



An  
Bord  
Pleanála

## Inspector's Report PL93.247910.

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<b>Development</b>	Construction of a house and all ancillary site works.
<b>Location</b>	Doon, Ballynamult, Co. Waterford.
<b>Planning Authority</b>	Waterford City and County Council.
<b>Planning Authority Reg. Ref.</b>	16/200.
<b>Applicant(s)</b>	Damian Connolly.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse permission.
<b>Type of Appeal</b>	First Party.
<b>Appellant(s)</b>	Damian Connolly.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	19 <sup>th</sup> April 2017.
<b>Inspector</b>	Ciara Kellett.

## 1.0 Site Location and Description

- 1.1. The appeal site is located close to the Co. Tipperary border in a rural part of Co. Waterford outside of any settlement. It is located c.16km south of Clonmel and c.16.5km north-west of Dungarvan. It is c.800m west of Ballynamult which is a small village near the R671 road. The River Finisk runs to the north of the site and forms part of the boundary of the larger landholding of which the subject site is a part of. The surrounding land uses are agricultural.
- 1.2. The site is accessed from a narrow local road in poor condition in places. The field is currently in use for grazing and a row of mature trees bounds the site with the road. The site is stated as being 0.34Ha. The site is in an elevated position and has long distance views across the countryside.
- 1.3. Appendix A includes maps and photos.

## 2.0 Proposed Development

- 2.1. Permission is sought for a one and a half storey dwelling, garage, site entrance and waste water treatment system and percolation area, borewell and ancillary works. The dwelling design includes two projecting gables to the front and rear with a slate roof and a knapp render finish to all exterior walls.
- 2.2. The house is stated as being 234sq.m and the garage is 39sq.m. It is proposed to serve the house from a private well and with a waste water treatment plant and percolation area.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority decided to refuse permission for one reason as follows:

*It is the policy of the Planning Authority, as set out in the settlement strategy in the Waterford County Development Plan 2011 – 2017 for the area that housing will be encouraged in existing towns and villages where services are already available or can be economically provided. Notwithstanding the sites location in a Structurally Weak Area as designated in the current County*

*Development Plan, having regard to the planning history on the overall landholding the site forms part of, the details submitted with the planning application, the carrying capacity of the public road in the area and the proximity of the site to a Group Water Scheme source, it is the opinion of the Planning Authority that any further development from the overall landholding should be reserved for the housing need/requirements of immediate family members of the landowner and the development of a further speculative site would establish an undesirable precedent for further similar type speculative development in this agriculture zoned area. It is therefore considered that the proposed development would contravene the provisions of the Development Plan and be contrary to the proper planning and development of the area.*

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

The application was subject to a request for Further Information and Clarification of Further Information. Therefore, there are a number of planning reports on file. They can be summarised as follows with emphasis on the content of the final report.

- Notes site is outside of any settlement limits as designated in the Waterford County Development Plan.
- Site is situated in a Structurally Weak Area as designated in the Plan. Within these areas the Planning Authority do not require a housing need, as defined in the Plan, to be demonstrated.
- Notes site forms part of a larger landholding. Notes permission has been granted to the landowner's son for a dwelling (Reg. Ref. PD15/166) and another permission granted for a site for sale (Reg. Ref. PD16/28).
- Considers it appropriate to attach a Section 47 agreement to restrict all future residential development (family and non-family).
- Site is located within the Outer Protection Zone of the Knockmeal Group Water Scheme. Submitted site characterisation does not take account of the public water supply.

- Notes site is located in a designated area in Scenic Landscape Evaluation but having regard to the established screening considers site suitable to accommodate proposed dwelling.
- Requests Further Information in relation to the details of the Knockmeal Group Water Scheme, details of any family members who may seek planning permission, and if no family members wish to seek permission, landowner to provide written confirmation of their willingness to enter into a Section 47 agreement, and requests a map of the landowner's total landholding.
- Following applicant's response to the Further Information request, with respect to the Group Water Scheme (GWS) considers that the development will not give rise to undue risk to the GWS.
- With respect to the larger landholding, the applicant states that his site was purchased three years prior and that he has no control over the remainder of the site. Planner notes that advice provided at pre-planning stage, where no mention of Section 47 arose, was provided prior to granting of permission for two other sites. Notes no copies of land sale agreement or pre-planning consultation report attached to response, and considers that this should be requested by way of Clarification of Further Information.
- Following response to Clarification of Further Information, Planner considers that it appears that the site was sold subject to planning permission and not transferred to date. Notes that the owner of the overall landholding has confirmed he is willing to enter into a Section 47 agreement but that two family members may seek planning permission for a dwelling on the landholding.
- Notes site has limited road frontage and the road has limited carrying capacity. Notes that the Planning Authority's concerns in relation to potential future sites was raised at Further Information stage under PD16/28 (Site for sale) and it was indicated that no further family members would be seeking permission on the landholding – it is now indicated that two family members may seek permission at a future date.
- Considers that further development from the landholding should be reserved for family members only and with road carrying capacity and location of Group Water Scheme, recommends a refusal of permission.

The decision was in accordance with the Planner's recommendation.

### 3.2.1. **Other Technical Reports**

- None on file.

### 3.3. **Prescribed Bodies**

- None on file.

### 3.4. **Third Party Observations**

- None on file.

## 4.0 **Planning History**

There are a number of planning applications associated with the proposed site for the dwelling and on the larger landholding. In summary, they are as follows:

Dwelling site:

- **Reg. Ref. 11/500:** Permission refused in August 2012 for a dwelling on the subject site. Reason for refusal included that the applicant had not established a need for a permanent house and did not come within the scope of the rural settlement strategy, therefore it would establish an undesirable precedent for speculative housing and would detract from the character of the area.

Larger landholding:

- **Reg. Ref. 16/28:** Permission granted in April 2016 for a new dwelling on a site within the landholding to the east.
- **Reg. Ref. 15/166:** Permission granted in September 2015 for a new dwelling within the landholding to the south of the subject site. Construction has commenced.
- **Reg. Ref 11/493:** Permission was refused in August 2012 for a dwelling on a site within the landholding to the east on the same site as Reg. Ref. 16/28. Reason for refusal was similar to that of Reg. Ref. 11/500 (above) - Reason for refusal included that the applicant had not established a need for a

permanent house and did not come within the scope of the rural settlement strategy, therefore it would establish an undesirable precedent for speculative housing and would detract from the character of the area.

## 5.0 Policy Context

### 5.1. Waterford County Development Plan 2011 - 2017

Chapter 3 refers to the Core Strategy, Chapter 4 refers to Settlement, Chapter 5 to Housing, Chapter 8 to Environment and Heritage, and Chapter 10 to Development Standards.

Chapter 3 of the Plan includes a Rural Area Types Map which identifies the area as a Structurally Weak Area.

Chapter 4 notes that the rural housing policy must find a balance between reinforcing and strengthening rural communities whilst protecting the rural environment from over-development. The Council's aims are stated as to:

- *Minimise the amount of sporadic speculative development which would be more appropriately located on serviceable lands in towns and villages; and*
- *Meet the genuine housing need of rural people and their families who have strong ties to a particular locality and to those who need to reside in rural areas for employment, economic and social reasons subject to the applicant demonstrating a Genuine Local Housing Need.*

With respect to Structurally Weak Areas, the Plan states that revitalisation of these areas will be achieved by implementing other Plan policies which will enhance development opportunities by stimulating the regeneration of these areas through the promotion and support of economic development initiatives like agri-tourism, cottage type industries and local enterprise. It is further noted in these areas that *'To achieve these aims the Council will protect against the indiscriminate construction of individual dispersed housing that will only achieve short-term demographic gain, and will instead promote real and long-term community consolidation and growth'*.

**Policy ENV6** of Chapter 8 states:

*It is a policy of the Council to preserve and protect groundwater and surface water quality taking into consideration the Groundwater Protection Scheme prior to approving development. Proposals for new development shall comply with the relevant EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses (2009).*

Chapter 10 refers to Development Standards (as varied by Variation no.1). Section 10.2.4 refers to Sight Line Requirements. It is noted that sight distances for Category E roads (80km/h Local Roads) is 55m.

For rural houses it states that all developments shall meet the standards with respect to access, building lines, roadside boundaries, drainage and design. Table 10.3 outlines Minimum Standards for Individual Houses in Rural Areas. Section 10.6.3 states that where development of a single house is proposed outside a designated settlement, the Planning Authority will require that the applicant provides an on-site waste water treatment system in accordance with EPA Code of Practice.

## **5.2. Natural Heritage Designations**

The Blackwater River (Cork/Waterford) SAC (Site Code 002170) is located east of the site c. 800m away. The Lower River Suir SAC (Site Code 002137) is located c. 6.5km to the north.

## **6.0 The Appeal**

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

A first party appeal has been lodged against the decision of the planning authority to refuse permission. It addresses each point of the reason for refusal. In summary, it states:

- The area has been designated as a Structurally Weak Area and the following points should be considered: there has been a dramatic population decline in the area, local school has gone from a 4 teacher to a 2 teacher school, local supermarket and pubs have closed, there are only two farm houses opening

onto the stretch of road and there are only 2 people under the age of 40 years on the road.

- Applicant had no knowledge of landowner prior to answering an online auctioneering site advertisement. Applicant cannot understand how the activities of the landowner on his land, prior to applicant's knowledge of the existence of the site, can result in a refusal of his planning application.
- Reference to response to Further Information repeated.
- Applicant was never advised about the carrying capacity of the road during pre-planning or the request for Further Information. Along this stretch of road (c.1.5km) only one house has been built on it in over 100 years.
- There is no source of any Group Water Scheme within at least 1km radius of the site. The site is located within the outer protection area zone for Knockmeal Group Water Scheme. By allowing development within the landholding to members of the landowner's family implies that the Council can foresee no danger of contamination or pollution from the development of the site in question.
- With respect to the Planning Authority's opinion that any further development should be reserved for the housing need requirement of the immediate family, reference is made to the landowner's three sons – one is building a house on the farm within the landholding and neither of the sons living abroad plan to return to live in the area. The farmhouse will be available to one if they should ever return which leaves an outside possibility of one other site.
- With respect to speculative development, the applicant only owns the site in question, which was purchased three years ago and fully paid for. The applicant is a tradesman and living separately from his family in Waterford City. Applicant has no desire to speculate with the site and thought the matter had been resolved in the request for Further Information by virtue of the landowner's agreement to enter into a sterilisation clause which would essentially address this concern.
- A signed copy of the landowner's agreement to enter into a sterilisation clause is attached.



## 6.2. **Planning Authority Response**

No response was received from the Planning Authority.

## 7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Sanitary Services
- Carrying capacity of the road
- Appropriate Assessment

### 7.2. **Principle of Development**

The Planning Authority refused permission for one reason – albeit a number of points were incorporated. The first point refers to the policy of the Planning Authority, as set out in the settlement strategy in the Plan, to encourage housing into existing towns and villages. It was also stated that the development would establish an undesirable precedent for further similar type speculative development in the agricultural zoned area.

The Plan states that applicants for housing in Areas Under Urban Pressure and in Stronger Rural Areas will be required to demonstrate a Genuine Local Housing Need. The subject area is located in an area considered a Structurally Weak Area.

I accept that the site is not located in an Area Under Urban Pressure or in Stronger Rural Areas and in accordance with the Planning Authority's policy, the applicant does not have to demonstrate a Genuine Local Housing Need.

However, the Plan states that a balance must be found between reinforcing and strengthening rural communities whilst protecting the rural environment from over-development. The applicant has not referred to any family connections with the area

or employment locally, and has not referred to strong ties with the locality. The applicant states that a house sale fell through in Ballymacarbry.

In this instance, I consider that the Planning Authority's policy of protecting *against the indiscriminate construction of individual dispersed housing that will only achieve short-term demographic gain* to be of relevance here. Whilst I accept the applicant's contention that he has no interest in speculative development, as noted above, in *Section 4 Planning History*, two other planning permissions have already been granted – one that is stated as being for a site for sale. I am therefore of the opinion that the proposal would establish an undesirable precedent for further similar development.

I do not consider that this development in this location will promote real and long term community consolidation and growth, nor will it assist the revitalisation of these areas through promoting and supporting economic growth initiatives like agri-tourism etc. as required by the Plan.

I acknowledge that as part of the appeal documentation, the overall landowner has submitted a letter stating that he is willing to enter into a Section 47 agreement in relation to the sterilisation of the remainder of his landholding, subject to planning permission being granted. However, from the information on the file it is unclear how many houses could potentially be required for family members on the larger landholding. The information on file, and reference to other planning applications, appears to indicate that additional dwellings may potentially be required in the future, albeit family members are stated as being abroad currently with little intention of returning.

In conclusion, I do not accept that the development of a house in this location will assist in the revitalisation of this area. I consider the Planning Authority's policy of protecting *against the indiscriminate construction of individual dispersed housing that will only achieve short-term demographic gain*, to be reasonable. The proposal will therefore not be in accordance with the proper planning and sustainable development of the area.

### 7.3. **Sanitary Services**

The second point in the reason for refusal referred to the proximity to the Group Water Scheme source. Following the Further Information request, it is noted in the

Planner's Report that it was considered that the development will not give rise to undue risk to groundwater or the Group Water Scheme. This would appear to conflict with the reason for refusal.

The applicant submitted a Site Characterisation Form with the application. The Report was prepared in 2012. The aquifer category is classed as Locally Important and vulnerability is Extreme. The T value is stated as being 35 and is suitable for the filtration of wastewater. The Site Assessor recommends a packaged waste water treatment system and polishing filter.

Having regard to the location in the Outer Protection Zone and the findings of the Site Characterisation, I am satisfied that the subject proposal would not give rise to undue risk to the Group Water scheme.

It is proposed to serve the dwelling with water from a private well. No information has been provided on the location of the well. It is unclear if the well is within the site or off site. Furthermore, the proposed location(s) of wells to serve the other two planning permissions recently granted have not been identified on this application. In the absence of this information, it is not possible to adequately assess the sanitary services to supply the site.

#### **7.4. Carrying capacity of the road**

The carrying capacity of the road is referred to in the reason for refusal of permission. The road is a very narrow country road and two cars cannot pass each other easily. However, given the remoteness of the location and the likely low levels of traffic, I am satisfied that the carrying capacity of the road should not be a reason for refusal of permission.

The sightline requirements are 55m for Local Roads with a speed limit of 80km/hr. The sightlines are achievable.

#### **7.5. Appropriate Assessment**

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, 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 planning permission should be refused for the reasons and considerations as set out below.

## 9.0 Reasons and Considerations

It is the policy of the Planning Authority that housing will be encouraged in existing towns and villages where services are already available or can be economically provided. Having regard to the extent of new residential development already permitted within the overall landholding from which the appeal site is formed, it is considered that the proposed development, which does not cater for locally derived housing needs, would conflict with the policies of the Development Plan and would be contrary to the proper planning and sustainable development of the area.

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Ciara Kellett  
Inspectorate

20<sup>th</sup> April 2017