider that it is reasonable to conclude on the basis of the information on the file, which I would consider adequate in order to issue a screening determination, that the proposed development, either in itself or in combination with other works in the area, would not be likely to have a significant effect on any European Site, and a Stage 2 AA is not therefore required.

As the proposed development does not fall within any category of development within the Regulations for EIA, and there are no specific environmental sensitivities involved, there is no requirement for EIA.

Other issues

There is no evidence on file that the site could be subject to flooding – due to its elevation and slope, there is no reason to consider that this would be an issue.

There are no recorded ancient monuments on or near the site and there are no protected structures in the vicinity.

The proposed development would be subject to a development contribution under the adopted Scheme.

11. Conclusions and Recommendations

I conclude that the proposed development represents ribbon development in a rural area contrary to the recommendations 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 and the Waterford County Development Plan 2011-2017, and would in addition seriously injure the visual amenities of the area and thus be contrary to policy ENV 5 of the Development Plan.

I recommend therefore, that planning permission for the dwelling is refused for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

1. Taken in conjunction with existing housing in the area, the proposed development would create a pattern of undesirable ribbon development along the public road, would constitute an excessive density of housing development in this rural area, would be contrary to the recommendations of the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April 2005 and the Waterford County Development Plan 2011-2017, would detract from the character of the area, would lead to demands for the uneconomic provision of services and facilities and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the proposed dwelling on a prominent upland site, it is considered that the proposed development would seriously injure the amenities of the area, would set an undesirable precedent for other such development and would be contrary to Policy ENV 5 as set out in the Waterford County Development plan 2011-2017. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Philip Davis,
Inspectorate.
9th May 2016