



An  
Bord  
Pleanála

## Inspector's Report PL26.247654

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<b>Development</b>	Erection of a fully serviced dwelling and domestic garage and associated site works.
<b>Location</b>	Site at Ballykilliane, Drinagh, Co. Wexford.
<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20161046
<b>Applicant(s)</b>	James & Eimear Bergin
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant, subject to 12 conditions
<b>Type of Appeal</b>	Third Party -v- Decision
<b>Appellant(s)</b>	Pat Hayes
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	1 <sup>st</sup> February 2017
<b>Inspector</b>	Hugh D. Morrison

## 1.0 Site Location and Description

- 1.1. The site is located in a rural area that lies c.5.5 km south of Wexford Town and c.6 km west of Rosslare. This site is accessed off the east/west County road, which runs between the N25 and Piercestown Village, which is c.1 km to the west of the site. It lies on the southern side of this road. The surrounding area comprises a considerable number of one-off dwelling houses, along both the said County Road and along several new residential cul-de-sacs.
- 1.2. The site itself is of regular shape and it extends over an area of 0.447 hectares. This site coincides with a small field, which is down to grass. It also accommodates an abandoned static caravan and what appears to have been served by the public mains water supply and a private septic tank. There is a gated access to the site on its northern boundary and this boundary and the western and southern ones are denoted by means of hedgerows and trees. The remaining eastern boundary abuts a laneway, which serves a larger field to the south of the site within which a cattle shed has recently been constructed. This boundary is denoted by means of a post and wire fence.

## 2.0 Proposed Development

- 2.1. The proposal would entail the construction of a two storey dwelling house with a single storey return. This dwelling house would provide three-bed accommodation and it would have a total floorspace of 165 sqm. The dwelling house would be sited towards the south western corner of the site and it would be served by a freestanding garage (31.8 sqm), which would be sited to the rear in a position adjacent to the southern boundary of the site.
- 2.2. The existing access to the site would be formally laid out as a domestic entrance and it would connect to a driveway and generous hardstanding area. The dwelling house would be served by the public water mains and a conventional septic tank system. The percolation area for the latter would be installed in the north eastern corner of the site and the existing drainage ditch along the northern boundary of the site would be piped and filled. The eastern line of the proposed driveway and hardstanding would be fenced and a 2.4m high plastered blockwork wall would enclose the south western corner of the site.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission granted subject to 12 conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- The case planner noted the presence of one-off dwelling houses on both sides of the road within the vicinity of the site. The view was taken that this site represented an infill one.
- The applicant's local need was accepted.
- Adequate sightlines of 65m in either direction would be available at the site entrance.
- No objection was raised to the proposed WWTP.

#### 3.2.2. Other Technical Reports

- Environment: No objection, subject to conditions.

### 3.3. Prescribed Bodies

None

### 3.4. Third Party Observations

See grounds of appeal.

## 4.0 Planning History

The site

- **2001/3416:** Erection of a fully serviced dwelling house: Refused on 20<sup>th</sup> December 2001 on the grounds that the availability of adequate sightlines has not been demonstrated, creation of excessive number of vehicular

entrances/traffic movements, failure to demonstrate local need, constitute linear development, and establishment of adverse precedent.

- **2005/2119**: Erection of a fully serviced dwelling house: Refused on 4<sup>th</sup> August 2005 on the grounds that the outfall from the WWTP would be inadequate and so the environment and public health would be at risk, constitute ribbon development and the suburbanisation of the countryside, and creation of excessive number of vehicular entrances/traffic movements.
- Pre-application consultation occurred on 11<sup>th</sup> May 2016.

Adjoining site to the south

- **900294**: Dwelling house: Unable to ascertain decision from Wexford County Council's web site.
- **EXD00481**: Proposed agricultural building declared to be development that is exempted development by An Bord Pleanála (**RL3098**), under Class 6 of Part 3 of Schedule 2 to the Planning and Development Regulations, 2001 – 2015.

## 5.0 Policy Context

### 5.1. Development Plan

The Wexford County Development Plan 2013 – 2019 (CDP) shows the site as lying within a lowland rural area that is under strong urban influence. Policy RH01 refers to Table 12 for the criteria for individual rural housing.

### 5.2. Natural Heritage Designations

None

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appellant begins by drawing attention to his livestock building, which is sited c.25m to the south of the site, and to the laneway to his farm, which runs along the eastern boundary to this site. He also draws attention to the site's planning history,

its location within a rural area under strong urban influence, and several points in the case planner's report, which are contested.

The following grounds of appeal are cited:

- The proximity of the proposed dwelling house to the existing livestock building may give rise to complaints over noise and odour. The applicants have not addressed these impacts upon their future amenity or sought to identify mitigation measures.
- Ribbon development exists to the east of the site. The frontage of the site contributes to a gap of 175m between the entrances to the nearest dwelling houses on either side, a distance that is greater than that which would pertain to an infill site.

The planning history of the site indicates that similar proposals in the past have been refused for reasons which, in the absence of any material change in planning circumstances, still pertain.

- The site lies on a heavily trafficked County road. Given existing ribbon development, there are multiple associated entrances off this road and attendant traffic movements. The proposal would add to this pattern and thus exacerbate further these movements.

The adequacy of the available sightlines at the proposed entrance to the site is questioned.

- Attention is drawn to permitted application 2008/1104 for a dwelling house within 100m of the site. The applicants for this dwelling house were Eimear Druhan and James Bergin. It was built and the applicants sought formal discharge from the accompanying Section 147 occupancy agreement in August 2016. Thus, their ownership of this rural dwelling house disqualifies them under the CDP from seeking permission for a further rural dwelling house on the basis of local need.

## 6.2. Applicant Response

The applicants begin by drawing attention to the planning history of the appellant's field to the south of the site and to the distance of 473m which exists between their site and Piercestown Village.

They respond to the grounds of appeal as follows:

- Both applicants are from rural backgrounds and so they are acquainted with life in the countryside. They note that the appellant has not received any complaints from neighbours and, as neighbours of his in their previous dwelling house, they had no complaints either.
- With respect to linear development, Section 18.12.1 of the CDP is cited.
- The minimum of 65m would be exceeded in the available sightlines. Under referral RL3098, traffic safety was not considered to be an issue.
- The density exhibited by the proposal would continue the pattern of recent development in the area.
- The applicants were forced through economic circumstances to sell their nearby dwelling house. Nevertheless, they strongly desire to remain in the locality.

## 6.3. Planning Authority Response

- The appellant has no right to an exclusion zone around his livestock shed. If this shed is exempted development, then it should not pose any amenity issues.
- Section 18.12.1 of the CDP states that “If the development would result in five or more houses in a row over 250m of road frontage, the Council will consider whether it would be appropriate to further extend this pattern of development. The type of rural area, the circumstances of the applicant and the extent to which the development would infill an existing pattern will be taken into account in the Council's considerations.”
- Sightlines would be adequate.

- The development would exhibit an appropriate density and it would be conveniently located with respect to local amenities.
- The applicants' local need is compliant.

## 7.0 Assessment

I have reviewed the proposal in the light of national planning guidelines, the CDP, relevant planning history, and the submissions of the parties. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Local need,
- (ii) Linear development,
- (iii) Amenity,
- (iv) Traffic and access,
- (v) Drainage, and
- (v) AA.

### (i) Local need

7.1.1 The site is located within a rural area under strong urban influence (Map No. 6 of the CDP). As the applicants propose to build a dwelling house for themselves, they must, under Section 18.12.1 and Table No. 12 of the CDP, demonstrate that they are local rural people and this site is in a local rural area. To this end, one of the applicants has submitted documentary testimony to the effect that his family home is in Rathaspick and that in more recent years he has resided in Ballykilliane. Both of the said townlands lie within 7 km of the appeal site and so they lie within the relevant local rural area for the purpose of this application. Other documentary testimony relates to his local schooling and sporting activities. Thus, *prima facie* the applicants would qualify as having a housing need.

7.1.2 The appellant draws attention to a nearby dwelling house that the applicants obtained planning permission for (2008/1104) and subsequently built and resided in up until August 2016. This dwelling house was the subject of a Section 147 agreement regarding its occupancy by the said applicants, which

was lifted in August 2016, too. A note that accompanies the aforementioned Table 12 states that “People who have a “housing need” are considered to be people who have never owned a rural house (except where it can be demonstrated that the dwelling is no longer suitable to the applicants’ needs).” The appellant contends that the applicants are disqualified by this provision of the CDP.

7.1.3 The applicants have responded by explaining that they were forced by economic circumstances to sell their previous dwelling house. They presently rent in the locality, but wish to remain therein long term by building their own dwelling house.

7.1.4 I consider that the appellant has raised a relevant issue. The note in question only allows for one exception, which does not appear to be applicable in this instance. Thus, under the CDP’s Policy RH01, the criteria set out in Table 12, including the said note, must be complied with. Such compliance would be absent in this case.

7.1.5 I conclude that, as the applicants have previously owned a dwelling house in the surrounding rural area, they are no longer in a position to qualify as those who have a housing need for a new build dwelling house in a rural area that is under strong urban influence.

## **(ii) Linear development**

7.2.1 Under Appendix 4 of the Sustainable Rural Housing Guidelines, ribbon development is described as follows: “a high density of almost continuous road frontage type development, for example where 5 or more houses exist on any one side of a given 250m of road frontage.” The Guidelines go on to counsel that where such development would be exacerbated by a proposal the following considerations are applicable:

- *The type of rural area and circumstances of the applicant,*
- *The degree to which the proposal might be considered infill development, and*
- *The degree to which existing ribbon development would be extended or whether distinct areas of ribbon development would coalesce as a result of the development.*

Section 18.12.1 of the CDP reflects the above advice.



7.2.2 The nearest four frontages to the east of the site have a combined length of 235m. The proposed dwelling house would introduce a fifth along the southern side of the County road. However, the frontage to this site would not abut this line of frontages, due to an intervening agricultural frontage, which would be c.27m in length. Thus, this frontage would not come within 250m, but 262m. Nevertheless, I consider that the question of ribbon/linear development would arise and so I discuss the aforementioned considerations below.

7.2.3 The first of the considerations is discussed under the first heading of my assessment. I assume that, in the absence of a housing need and in the presence of a site in an area under strong urban influence, a stricter approach is appropriate.

7.2.3 The second pertains to the status of the site. The planning authority took the view that the site could be considered to be an infill one. The appellant challenges this view on the basis that there is a gap of 175m between the nearest residential frontages on either side of the site. He considers that the extend of this gap precludes the designation thus given to the site. He also draws attention to the planning history of the site, wherein similar proposals in the past were refused permission partly on the grounds that they would add to ribbon/linear development.

7.2.4 I note that the gap cited by the appellant appears to approximate to the gap between the dwelling houses in question rather than their frontages, which would exhibit a shorter gap of 110m of which 70m would be comprised in the frontage to the site itself. The intervening strips of land on either side of the site are in agricultural use as portions of fields and, in the case of strip on the eastern side, an agricultural laneway. Given the presence of these strips, the site would not literally be an infill site.

7.2.5 The third pertains to the existing pattern of development in the area. During my site visit, I observed that there is considerable linear development in the form of one-off dwelling houses on both sides of the County road from its junction with the N25 in the east to the site and beyond to the west for a short distance, after which there is an appreciable gap prior to Piercestown Village.

7.2.6 I conclude that, whereas the proposal would add to the extent of ribbon/linear development, given the extent of such development already, the further development of the appeal site would not have any significant negative impact on the already compromised landscape.

**(iii) Amenity**

7.3.1 Section 17.7 of the CDP sets out a Rural Design Guide for one-off dwelling houses. The siting, size, design, and finishing materials of the proposed dwelling house would be in broad compliance with the advice contained therein.

7.3.2 The proposed domestic garage and accompanying wall would be sited within 1.3m of the southern boundary of the site. As this boundary is denoted by hedgerows and trees, I am concerned that these items would be unduly close to the same and so they could potentially interfere with root systems. A minimum clearance distance of 2.5m would be, in my view, be more appropriate.

7.3.3 The proposed driveway and accompanying hardstanding would be inordinate in their extent. Some consolidation of these items in a manner consistent with access, manoeuvring and parking arrangements would be in order, in the interest of visual amenity.

7.3.4 The appellant draws attention to the siting proposed for the new dwelling house, which would be 36m to the north of his existing cattle shed. He expresses concern that such proximity would be likely to give rise to complaints over noise and odour in the future.

7.3.5 The applicants have responded by drawing attention to their rural roots and the absence of complaint from existing neighbours to the said cattle shed.

7.3.6 I note that the cattle shed in question was the subject of a referral (RL3098). One existing dwelling house lies within 100m of this shed and the occupier submitted a letter to the effect that they had no objection to the proposal. I note, too, that the proposed dwelling house would be well within this dimension and that the applicants' response indicates their acceptance of this situation. The wall referred to above would screen the two buildings from one another and so their proximity would be disguised thereby.

7.3.7 I conclude that the proposal would, subject to certain minor amendments, be compatible with the visual amenities of the area. Likewise, the applicants have stated, in effect, their acceptance of the situation that would arise wherein the dwelling house would be sited close to an existing cattle shed.

**(iv) Traffic and access**

7.4.1 The County road is of meandering alignment as it passes the site and it is subject to an 80 kmph speed limit. The frontage to the site abuts the outside of a sweeping shallow bend in this road. The proposed domestic entrance would utilise the position of the existing agricultural gateway to the site. Traffic generated by the proposal would entail a step change from, I anticipate, the very low levels of traffic movements associated with the site's existing agricultural use. (As the abandoned static caravan on the site does not appear to have had the benefit of planning permission, any traffic generated by this unauthorised use of the site cannot be taken into consideration).

7.4.2 The visibility splays available at the proposed entrance in either direction would be capable of achieving the requisite x and y dimensions of 3m and 65m. Forward visibility would be good on the approach from the east and reasonable on the approach from the west. While the County road is the subject of a continuous white centre line as it passes the site, the shallowness and sweeping nature of the aforementioned bend and the position of the proposed entrance at its centre would combine to facilitate the said levels of forward visibility.

7.4.3 The appellant expresses concern that the proposal would add to existing high levels of traffic on the County road, off which there are already numerous domestic entrances. The applicants have responded by stating that traffic generation was not considered to be a road safety issue under the appellant's referral and so, by implication, it should not so be considered now.

7.4.4 As discussed under my second heading, the County road is already the subject of considerable ribbon/linear development and so I anticipate that road users would be aware of the incidence of domestic entrances and cul-de-sacs off this road. Within this context and in the light of the visibility levels that would be

available at the proposed entrance to the site, I do not consider that objection on road safety grounds would be warranted.

7.4.5 I conclude that the proposal would lead to a step change in the number of traffic movements generated by the site. I conclude, too, that the visibility available at the proposed entrance would be satisfactory and that, given the wider context of the County road in question, the addition of a further domestic entrance would not pose any appreciable increase in the hazard attendant upon this road.

#### **(v) Drainage**

7.5.1 The proposed dwelling house would be connected to the public water mains.

Foul drainage would be processed by means of a septic tank and a percolation area, which would be sited in the north eastern corner of the site.

7.5.2 The application is accompanied by a Site Suitability Assessment Report. This Report advises that the silt/clay subsoils would have a T value of 23.03 and that the bedrock/water table occurs at a depth of 1.8m. Thus, there would, in principle, be scope under the relevant EPA Code of Practice to install the said septic tank and percolation area.

7.5.3 The County Council's Environment consultee advises that previously proposed WWTs for the site were critiqued on the basis that they would have been sited in the south western corner of the site, where the sub-soils are different and where a flood zone in conjunction with a stream to the west pertains.

7.5.4 The proposed percolation area would be designed to service a household of 5. The submitted plans indicate that the proposed dwelling house would be capable of accommodating 6 persons and so this area should be increased correspondingly. It would be sited within 5m of a wet ditch. Under Table 6.1 of the aforementioned Code of Practice, the clearance distance in this respect should be 10m. The applicant has responded to this requirement by proposing to pipe the water in the ditch and fill-in the same. The submitted site layout plan shows tree planting within the vicinity of the percolation area. As a clearance distance of 3m would be required, such planting should be omitted so as not to impede the performance of the area.

7.5.5 I conclude that subject to minor amendments the proposed WWTS would be satisfactory.

**(vi) AA**

7.6.1 The site does not lie within a Natura 2000 site and the nearest such site lies to the north east, over 3 km away, i.e. the Slaney River Valley SAC. A stream at a short remove to the west of the site passes via a convoluted network of waterways into this Natura 2000 site and so there is a potential source/pathway/receptor route between the appeal site and this Natura 2000 site. However, provided good construction management practices are pursued during any construction phase and the measures outlined under the fifth heading to my report are undertaken in advance of any operational phase, the aforementioned route would not be a means of conveying any pollutants from the site to the SAC. Accordingly, I consider that the proposal would not, either individually or cumulatively in conjunction with other projects, significantly affect either the integrity of this site or its Conservation Objectives and so the need to proceed to a Stage 2 Appropriate Assessment does not arise.

7.6.2 Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity of 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 projects on a European site.

## 8.0 Recommendation

In the light of my assessment, I recommend that the proposal be refused.

## 9.0 Reasons and Considerations

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Hugh D. Morrison  
Planning Inspector

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21<sup>st</sup> February 2017