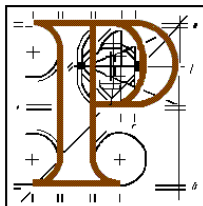


## An Bord Pleanála



### Inspector's Report

**DEVELOPMENT:** Cead Planála chun tigh nua i stíl bungaló, garáiste agus bealach isteach mar aon le seirbhísí eile oibre láithreáin.  
Permission for house, garage and all associated site works.

**LOCATION:** Barr na Stuac, An Sean Phobail. Dún Garbhán, Co Phort Láirge  
Barranastook, Old Parish, Co Waterford.

#### PLANNING APPLICATION

**Planning Authority:** Waterford City and County Council.  
**Planning Authority Reg. No:** 15/707  
**Applicant:** Tomás Ó Gealbháin & Eimear Fahey.  
**Application Type:** Permission.  
**Planning Authority Decision:** Grant Permission subject to conditions.

#### APPEAL

**Appellant:** Anders & Avril Boock  
**Type of Appeal:** Third Party v Permission  
**Observers:** None

**DATE OF SITE INSPECTION:** 15<sup>th</sup> May 2016

**INSPECTOR:** Bríd Maxwell

## **1.0 SITE LOCATION AND DESCRIPTION**

1.1 The appeal site which has a stated area of .4016 hectares is located on the within the rural townland of Barranastook, Old Parish, approximately 5.2km to the southwest of Ring, approximately 9.5km south of Dungarvan and 9km to the northeast of Ardmore Co Waterford. The site is within the Gaeltacht na nDéise area of County Waterford. The site is accessed by way of a single carriageway cul de sac laneway which serves as access to a number of other dwellings. The appeal site is located to the rear / north of two established dwellings one of which is the applicant's family home and the other the home of the third party appellants. Site levels rise from generally from south to north with a spot level of 97m towards the southwestern boundary rising to 102m towards the notheastern site boundary.

## **2.0 PROPOSED DEVELOPMENT**

2.1 The proposed development is permission to construct a single storey dwelling 217 sq.m. a detached garage of 60 sq.m and associated site works. The proposed dwelling has two gable breakfronts with variable glazing particularly to front (southern) elevation. External finishes include plaster and natural stone. The proposed dwelling is to be served by way of connection to mains water supply and public sewer. The proposed dwelling is set back circa 44m from the southern boundary at a finished floor level of 101m.

## **3.0 PLANNING HISTORY**

- 09/135 Permission granted to Sinéad Ní Ghealbháin and Kevin Allen. Cead Pleanála tigh cónaithe agus garáiste (mar aon le bealach isteach, oibreacha comhshuíomh srl.) ...Permission for dwelling and detached garage. Subject to 14 conditions. Condition 14 required a Section 47 agreement sterilising the landholding from further development
- 08/516 Permission granted to Reamon De Paor chun tigh nua aon urlár go leith a thogáil chomh maith le garáiste, slí isteach, ionad leasuithe fuíol uisce le háit síothlaithe agus oibreacha teagmhasala riachtanacha tógá;a a chur I gcrích.
- 16/228 Permission granted 26/5/2016 for retention of location of existing house on site. That is a change from that granted permission under 08/961 consequent to Outline Permission 02/323.
- 02/859 Refusal of permission. J M Power and J F Ryan. Cead pleanála do tigh cónaithe coras coireal agus slí isteach.

## **4.0 PLANNING AUTHORITY'S DELIBERATIONS AND DECISION.**

### **4.1 Submissions**

4.1.1 Submission from the Third Party Appellant to the local authority objects to the proposed development on grounds of overlooking, refers to

Section 47 Agreement sterilising part of the site from further housing development entered into under previous planning application 09135. It is alleged that the site levels were altered during construction of 09/135. Proposed dwelling will be elevated over that of the appellant. Concern that drainage from site will create ground instability with further potential for flooding and contamination of well. Negative impact on residential amenity arising from lighting and other disturbance. This rural area is overdeveloped as expressed in previous planning reports.

#### **4.2 Planning Authority Reports.**

- Planner's report notes that the applicant meets the relevant housing need criteria. In relation to Section 47 agreement referenced in the objector's submission this relates to the southern part of the site and part of access. As no structures are proposed within this area the proposal is not in conflict with this agreement.

#### **4.3 Planning Authority's Decision**

4.3.1 By order dated 09/2/2016 The Planning Authority decided to grant permission subject to 12 conditions which included the following:

- Condition 2: Development Contribution of €9,000.
- Condition 5. Prior to commencement of development an updated site layout plan to be submitted providing full arrangements for soakways to ensure development does not result in surface water flow into neighbouring properties.
- Condition 9. First floor shall be used for storage only.
- Condition 11. All new boundaries to be constructed of raised earthen berm.
- Condition 12. Occupancy condition.

### **5.0 APPEAL SUBMISSIONS**

#### **5.1 Third Party Appeal**

5.1.1 The third party appeal is submitted by Peter Thomson, Planning Solutions on behalf of Anders and Avril Boock owners of the adjacent dwelling to the south of the appeal site. Grounds of appeal are summarised as follows:

- Proposal conflicts with Section 47 Agreement precluding further development including by family members which was entered into under planning application 08/516 and by way of Condition 14 of planning reference 09/135 which required that a section 47 agreement be registered as a burden against the title of the land.
- Appeal site overlooks the appellant's house. Evergreen trees between the sites only provide partial screening.
- Ground levels were altered during the course of development of adjacent house 09/135.
- Planning Authority has failed to properly assess the current proposed development and its impact on the rural amenity of the area.
- The specific reasons for requiring sterilisation agreements in respect of 08/517 and 09/135 was to prevent overdevelopment and erosion of the

rural character of the area. The interpretation of the planner that the agreement pertains to part of the site is invalid in this context.

- Proposal represents backland development and will have negative impact on residential amenity.
- Surface water runoff from the site is a serious concern. Notably the well has been contaminated in the past. No analysis carried out to determine effectiveness of soakaways. Question whether conditions regarding surface water disposal can be complied with.
- Poor water pressure in the public mains will be exacerbated,
- Irish Water was not consulted and the Area Engineer did not comment on the application.
- Contrary to the planning officer's assessment the site is within a visually sensitive area as defined on scenic landscape evaluation map within the Waterford County Development Plan.
- Compliance with housing need policy has not be demonstrated.

## **5.2 Response of Planning Authority to Grounds of Appeal**

5.2.1 The Planning Authority response is summarised as follows:

- The application site is within an Area Under Urban pressure as designated in the current development plan.
- Applicants have demonstrated that they comply with the housing need criteria as defined in the development plan.
- Issues highlighted in the submissions of the appellant were taken into consideration in the assessment of the proposal.
- The appeal does not include any additional grounds for overturning the Council's decision to grant permission.

## **5.3 First Party Response to the Appeal**

5.3.1 The first party response to the appeal is summarised as follows:

- Triangular portion of land to the south of the appeal site was not included in site of P09/135 and there is no evidence of any part of the appeal site having been sterilised from further development.
- Application 08/516 is irrelevant to the current case as it is on an entirely different landholding with access from a separate laneway.
- Headlight glare and overlooking are not likely. Site is well screened.
- Refute any allegations of illegal dumping on site.
- There are no steep embankments formed around the site.
- There are no indicators of poor drainage on or around the site and soakway drainage not likely to be an issue.
- Applicant have applied to Irish Water for water connection to mains.
- Single storey dwelling design will ensure that the development does not detract from this visually sensitive area.
- Applicant is a native Irish speaker with strong connections to the local area as evidenced in eight letters of support from local community groups and organisations attached.
- Permission for the development will ensure that the Irish language is kept alive in accordance with government policy.

## **6.0 PLANNING POLICY**

### **6.1 RURAL HOUSING GUIDELINES.**

6.1.1 The site is within a Stronger Rural Area as set out on Map 1.NSS Rural Area Types. The key development plan objective in relation Stronger Rural Areas is to consolidate and sustain the stability of the population and in particular to strike the appropriate balance between development activity in smaller towns and villages and wider rural areas. The development plan should aim to strike a reasonable balance between: (1) Accommodating proposals for individual houses in rural areas subject to good practice in relation to matters such as siting and design as outlined elsewhere in these guidelines, (2) Actively stimulating and facilitating new housing development in smaller towns and villages to provide for balanced urban and rural choices in the new housing market and (3) Carefully monitoring development trends to avoid areas becoming overdeveloped in terms of leading, for example, to extensive ribbon development. The overall approach in this regard in such areas is to ensure these areas maintain a stable population base in both urban and rural parts.

### **6.2 DEVELOPMENT PLAN**

6.2.1 The Waterford County Development Plan 2011 – 2017 refers.

6.2.2 The site is within an area identified as an area under urban pressure in the development plan. The key development objectives in this area, are on the one hand, to facilitate the housing requirements of the local community, subject to satisfying site suitability and technical considerations, whilst on the other hand directing urban generated development to areas zoned for housing in the adjoining service centres and settlement nodes.

Policy SS3 “To cater for the housing requirements of members of the local rural community who have a genuine local housing need in areas under urban pressure as set out in the Criteria in Section 4.10.”

## **7.0 ASSESSMENT**

7.1 From my review of the file, all relevant documents and inspection of the site and its environs, I consider that the main issues for consideration in the Board’s de novo assessment of the appeal may be considered under the following broad headings:

- Settlement Strategy
- Impact on the amenities of the area
- Traffic and Servicing
- Appropriate Assessment

### **7.2 Settlement Strategy**

- 7.2.1 As outlined above, the site falls within an area indicated as an area under urban pressure within the Waterford County Development Plan. and within a stronger rural area as designated in the rural housing guidelines. Within the Development Plan it is the Council's Policy SS3 "To cater for the housing requirements of members of the local rural community who have a genuine local housing need in areas under urban pressure as set out in the criteria in Section 4.10."
- 7.2.2 The applicant currently resides with his parents in the adjacent dwelling and seeks to provide a dwelling to meet his own housing need. Documentation submitted with the application indicates the applicant's strong connection to the local area, involvement in the promotion of the Irish language, sports, local culture and heritage. On the basis of the submitted details I consider that the application demonstrates a local housing need in accordance with the requirements of the Waterford County Development Plan. I consider that the application demonstrates compliance with national and local policy to accommodate rural generated housing need where it arises.
- 7.2.3 On the issue of overdevelopment and conflict with a condition of permission 09/135 (dwelling constructed by a family member of the first party to the west) which required a Section 47 Agreement sterilising landholding from further residential development, and which apparently included the front portion of the appeal site<sup>1</sup>, whilst I acknowledge that the piecemeal and somewhat haphazard nature of development in the vicinity of the appeal site is a valid matter of concern, I consider that on the basis of the serviced nature of the site, the recognised local housing need the issue of density of development in the vicinity and the existence of the Section 47 Agreement should not act as an impediment to development on the site. As regards allegations of unauthorised dumping on the site and contamination of the appellant's well I note that no evidence is provided in this regard.

### **7.3 Impact on the amenities of the area.**

- 7.3.1 The site is located within a visually sensitive area as designated in the Waterford County Development Plan 2011-2017. At 6.2(a) Policy with regard to areas designated as sensitive. It is outlined that these areas have a distinctive homogenous character, dominated by natural processes. Development in these areas have the potential to create impacts on the appearance and character of an extensive part of the landscape. Applications in these areas must demonstrate an awareness of these inherent limitations by having a high standard site selection, siting layout, selection of materials and finishes. Applications in these area may also be required to consider ecological, archaeological, water quality and noise factors in so far as it affects the preservation of the amenities of the area.

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<sup>1</sup> Details of Section 47 Agreement have not been provided on the appeal file.

7.3.3 As regards the visual impact of the proposed development, whilst the site is elevated I note that it is well screened and in visual terms will tie in with the existing cluster of dwellings. Whilst a more innovative and bespoke design would be welcome, I consider that having regard to the mixed nature of development in the vicinity, it would be incorrect to deem the proposed design to be out of character. In my view the proposal to construct a single storey dwelling on this site would be acceptable in terms of its visual impact and impact on the scenic amenities of the area.

7.3.4 As regards potential for negative impact on adjacent dwellings, in terms of overlooking, and other disturbance, I consider that the set back of 42m from the southern boundary seeks to mitigate overlooking and negative impact. On balance I form the view that the proposed design is acceptable on this site and subject to appropriate landscaping can be successfully integrated.

#### **7.4 Servicing**

7.4.1 The proposed development is serviced by way of public water supply and public sewer. Whilst the third party appellants raise concerns regarding potential exacerbation of an existing issue of poor water pressure in the public mains no such concern is raised in the planning authority reports and it is not considered that one additional dwelling should be significant in this regard. As regards surface water run-off from the appeal site I consider that a suitable drainage design can be devised for the site and this issue can be appropriately mitigated.

7.4.2 As regards traffic, the site is accessed by way of a narrow largely single carriageway laneway. However I consider that the level of traffic arising from the proposed development can be accommodated without significant impact on traffic safety or the local road network.

#### **7.5 Appropriate Assessment**

7.5.1 As regards the issue of Appropriate Assessment having regard to the nature and scale of the proposed development and nature of the receiving environment and distance 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 project on a European site.

### **8.0 RECOMMENDATION**

8.1 I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. The proposed development is considered to be acceptable having regard to pattern of development in the vicinity and the provisions of the Waterford County

Development Plan. The proposed development provides for an adequate standard of residential amenity and is not such as to be injurious to the existing residential amenities of the area. The proposed development would not give rise to a traffic hazard and is considered to be in keeping with the proper planning and sustainable development of the area. I recommend that planning permission be granted for the reasons set out below.

### **REASONS AND CONSIDERATIONS**

It is considered that subject to compliance with the conditions set out below, the proposed development would be in keeping with the existing character and pattern of development in the immediate area. The proposal would not be seriously injurious to the existing residential amenities of the area, would be acceptable in terms of traffic safety and convenience, would provide an adequate standard of residential amenity, would not be prejudicial to public health and would otherwise be in accordance with the proper planning and sustainable development of the area.

### **CONDITIONS**

1. The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the plans and particulars received by the planning authority on the 10th December 2015 except as may otherwise be required in order to comply with the following conditions.

**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]. 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. Prior to commencement of construction of the house, details of the materials, colours and textures of all the external finishes to the proposed house shall be submitted to the planning authority for agreement.

**Reason:** In the interest of orderly development and the visual amenities of the area.

4. The road works associated with the proposed development including the setting out of entrance shall be carried out and completed in accordance with the requirement of the planning authority.

**Reason:** In the interest of traffic safety and orderly development.

5. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of orderly development and the visual amenities of the area.

6. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

7. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.  
(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to the existing roadside drainage.

**Reason:** In the interest of traffic safety and to prevent pollution.

8. a) All foul sewage and soiled water shall be discharged to the public foul sewer.  
b) Only clean, uncontaminated storm water shall be discharged to soakpits.

**Reason:** In the interest of public health.

9. 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.

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

10. 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. 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

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Bríd Maxwell  
Planning Inspector  
3<sup>rd</sup> June 2016