



An  
Bord  
Pleanála

## Inspector's Report PL.26.247533

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<b>Development</b>	3 houses and associated site works.
<b>Location</b>	Ballinatrav Lower, Courtown Harbour, Co. Wexford.
<b>Planning Authority</b>	Wexford County Council.
<b>Planning Authority Reg. Ref.</b>	20160928.
<b>Applicant</b>	Joe Keane.
<b>Type of Application</b>	Outline Planning Permission.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party.
<b>Appellant</b>	Vincent Browne and Others.
<b>Observers</b>	None.
<b>Date of Site Inspection</b>	31 <sup>st</sup> January 2017
<b>Inspector</b>	Dáire McDevitt

## **1.0 Site Location and Description**

- 1.1 The site is located within the Courtown village centre. It forms part of the former site of The Stopford House Hotel which has been demolished in the recent past. The site is accessed off Oak Grove cul-de-sac (public road), which serves 7 houses and which in turn is accessed off Harbour Court. The north of the site fronts onto Oak Grove, which is a mix of single and dormer style dwellings on individual plots, the boundary along this road is wooden post and wire fencing. The western and southwestern boundaries consist of trees and hedges bounding the rear gardens of the Courtown Cove housing scheme. The eastern boundary is green mesh wire fencing and bounds the Irish Caravan & Camping Club site which is in the process of being developed. The southern boundary partially bounds residential development and mixed use which ranges from single storey to two storey in height.
- 1.2 The site is elevated in the context of Harbour Court and the Caravan & Camping facility.
- 1.3 Maps, photographs and aerial images in file pouch.

## **2.0 Proposed Development**

- 2.1. Outline Permission for 3 houses, access road and ancillary site works on a site with an overall area of 0.39 hectares.
- 2.2. The Site Layout Plan submitted indicates:
- 3 no. detached houses are proposed off a shared access road.
    - FFL House A: 104.461
    - FFL House B: 103.600
    - FFL House C: 102.986
  - Public Open space located in the southern corner of the site.
  - New Foul, Storm and Water connections proposed

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Grant subject to 10 standard conditions.

These included:

Condition No. 2 (restriction on exempted development)

Condition No. 4:

- restricting the height of the houses to a maximum ridge height of 5 metres.
- Landscaping.
- Section 97 certificate or other detailing compliance with Part V of the Planning Act.
- Site attenuation details.

Condition No. 5, 6 & 7 (development contributions and security bond.)

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

##### **Assistant Planner Report (26<sup>th</sup> September and 11<sup>th</sup> October 2016)**

These Reports together with additions from the Director of Services (11<sup>th</sup> October 2016) form the basis for the Planning Authority's decision.

The main issues can be summarised as follows:

- Legal advice on Section 35 regarding failure to comply with past permission granted under Local Authority Planning Reference 2002438 for a development of 6 units at Ford Kilmuckridge, Co. Wexford.
- Principle of the development.
- Residential amenity.

### **Senior Planner Memo (11<sup>th</sup> October 2016)**

- Concerns that the development will not be completed in accordance with conditions having regard to the applicant's failure to complete developments and comply with previous planning permissions.
- Having regard to legal opinion from the Council's Law Agent which confirms that Section 35 should not be invoked with an outline permission.

#### **3.2.2. Other Technical Reports**

**Chief Fire Officer (5<sup>th</sup> September 2016).** Fire safety requirements outlined.

#### **3.3. Third Party Observations**

Two Submissions received at application stage:

- Paula O'Toole McLoughlin & 7 others
- The Irish Caravan & Camping Club.

The main concerns raised are summarised as follows:

- Privacy/overlooking
- Congestion/over development of the area.
- Site Notice and validation of the application.
- Ownership
- Impact on adjoining tourist amenities.

## **4.0 Planning History**

**Planning Authority Reference 20051759.** Permission refused in 2005 demolition of existing hotel and outbuildings and permission for 42 apartments and 18 houses for 3 reasons relating to sewerage capacity in the village, traffic, visual and residential amenities and demolition of a hotel with a number of features of architectural merit.

To the east of the site:

**Planning Authority Reference 20140473** Permission granted in 2014 for a club caravan and camping site with club house. Currently under construction.

## 5.0 Policy Context

### 5.1. Courtown-Riverchapel Local Area Plan 2015-2021

- Courtown-Riverchapel designated as a District Centre.
- **Settlement Character Area 1:** Courtown and Riverchapel Village Centre.  
**Infill Development Opportunity Sites:**

The application site forms part of the designated Settlement Character Area 1 Opportunity Site No. 1.

#### **Opportunity Site 1:**

*Located within the heart of Courtown and is directly behind the petrol filling station. It has a substantial area of 1.2 hectares. It was the site of Stopford House which has been demolished. There are a number of mature trees within the site and the site would be suitable for mixed use development. The lands are zoned village centre.*

This site is subject to Land Use Zoning Objective **(VC) Village Centre** 'To provide for, protect and strengthen the vitality and viability of the village centres through consolidating development, maximising the use of lands and encouraging a mix of uses'.

#### **Relevant Policies and Objectives include:**

***H01** To ensure that all new residential developments in the plan area provide a high quality accessible living environment with attractive and efficient dwellings located in a high quality public realm and serviced by well-designed and located open spaces and area designed. The density of the residential*

*development shall be appropriate to the location. All new housing developments shall have regard to the Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities and its companion document Urban Design Manual (DEHLG, 2008) and any subsequent review, update or circulars issued in relation to the guidelines.*

**H05** *To encourage infill and backland housing development on appropriate sites where such development respects and enhances the existing character of the area and does not negatively impact on the amenities of adjoining properties.*

**5.2 Wexford County Development Plan 2013-2019**  
Chapter 18 Development Management Standards

Section 18.10 Residential Development in Towns and Villages

**5.3 Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities (2009)**  
**Chapter 6 Smaller Towns & Villages (Population of 400 to 5000).**

**Section 6.3 (e)** The scale of new residential schemes for development should be in proportion to the pattern and grain of existing development.

**Section 6.4** Planning authorities must take account of the wider development context in preparing plans for smaller towns and villages. (i) For those towns and villages within the 45 minute - 1 hour travel time range from major cities and which are experiencing significant levels of new largely commuter-driven development. It is vitally important that planning authorities channel development through their small town and village plans in a way that is consistent with higher level plans such as the development plan of the county they are situated within, any regional planning guidelines that are in force and the National Spatial Strategy in order to build up the critical mass of the key cities and towns.

## **5.4 Natural Heritage Designations**

There are no designated sites within the immediate vicinity.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

A third party appeal was lodge by Vincent Browne, 5 Oak Grove, Courtown Harbour, Co. Wexford. The appeal includes 28 other names. The grounds of appeal are set out below:

- Privacy, congestion
- Over crowding.

The grounds of appeal as set out are vague, However the appeal documentation included a submission to the original planning application by Paula O'Toole McLoughlin on her behalf and 7 others (including Vincent Browne) which is summarised as follows:

#### **Privacy**

- The proposed houses would invade the privacy of neighbouring homes, especially those immediately to the rear of the proposed site which would be overlooked if this development progresses.

#### **Congestion**

- The Courtown/Riverchapel area is already congested and there are numerous empty or unfinished houses. It is unacceptable to consider another 3 houses sandwiched between existing homes and the 'Irish Camping & Caravan Club' new tourist amenity still under development.
- Excessive density of development.
- Proposal does not comply with the Section 4 of The Courtown Riverchapel Local Area Plan 2015-2021.

#### **Site Notice**

- The erection of one site notice along Oak Grove was insufficient to inform the public of the proposal and therefore the application is not valid.

### **Site Ownership**

- Issue of the ownership of the site as per Land Folio details.

Negative Impact on the amenities of the adjoining Caravan Park.

## **6.2. Applicant Response**

None received.

## **6.3. Planning Authority Response**

The response is summarised as follows:

- Proposal for outline for 3 houses on an underutilised site within the village centre is consistent with the objective of the Local Area Plan.
- Site is accessed of a cul-de-sac (public road) that currently serves 7 houses and is considered suitable for an additional 3 houses and would not result in a traffic hazard. It also noted that the adjoining caravan park is accessed off another road.
- Site Notice complied with Planning and Development Regulations
- The proposed use (residential) is considered a good neighbour to the existing residential development and caravan park. This permission does not preclude achieving Plan objectives.
- The Planning Authority reserves the right to refuse permission consequent application per Section 35 of the Planning Act given past failures to comply with previous permission and legal opinion that indicated this would not be appropriate at outline permission stage.
- Disputes over landownership are a matter for the Courts.



## 6.4. Observations

None

## 7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment screening also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development.
- Residential Density.
- Residential Amenities.
- Other Issues.
- Appropriate Assessment.

### 7.1. Principle of Development

7.1.1 The application site with a stated area of 0.39 hectares is part of the former site of the now demolished Stopford House Hotel which has been identified as Settlement Character Area 1's Opportunity Site No. 1 in the Courtown-Riverchapel Local Area Plan. Part of this site is in the process of being developed by the Irish Caravan & Camping Club as a member only camping/caravan development.

7.1.2 The proposed scheme is on land zoned 'Village Centre' use as identified by the 'VC' land use zoning attributed to the site where the objective is '*To provide for, protect and strengthen the vitality and viability of the village centres through consolidating development, maximising the use of lands and encouraging a mix of uses*'.

7.1.3 A residential scheme is permitted in principle on lands zoned 'VC' subject to site specific considerations and compliance with Development Plan Policies/Objectives and Government Guidelines.

## **7.2 Residential Density**

7.2.1 The appeal noted congestion and overcrowding as grounds of appeal but did not elaborate on these issues. However, having reviewed the attached submission that was submitted at initial application stage to the Council it is noted that this refers to headings covered in said submission. In this context congestion and overcrowding referred to the village in general and the number of vacant and unfinished units in the area and the overall density of the proposed development.

7.2.2 Section 11.4 of the Local Area Plan sets out that densities shall be guided by the Sustainable Residential Development in Urban Areas Guidelines and Local Area Plan Objective H01 which sets out that the density of residential development should be appropriate to its location.

7.2.3 The Local Area Plan does not specify permissible density for lands zoned under Land use objective 'VC'. The Sustainable Residential Guidelines indicate that new developments should integrate with existing densities and be in proportion with the pattern and grain of existing development. The established pattern of development in the area is characterised by low density single houses on larger plots. In this context,, the proposed density is considered acceptable for the development of this infill site.

## **7.3 Residential Amenity**

7.3.1 The proposed houses are shown to front onto an internal access road and are staggered along the western side of the site backing onto the adjoining properties which are single storey with rooflights to attic space and sited at an angle towards the site. Section 18.10.8 of the County Plan sets out that a minimum standard of 22 metres separation distance between directly opposing

first floor windows should usually be observed. This would require rear garden depths of 11 metres where back to back houses with first floor opposing windows are proposed.

7.3.2 The layout submitted shows garden depths ranging from 5.6m to 16.2 metres which reflects the staggered layout of the proposed houses. The adjoining houses to the west are also staggered and a number have gables addressing the application site. Having regard to the proposed layout, I am satisfied that subject to single storey houses being permitted on site the proposed development would be not result in overlooking and would not be detrimental to the residential amenities of adjoining properties. The scale and height of the houses can be dealt with by condition in the event of a grant of outline permission.

7.3.3 The adjoining caravan park is currently under development. The application site is elevated in the context of this adjoining site, however an access road is proposed along this boundary and overlooking would not be considered material. The proposal development, subject to constraints laid out in section 7.3.2 above, would not have a detrimental impact of this tourist amenity

7.3.4 Public open space is proposed to be located at the southern corner of the application site. Having regard to the nature of the site, the scale of the development proposed and its location within the village centre and walking distance to adjoining amenities this is considered acceptable.

7.3.5 Traffic concerns have not arisen and I am of the opinion that the application site and access road can cater for an additional 3 houses. The adjoining caravan park development is accessed directly off Harbour Court.

#### **7.4 Other Issues**

The appellant has raised the issue of landownership. In this regard I would draw attention to Section 34 (13) of the Planning and Development Act 2000

(as amended) which reads '*A person shall not be entitled solely by reason of a permission under this section to carry out development*'.

## **7.5 Appropriate Assessment**

Having regard to the nature of the proposed development, the location of the site in a fully serviced built up area and distance from the nearest Natura 2000 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.

## **8.0 Recommendation**

I recommend that outline planning permission should be granted subject to the conditions as set out hereunder.

## **9.0 Reasons and Considerations**

Having regard to the provisions of the Courtown-Riverchapel Local Area Plan 2015-2021 and the Wexford County Development Plan 2015-2019, to the extent of the proposed development and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area. It is, therefore, considered that the proposed development would be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted the Planning Authority, 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 at permission consequent stage and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The houses proposed under any application for permission consequent on this grant of outline permission shall have a maximum ridge height of 6.5 metres and be in keeping with the established character the area in terms of design, form, materials, finishes, boundary treatments and landscaping.

**Reason:** In the interest of visual and residential amenity.

**Reason:** In the interest of urban legibility.

3. 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.

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Dáire McDevitt  
Planning Inspector

10<sup>th</sup> February 2017