



An
Bord
Pleanála

Inspector's Report PL.26.247534

Development	House and associated site works.
Location	Ramstown, Fethard-On-Sea, New Ross, Co. Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	2016/0647
Applicant	Barbara Kelly
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant	Donal Plunkett
Observer	Thomas J. Molloy
Date of Site Inspection	31 st January 2017
Inspector	Dáire McDevitt

1.0 Site Location and Description

1.1 The appeal site is located in a coastal zone in the townland of Ramstown approximately 500 metres to the south-east of the village of Fethard-on-Sea in south Co. Wexford. Ramstown comprises a peninsula to the south of Bannow Bay. The application site which has a stated site area of c. 0.205ha is a backland site taken from a larger field which has been subdivided into a number of sites located on the southern side of Quay Road. This rural coastal area is characterised by a mixture of house designs and types and has been the subject of extensive residential development.

1.3 Access to the application site is by means of a private lane off Quay Road which serves an existing house and agricultural lands. There is a gate to this lane at the junction with the public road which has a narrow carriage way and runs along the southern side of Bannow Bay to Fethard Quays. Immediately to the east of the site, off the private lane, is an unoccupied single storey dwelling, to the immediate north is a vacant plot and north of this is the appellant's house, a storey and a half dwelling with access off Quay road.

1.4 The western boundaries with the lane are open, the southern and eastern boundaries are established hedgerow with the northern boundary consisting of mesh and recently planted hedging.

1.5 Maps, Photographs and aerial images in file pouch.

2.0 Proposed Development

Permission is sought for a contemporary style single storey flat roof dwelling (proposed eaves height of 2.93 metres and gfa c. 106.35 sq.m) with access off a private lane on a site with a stated area of 0.205ha.

Services:

- On site wastewater treatment system.

- Connection to public water mains.
- Surface water disposal to soakpits.

3.0 Planning Authority Decision

3.1 Grant permission subject to 9 standard conditions which include condition no. 2 relating to surface water attenuation and condition no. 4 that the house shall be used as a permanent place of residence.

3.2 Planning Authority Reports

3.2.1. Planning Reports (dated 22nd July, 10th October and 13th October 2016):

These Reports together with additions from the Director of Services (12th October 2016) form the basis for the Planning Authority's decision.

The main issues can be summarised as follows:

- Principle of the development considered acceptable.
- Compliance with Rural housing criteria accepted.
- Design and visual impact considered acceptable.
- Effluent disposal.
- Surface water, attenuation to be dealt with by condition.
- Reference is made to a mobile home on site.
- Pre-Planning referenced from 2013. This noted that the proposal for a house on the site was considered acceptable in principle. Compliance with the Rural Housing policy was required to be clearly demonstrated.
- Reference to Appropriate Assessment Screening in the Planner's Report.

Further Information was requested in relation:

- Water supply.
- Design details for the waste water treatment system and clarification of details arising from the site characterisation form submitted.
- Inviting the applicant to comment in third party submission received.

Response submitted and considered acceptable by the Planning Authority.

3.2.2 Director of Services Note to Senior Planner (12th October 2016)

The main issues raised are summarised as follows:

- Request that a number of issues covered in the Planner's report of the 10th October be elaborated on.
- The key issue of Local Need is not properly addressed. While the assessing officer is satisfied there was insufficient evidence presented in the report for the Director to form an objective opinion.
- The Report did not satisfactorily address the matters raised by the objector, specifically overlooking, previous refusal and backland development.
- Noted, that there is no objection in principle to a grant in this case but the evidence supporting same should be clearly presented.

Revised Planners Report of the 13th October following direction from the Director of Services.

3.2.1 Other Technical Reports

- **Environment Section: (12th July and 4th October 2016).** On foot of Further Information, no objection subject to conditions.
- **Area Technician (28th June 2016).** Further Information recommended on water supply.

3.2.2 Third Party Observations

The main issues raised in the appellant's (Donal Plunkett) initial submission and submission following Further Information are largely in line with the grounds of the appeal and shall be dealt with further in the relevant section of this Report

4.0 Planning History

4.1 There is a history of previous refusals of planning permission associated with the application site. These can be summarised as follows:

Planning Authority reference 20140948 (An Bord Pleanála Reference PL.26.244508): Permission refused in 2015 on two grounds relating to

- Visual Impact due to the elevated location of the site on the skyline, the proposal would be visually obtrusive and have a disproportionate effect on the existing character of the landscape in terms of its visual prominence on an elevated site.
- Non-compliance with Objective L05 and the applicant's noncompliance with the rural housing criteria for the Coastal Zone location.

(different house design to that currently submitted)

Planning Authority Reference 20140031 Permission refused in March 2014 for two reasons (these reasons were similar to those under An Bord Pleanála Reference PL.26.241851) relating to:

- Visual dominance on the landscape.
- Local Need and noncompliance with Objective L05.

Planning Authority Reference 20130072 (An Bord Pleanála PL.26.241851) Permission refused in July 2013 for the retention of a mobile home on the site for two reasons relating to:

- Visual dominance on the landscape.
- Local Need and noncompliance with Objective L05.

Planning Authority Reference 98/1414, Outline permission refused for a house on the plot between the application site and the appellants house. Reasons for refusal related to interference with a view or prospect of special amenity value or interest, rapid percolation rates, excessive density of suburban type dwelling and undesirable precedent.

Comment [KL1]:

5.0 Policy Context

5.1 Wexford County Development Plan 2013-2019

Section 4.3.3.2 Rural Area Types in County Wexford

The Council will ensure that the development of one-off rural housing in the Upland, River Valley and Coastal Landscape character units and Landscapes of Greater Sensitivity is carefully monitored and managed. Local concentration of such development, outside of designated settlements, could have cumulative adverse visual impacts on these landscape units.

Coastal Zone

In particular policies and objectives relating to Coastal Zone areas as outlined below apply to the application site:

Section 14.4.2 Landscape Character Assessment

Landscape Character Unit No. 4 Coastal

The coastal landscape is punctuated by prominent features such as promontories, water bodies, slob lands and the Hook Peninsula which add interesting dimensions to the qualities of the landscape, it includes major urban areas such as Courtown, Wexford, Rosslare Strand and Rosslare Harbour. The coastal landscape is sensitive to development in some locations. It has experienced great pressures from tourism and residential development.

Section 14.4 .3 Landscape Management

Objective L05

To prohibit developments which are likely to have significant adverse visual impacts, either individually or cumulatively on the character of the Uplands,

River Valley or Coastal landscape or a Landscape of Greater Sensitivity and where there is no overriding need for the development to be in that particular location.

Objective L11

To seek to minimise the individual and cumulative adverse visual impacts that local concentrations of one-off housing, outside of settlements, may have on Upland, River Valley and Coastal landscape character units or Landscapes of Greater Sensitivity. In this regard, in locations where the Council considers that there is a risk of individual or cumulative adverse impacts, the Council will only consider proposal for housing developments where a need for the dwelling has been demonstrated in accordance with the criteria contained in Table No. 12 in Chapter 4.

Chapter 4, Table 12 sets out the Criteria for Individual Rural Housing - Criteria for Coastal Zone/NHA applies:

- *Housing for 'local rural people' building permanent residences for their own use who have a definable 'housing need' building in their 'local rural area'.*
('local rural area' is defined as within the immediate vicinity of the specific designated area and a maximum of 3km radius of where the applicant has lived or was living. The 'local rural area' includes the countryside only)
- *Housing for person working within the area building permanent residences for their own use who have a definable 'housing need.'*
- *Housing for people with exceptional health and/or family circumstances building permanent residence for their own use.*

Chapter 18 Development Management Standards.

- **Section 18.12.1 One-off Rural Housing**
- **Section 18.12.2 Siting and Design of One-off Rural Housing.**
- **Section 18.29.4 Development on Private laneways.**

5.2 Sustainable Rural Housing Guidelines (2005):

The overarching objectives (Chapter 2) include:

- The delivery of sustainable rural settlement
- Guidance of residential development to the right locations in rural areas in the interest of protecting natural and man-made assets.
- Tailoring planning policies to different types of rural areas.

5.3 The Planning System and Flood Risk Management. Guidelines for Planning Authorities 2009.

This sets out comprehensive mechanisms for the incorporation of flood risk identification, assessment and management.

5.4 Natural Heritage Designations

There are no designations attached to the application site, However the following sites are within 500 metres of the site:

- Bannow Bay SAC (Site code: 000697) is c. 158m north of the site.
- Bannow Bay SPA (Site code: 004033) located approximately 840m to the northeast.
- Hook Head SAC (site code 000764) is c. 350m south of the site.

6.0 The Appeal

6.1 Grounds of Appeal

The main grounds of the third party appeal by Donal Plunket, Ramstown, Fethard-On-Sea, Co. Wexford can be summarised as follows:

- The proposed development is speculative and the applicant has no intrinsic ties to the area.

- The applicant has stated that it is her intention to live close to her mother (address given is the mother's holiday home) and that they have links to the area going back 40 years. Applicant is from Kildare and all her links are to Kildare.
- Previous reasons for refusal for a house at this location have not been overcome.
- Reference to the Director of Services comments on the Planner's report and request that matters be clarified.
- Overlooking and invasion of privacy of adjoining properties built at a lower level to the application site.
- Misleading information submitted with the application and incorrect site boundaries.
- The applicant does not have the relevant consents to include the lane in the planning application or any right of way over the lane.
- Concern regarding surface water runoff from the site and impact on sites at lower level and the adjoining road.

6.2 Planning Authority Response

No further comment.

6.3 Observations

One observation from Thomas J. Molloy, Main Street, Fethard-on-Sea. The following is a summary of the main points raised:

- States that he is the owner of the lane in question and that he has not given his consent for the inclusion of this lane in a planning application. In addition, the applicant does not, nor ever has had, a right of way over this lane to access her land locked site.
- The unauthorised use of the lane to access the site, especially when there was a mobile home on the site, has led to costly repairs at the landowners

expense to be the carried out to the lane to enable access to the agricultural lands to the rear and the Powers house (they have a right of way).

6.4 Applicant's Response to the Appeal (received 7th December 2016)

- Overlooking is not an issue. There is a separation distance of c.45 metres from the proposed house and the appellants house.
- The appellants house was built c.10 years ago and is used as a holiday home.
- The Applicant has established links to the area for 40 years plus. Initially to a caravan park where the family stayed on holidays and subsequently to Ramstown where her parents built a house.
- Rejects spurious remarks made by the appellant.
- Applicant has clearly demonstrated compliance with the Rural Housing policy.
- House has been redesigned to address visual concerns and previous reasons for refusal.
- Mobile Home has been removed from site.
- Wexford County Council granted permission for the proposal.
- The access lane has been sold by Thomas Molloy to Donal Plunkett, as such misleading information has been submitted to An Bord Pleanála.

6.5 Observers response to the Applicants response to the third party appeal (received 4th January 2017)

This can be summarised as follows:

- It is not the observer's intention to mislead An Bord Pleanála. The matter is such that the applicant's agent continues to submit incorrect site boundaries and misinformation regarding right of way to the site over his lane.
- The applicant's unlawful use of the private lane to access the site is causing damage to the lane.
- Since lodging his initial observation with An Bord Pleanála the Observer is in the process of selling said lane to Mr Plunkett and the applicant's agent is aware of this matter.

6.6 Applicants response to the Observers response of the 4th January 2017 (received 12th January 2017)

- Outlines that Mr Kennedy (applicant's agent) met with the Observer who confirmed that the lane has been sold to the appellant (Donal Plunkett).
- Details from the Property Registration Authority of Ireland (PRAI) in relation to the transaction submitted.

6.7 Appellants response to the Applicant correspondence (received 13th and 17th January 2017)

- Documentation submitted pertaining to the applicant's links to Kildare and not to Ramstown.
- Reference to adjoining house being extended is immaterial as overlooking of the appellants property did not arise in this instance.
- Site is for sale, the proposal is speculative to increase the value of the site.
- Reference to spurious remarks.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal pertaining to Rural Housing Need, Visual and Residential Impact and public health issues. The issue of appropriate assessment screening also needs to be addressed. The issues can be dealt with under the following headings:

- Local Rural Housing Need.
- Visual/Residential Amenity.
- Public Health.
- Other Issues.
- Appropriate Assessment.

7.1 Local Need

7.1.1 Permissions refused under PL. 26.244508 and PL.26.241851 (mobile home) included a reason pertaining to non-compliance with the rural housing policy, in particular Objective L05 due to the location of the application site within the Coastal Zone character area. The Planning Authority in its assessment was satisfied that the applicant complied with the Council's Rural Housing criteria. The Director of Services in a note dated 12th October 2016 expressed concerns on this matter but did not direct that permission should be refused on these grounds

7.1.2 Under the current application the applicant has outlined that she resides with her mother and daughter in Ramstown. There is no supporting documentation on file in relation to the fulltime occupancy of this house by the applicant's mother, the unsuitability of this house for the applicant's housing need, the applicant's intrinsic links to the area or the applicant's need for a dwelling at this location.

7.1.3 Having reviewed the information on file I am satisfied that the applicant has not clearly demonstrated that she would comply with the Council's Rural Housing Policy and a reason for refusal should issue on these grounds.

7.2 Visual/Residential Amenity

- 7.2.1 The area is characterised by a mixture of single storey and dormer style dwellings. This section of the Quay Road has been the subject of ribbon development and is identified as a sensitive landscape due to its location in the Coastal Zone character area No. 4 with the long views towards the site from all approaches.
- 7.2.2 Permission was refused under PL.26.244508 for a single-storey dwelling with a gfa of 106.35sqm and a ridge height of 4.132m. The dwelling featured a pitched roof. The applicant sought to address the previous reasons for refusal by reducing the height of the dwelling to c.2.93m and proposing a contemporary flat roof design. All previous refusals on this site included a reason on the grounds of visual impact due to the prominent location of the site on the skyline and its visibility vis a vis the surrounding area.
- 7.2.3 Although revised proposals have been submitted, the same issue regarding the elevated nature of the site persists. The development of any structure at this location would break the skyline and be visually obtrusive due to the elevated nature of the application site in the context of the surrounding landscape. The site is clearly visible from numerous approaches to the area, there are both long and short views of the site. I am not satisfied that the applicant has overcome the previous reason for refusal on this site and I disagree with the Planning Authority's assessment of the visual impact of the proposed development. Permission should, therefore, be refused on visual impact grounds as a dwelling on this site, regardless of its low profile nature, would be highly visible and prominent against the skyline in a sensitive coastal location.
- 7.2.4 The application site is located on a backland site in relation to the adjoining road and is elevated in respect of lands to the north (accessed off the public road). Overlooking was raised as an issue due to the difference in levels. There is adequate separation distances between the application site and the appellants house and notwithstanding the elevated nature of the site, overlooking of the appellant's property to the south is not considered a material issue

7.2.5 Having regard to above, it is my considered opinion that the proposed development would be visually obtrusive and would have a disproportionate effect on the existing character of the landscape in terms of its visual prominence on an elevated site. Notwithstanding the landscape proposals, it is, therefore, considered that this backland development would seriously injure the amenities of the area in general, would set an undesirable precedent for similar developments, and would be contrary to the proper planning and sustainable development of the area.

7.3 Waste water treatment/Surface water

7.3.1 Concerns have been raised in relation to the suitability of the site for a wastewater treatment system. This was the subject of a Further Information request by the Planning Authority and the response was considered acceptable.

7.3.2 Under An Bord Pleanála Reference PL.26.244508 the Board noted the following in its direction *“taken in conjunction with existing development in the vicinity of the site, the Board had serious concerns in terms of the cumulative impact of the proposed development on groundwater protection in an area characterised by rapid percolation rates and identified by the Environment Protection Agency as being very high risk of domestic waste water pollution”*

7.3.3 The proposal provides for the installation of a proprietary wastewater treatment system. Concerns highlighted by the Board referred to the cumulative impact of the proposal on groundwater protection due to high percolation rates in the area. The Site Assessment carried out and submitted with the application concluded that the permeability of the ground was suitable for the installation of a percolation area and a polishing filter with discharge into ground water and that the site does not have any environmental restrictions which would generally make it unsuitable for an on-site treatment system. It would also appear that the layout and location of the wastewater treatment system comply

with the minimum separation distances set down under the EPA 'Code of Practice, Wastewater Treatment and Disposal Systems serving Single Houses'.

- 7.3.4 The appellant queried the proposals for dealing with surface water on site. Soakpits are proposed which are considered acceptable. No water courses were observed on site or in the immediate vicinity of the site. The application site is located in Flood Zone C as per OPW maps. There is no evidence on file regarding flooding or damage to the adjoining public road from runoff from the site. I am satisfied that the issue could be dealt with by way of condition in the event of a grant of permission.

7.4 Other Issues

- 7.4.1 The appellants and observer raised the inclusion of the lane within the application site boundaries and submitted that the applicant's ownership does not extend to the laneway and that the applicant has no right of way over the laneway. Details have been submitted purporting to the change of ownership of the laneway from the observer to the appellant.

- 7.4.2 Based on the information on file the applicant has not clearly demonstrated that they have sufficient legal estate or interest in the land the subject of the application, or the approval of the person which has such sufficient legal estate or interest to enable them to carry out the proposed works which are the subject of this application. The issue of land ownership is a matter for the Courts. However, 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:

- 7.5.1 The closest Natura 2000 site is the Bannow Bay SAC (site code 000697) c. 158m to the north, the Bannow Bay SPA (site code 004033) c. 840 metres to

the northeast Hook Head SAC (site code 00764) c. 350 metres to the south of the site. Measurements are based on a straight line distance.

7.5.2 Relevant Qualifying Interests:

Full Conservation Objectives are available for

- Bannow Bay SAC (000697): Numerous species and habitats are listed. Including priority habitat Fixed coastal dunes with herbaceous vegetation ('grey dunes').
- Bannow Bay SPA (004033): Numerous species are listed. No priority species listed. Bannow Bay is a Ramsar Convention site and part of Bannow Bay SPA with a Wildfowl Sanctuary.
- Hook Head SAC (00764): Numerous habitats are listed. No priority habitat listed.

7.5.3 Full Conservation Objectives have been prepared for the sites as follows:

Bannow Bay SAC:

- To maintain the favourable conservation condition of:
 - Estuaries
 - Mudflats and sandflats not covered by seawater at low tide.
 - annual vegetation of drift lines.
 - perennial vegetation of stony banks.
 - *Salicornia* and other annuals colonizing mud and sand.
 - Atlantic salt meadows.
 - Mediterranean salt meadows.
 - Mediterranean and thermo-Atlantic halophilous scrubs.
- To restore the favourable conservation condition of:
 - embryonic shifting dunes.
 - shifting dunes along the shoreline with *Ammophila arenaria* (white dunes).
 - fixed coastal dunes with herbaceous vegetation (grey dunes).

Bannow Bay SPA:

- To maintain the favourable condition of Light-bellied Brent Goose, Shelduck, Pintail, Oystercatcher, Golden Plover, Grey Plover, Lapwing, Knot, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank.
- To maintain the favourable conservation condition of the wetland habitat as a resource for the regularly-occurring migratory waterbirds that utilise it.

Hook Head SAC:

- To maintain the favourable conservation condition of:
 - Large shallow inlets and bays.
 - Reefs.
 - Vegetated sea cliffs of the Atlantic and Baltic coasts.

7.5.4 No water courses were observed on site or in the immediate vicinity of the site. Given the separation distance to the nearest identified watercourse, there is, in effect, no significant hydrological connection to the designated sites referred to in paragraph 7.5.2. The proposed development would be served by a wastewater treatment system. Site Assessment has been carried out and included with the Planning Application. Site tests carried concluded that the permeability of the ground was suitable for the installation of a percolation area and a polishing filter with discharge in to ground water.

7.5.5 Reference is made in the Planner's report of the 22nd July 2016 to Appropriate Assessment Screening. This screened out a stage 2 requirement.

7.5.6 Having regard to the nature and scale of the development and its location relative to European sites, I consider it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No.000697, site No. 004033 or site No. 000764 or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

I recommend that permission be refused for the reasons and considerations as set out below.

9.0 Reasons and Considerations

1. Having regard to the elevated location of the site on the skyline, it is considered that the proposed development would be visually obtrusive and would have a disproportionate effect on the existing character of the landscape in terms of its visual prominence on an elevated site. Notwithstanding the landscape proposals, it is considered that this backland development would seriously injure the amenities of the area and of property in the vicinity and would set an undesirable precedent for similar type development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Development Plan Objective L05 seeks to 'prohibit developments which are likely to have significant adverse visual impacts, either individually or cumulatively on the character of the Uplands, River Valley or Coastal Landscape or a Landscape of Greater Sensitivity and where there is no overriding need for the development to be in that particular location.' The appeal site is Coastal Zone and the applicant has not clearly demonstrated an overriding need to reside at this particular location. The proposed development therefore, would be contrary to the proper planning and sustainable development of the area.

Planning Inspector

6th February 2017