

An Bord Pleanála



Inspector's Report

Appeal Reference No: PL26.246054

Development: Retain demolition of a chalet and retain the replacement chalet, decommission existing septic tank and construct DWWTS and polishing filter at Glen Richards, Ardamine, Gorey, County Wexford.

Planning Application

Planning Authority: Wexford County Council

Planning Authority Reg. Ref.: 20150299

Applicant: Georgina Kingston

Planning Authority Decision: Refuse

Planning Appeal

Appellant(s): Georgina Kingston

Type of Appeal: Applicant vs Refusal

Observers: None

Date of Site Inspection: 16th May 2016

Inspector: Hugh Mannion

1.0 SITE LOCATION AND DESCRIPTION

The appeal site has a stated area of 0.29ha and is located in Ardamine approximately 2km south of Courtown in Co. Wexford. Ardamine is a development of holiday homes between the public road (the R742) and the sea and access to the site is over a private road off the R742 which ends in a cul de sac. This cul de sac serves a significant number of chalets and ends at a gated entrance which serves the chalet proposed for retention. There is a further chalet to the south of this site but it is accessed over a separate cul de sac road immediately behind (to the west) of the application site.

The chalet proposed for retention faces out over the Irish Sea; immediately east to the front of the chalet is a grassed area, followed by rock armour and then the beach. The immediate area, including the application site is significantly below the level of the regional route, the R742, and an intervening cul de sac serving the chalet to the south. Just beside the gate into the site is a set of concrete steps which allow access down to the beach.

2.0 PROPOSED DEVELOPMENT

The proposed development comprises the retention of demolition of a chalet and permission is sought to retain the replacement chalet, permission is sought to decommission a septic tank and construct a packaged waste water treatment system and polishing filter with ancillary works at Glen Richards, Ardamine, Gorey, County Wexford.

3.0 PLANNING HISTORY

Permission was refused on appeal (PL26.242976) for the retention of the chalet on site and a rising main linking the chalet to a public sewer about 150m distant from the site. The Board refused permission because;

The Board is not satisfied, based on the submissions made in connection with the application and the appeal, that the proposed method of wastewater disposal would not be prejudicial to public health having regard to the length of rising main required, the intermittent use of the rising main and the difference in levels between the appeal site and the public road where it is proposed to connect to the public sewer. Furthermore, the applicant has failed to demonstrate sufficient legal interest in the private lane to the west of the site in which it is proposed to construct and maintain the rising main. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

The **Environment Office** stated that the applicant should establish the risk of coastal erosion affecting the site.

The **Senior Executive Scientist** commented that the wastewater treatment system was only 16m from a soft shore line and did not comply with the EPA code of practice for domestic wastewater treatment systems. The report recommend requiring a submission demonstrating compliance with the COP.

Initially the planning authority sought further information in relation to the risk of costal erosion, compliance with the EPA code of practice for on-site domestic waste water treatment systems (DWWTS), and, that an assessment should be provided of the impact on a designated 'dune scrub and woodland habitat'.

4.2 Planning Authority Decision

The planning authority refused permission because;

Insufficient information has been received in respect of waste water treatment and disposal to enable a full and proper assessment to be carried out. The location of the proposed effluent treatment system does not comply with the EPA code of practice in respect of the distance from the shore line. The development would, therefore, be detrimental to public health and to the proper planning and sustainable development of the area.

5.0 GROUNDS OF APPEAL

The grounds of appeal may be summarised as follows;

- There has been a chalet on this site since the 1950s.
- The original chalet has an unsatisfactory septic tank and the new proposal will replace this and comply with the EPA code of practice. The chalet is usually used only in the summer months.
- The rock armour placed along the shore line 14 years ago is a hard shore line and therefore the 50m set back is not applicable.
- The proposed treatment system will be an improvement.

- Forecasted erosion is over stated.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority response

The planning authority responded that all the relevant issues were covered in its reports on file.

6.3 Observations on grounds of appeal

There were no observations on the appeal.

7.0 POLICY CONTEXT

The application site is within an area designated 'coastal zone' in the Wexford County Development Plan 2013 – 2019. Objective CZM18 states that;

To consider the development of a building (including caravans or temporary dwellings) within the boundary of an existing settlement where the development is within 100m of the 'soft shoreline', that is, shorelines that are prone to erosion. It must be objectively established based on the best scientific information available at the time of the planning application, that the likelihood of erosion at a the location is minimal taking into account, inter alia, any impacts of the proposed development on erosion or deposition, and that the development will not pose a significant or potential threat to coastal habitats or features.

Section **18.21.4 Replacement Chalets** states that;

Chalets for use as holiday home accommodation have developed over time on an ad-hoc basis mainly in areas within the coastal zone. There has been increasing pressure in recent years to replace these chalet structures. The Council recognises that most of these structures are in coastal areas where issues of coastal flooding and coastal erosion must be considered. The Council is also aware that many of these structures are served by inadequate infrastructure, including wastewater and roads.

The Council will consider the replacement of existing chalet structures where:

- It is demonstrated that chalet which it is proposed to replace has been on the subject site previous to 1 October 1964 when the Local Government (Planning and Development) Act, 1963 came into effect or

has the benefit of planning permission and is in accordance with the planning conditions pertaining to same.

- It is proposed to replace the chalet with a replacement structure which is equal to or no more than 20% the floor area of the existing chalet to ensure that the scale and form of this type of development is consistent.

The Council will also have regard to flood risk, coastal erosion, environmental and access standards when considering these planning applications.

Section 18.32 On-site Wastewater Treatment Facilities states that;

Where it is proposed to serve a dwelling house with such a system, the planning application shall be accompanied by details which demonstrate that the proposed on-site wastewater treatment system can safely and adequately dispose of effluent in accordance with the Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses, Environmental Protection Agency (2009). These details shall include a site suitability assessment carried out by a suitability qualified person who is registered with Wexford County Council to carry out such assessments. The Council has a register of these agents; a copy of the register is available from the Planning Department or on the Council's website. The wastewater treatment facilities should be within the site edged red and on lands within the applicant's ownership.

8.0 ASSESSMENT

Background

The Board under PL26.242976 refused permission for the retention of this chalet because in that application it was proposed to pump foul effluent for a distance of about 150m to the nearest public foul sewer. Both the planning inspector in that case and the planning authority's area engineer expressed concern in relation to the feasibility of pumping effluent for a distance along a private lane. Having carried out a further site inspection I share these concerns.

The Present Application.

The present application differs from that under PL26.242976 in that it proposes to retain the chalet on site but to drain foul effluent to an on-site DWWTS. It is the planning authority's policy set out in the County Development Plan that where on-site systems are proposed the applicant must demonstrate compliance with the EPA Code of Practice. The planning

authority sought further information in relation to the suitability of the site for effluent disposal.

The submitted site suitability assessment was undertaken in November 2014 and therefore was not undertaken in response to the request for further information. The assessment gives an average T value of 28 and concludes that the site is suitable for the disposal of effluent from a proprietary effluent treatment system which will flow to a polishing filter. The assessment does not specify what type of system is proposed (other than referring to “a masonry concrete system”) or the quality of effluent that is expected to exit from it. Submitted drawing number 2014-35 – ‘site sections’ appears to indicate a partially raised percolation area but it remains unclear if fill is to be imported into the site for the percolation area and it is not clear that the percolation area has been sized in accordance with the requirements of Table 10.1 of the EPA code of practice.

The system is stated to have a pe of 5 but the appeal states that the chalet would be occupied mostly during the summer. Experience has indicated that DWWTS that are subject to very variable hydraulic and nutrient loads do not work well as the biomass within the mechanical element of the packaged system and/or within the percolation pipes needs a fairly constant flow to thrive and perform the chemical and biological treatment process which ensure a clean effluent entering the groundwater.

The response to the further information request states that the system will be installed in accordance with the EPA code of practice. The submitted drawings indicate that the DWWTS will be about 16m from the site boundary with the sea shore. This is well short of the 50m separation distance from the foreshore required by Table 6.1 of the EPA code of practice. The appeal makes the point that the rock armour will mitigate this lack of separation distance – I disagree with this point because should any effluent migrate from the percolation area towards the sea the rock armour will accelerate such migration having, as it does, very much higher hydraulic conductivity than any form of soil.

It may be noted here that the overall objective of the EPA code of practice is to improve the quality of domestic effluent entering the receiving environment (groundwater or surface water). On occasion where there is an extenuating circumstance, such as an upgrade to a DWWTS serving a permanently occupied home, it may be reasonable to accept a less than optimum solution for on-site wastewater disposal. Such an extenuating circumstance does not apply in this case where a replacement holiday chalet is proposed on an unsuitable site.

Finally on this point the application offers no assessment of the cumulative impact of the concentration of effluent treatment systems serving the

multiplicity of houses/chalets in the area and what impact these may have on the amenity value of the adjoining beach.

Erosion

The planning authority sought further information in relation to the risk of erosion impacting on the chalet. The placement of rock armour along the coast in the area of the site indicates that there is potential for erosion. However having regard to the substantive refusal reason set out below I do not propose to consider this aspect further.

Appropriate Assessment AA

The proposed development is not within 15km of a European site.

Having regard to the nature and scale of the development proposed and to the separation distance from any European site no appropriate assessment issues arise.

9.0 CONCLUSIONS AND RECOMMENDATION

Having regard to the foregoing I recommend refusal for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

The Board is not satisfied that the application site is suitable for the safe disposal of domestic effluent in accordance with the EPA Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses. Therefore the proposed development would be prejudicial to public health and be contrary to the proper planning and sustainable development of the area.

Hugh Mannion
Planning Inspector
17th May 2016