



An  
Bord  
Pleanála

## Inspector's Report PL.93.248058.

---

<b>Development</b>	Construction of a single storey house including a new vehicular entrance and associated site works.
<b>Location</b>	Site no. 4, Laoi na Mara, Coxtown East, Dunmore East, Co. Waterford.
<b>Planning Authority</b>	Waterford City and County Council.
<b>Planning Authority Reg. Ref.</b>	16/758.
<b>Applicant(s)</b>	Declan Butler.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission subject to conditions.
<b>Type of Appeal</b>	First Party v Condition only.
<b>Appellant(s)</b>	Declan Butler
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	29 <sup>th</sup> April 2017.
<b>Inspector</b>	Susan McHugh.

## 1.0 Site Location and Description

- 1.1. The appeal site is rectangular in shape and has a stated area of 0.06 hectares. It is located on the western outskirts of Dunmore East village, and forms part of a larger residential development at Laoi na Mara which is partially developed and has a number of vacant sites. The appeal site No. 4 slopes from east to west with a fall of approx.1m (from 51.5m in the eastern front corner of the site to 50.5m in the rear western part of the site). There is a two storey dwelling house no. 15 Laoi na Mara located to the rear, north west which is located at a lower ground level than the subject site. Along the south-western boundary is a single storey detached house currently under construction on site no.3. Along the north eastern site boundary is a vacant site no. 5 subject of the concurrent appeal by the same applicant.
- 1.2. The south-eastern boundary comprises of a new boundary wall and entrance gate pillars and footpath to the existing road. The boundary's to the north east and south west are open and unfinished. The boundary to the north west with house no. 15 Laoi na Mara comprises of a blockwork wall.
- 1.3. Access to the appeal site is from an existing road, in Coxtown East, Dunmore East which gives access to a number of established single storey houses and forms a cul de sac at the Wastewater Treatment Plant. There are several existing single storey houses located on the opposite side of the road to the south east, which are characterised as having long front gardens set back from the public road.

## 2.0 Proposed Development

- 2.1. This application is for a single storey house with a stated floor area of 134sq.m, on a fully serviced site, together with site works to include new vehicular entrance, driveway, landscaping, and boundary treatments.
- 2.2. The proposed finished floor level is 51.40, the ridge height is 57.32m (6.07m). The side (south western) elevation is set back 2.53m from the boundary with the existing

house under construction on site no. 3, and 2.0m from the boundary to the adjoining site no. 5.

- 2.3. It is proposed to construct a 1.2m high block wall along the south-western boundary with site no. 3 to the front and side rising to 1.8m high block wall to the side and rear with site no. 3.

### 3.0 Planning Authority Decision

#### 3.1. Decision

The decision of the planning authority was to grant permission 26<sup>th</sup> January 2017, subject to 8 no. conditions.

Of relevance to this appeal is condition no. 8 (b) as follows;

*Prior to commencement of development the developer shall submit the following for the written agreement of the Planning Authority:*

*(b) Revised ground floor plans of the proposed dwelling indicating the finished floor level to be no greater than 400mm above that of the dwelling on the adjacent site no. 3. This shall be accompanied by a north-south cross section through the proposed dwellings on sites no. 3 and 4 indicating the relevant existing and proposed ground levels, road levels and finished floor levels on both sites.*

*Reason: In the interests of clarity, amenity and the proposer planning and sustainable development of the area.*

#### 3.2. Planning Authority Reports

- 3.2.1. The Planner's Report dated 23<sup>rd</sup> January 2017 is the basis for the Planning Authority decision. It notes:
- The single storey design and stated ridge height above stated ground level.
  - The overall design and layout which are acceptable, but takes on board the excessive difference in finished ground floor levels identified by the third party.

- Recommends a reduction in finished floor levels of 0.9m.

### 3.2.2. Other Technical Reports

Water Services Report – No objection subject to conditions.

### 3.3. Prescribed Bodies

Irish Water – No objections.

### 3.4. Third Party Observations

A third party observation was made by Patrick Halley and Associates on behalf of the owners of site no. 3 Laoi na Mara, Claire and Mike Doyle.

- They have no objection in principle to the proposed development.
- The proposed floor level of this development is at 51.40m, and they were required by condition to lower the floor level of their dwelling to 50.114m, to match that of the adjoining dwelling (even though the existing site levels were considerably above this level). This will result in the adjoining proposed building being 1.3m above the level of my clients dwelling under construction. The proposed dwelling is within 2.534m of the boundary wall of client's property.
- To achieve the finished ground floor levels and floor levels indicated there will be fill required on the southern side of the proposed site adjacent to the boundary wall with their clients dwelling.
- Presently during wet weather all the drainage from the north of clients dwelling is accumulating in their garden as a result of the considerably lower ground levels imposed by the planning condition attached to their permission and this raising of ground levels is likely to exacerbate the problem.
- The current boundary wall is proposed at 1.8m high will effectively be 3.1m above their clients dwelling and within 1m of their side of their property which will considerably interfere with daylight into the rooms on this side of the dwelling as proposed.

- They suggest that the finished floor level of the proposed dwelling be lowered to within 300 or 400m's of that of the adjoining site.

## 4.0 Planning History

### 4.1. Parent Permission

**PA 00/229 ABP Ref. PL.24.120799:** Permission granted (December 2000) to develop 39 sites and outline permission to build 39 no. houses. The subject site is no. 4 of that overall permission. A condition attached to the parent permission prescribed the houses to be developed in the scheme should be single storey. (File not available at time of writing).

### 4.2. Site No. 3 (House currently under construction to the south west)

**PA 15/434:** Permission granted (December 2015) to erect a part dormer, part bungalow type detached dwelling house.

*Condition 7 (b) Revised ground floor plans of the proposed dwelling indicating the finished floor level to be consistent with that of the existing neighbouring dwelling located to the south west. Reason: In the interests of clarity, amenity and the proper planning and sustainable development of the area.*

### 4.3. Site No. 2 (House Constructed)

**PA 08/1039:** Permission granted (November 2008) for modifications to PA 07/1475. These modifications related to raising the height of the roof to the front section of the dwelling and dropping the height of the roof to the rear. The condition of relevance is Condition 5a) Site levelling for the construction of the dwelling shall be done by excavation into the sloping ground to a level formation over the entire floor area of the dwelling. The finished floor level shall not be more than 300mm. over the formation level thus excavated.

**PA 07/1475:** Permission granted (November 2007) for single storey dwelling.

Condition no. 2 required that the building footprint of the proposed dwelling shall be reduced and relocated to provide a 2m setback from site boundaries. Prior to commencement of any development a revised site layout illustrating same shall be submitted for written approval of the PA. Reason: In the interest of residential amenity and so as to comply with the dev plan standards.

Note: Site Layout Drawing No. 2131.3 indicated a FFL 46.

4.4. Site No. 5 (Concurrent appeal on adjoining site to the north east)

**PA 16/759 ABP Ref. PL.93.248056** – 1<sup>st</sup> Party appeal against a condition of the decision to grant permission for a single storey dwelling.

## 5.0 Policy Context

### 5.1. Development Plan

In the Waterford County Development Plan 2011-2017 Coxtown East is located within development area Zone 1 – which is to

*Protect amenity of existing residential development and provide new residential development- medium density.*

Development Objective DO11

The Council will facilitate the development of medium density housing. The developer shall be required to have regard to the topography of the site, and proposed developments shall have an appropriate/sympathetic approach to design which utilises the existing contours and respects the established pattern of development in the vicinity.

Chapter 10 outlines design considerations for residential development.

## 5.2. Natural Heritage Designations

None relevant to this suburban site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The 1<sup>st</sup> Party appeal submitted by Fewer Harrington & Partners on behalf of the applicant Declan Butler relates to condition 8 (b) only.

The grounds of appeal can be summarised as follows:

- The planning application drawings submitted proposed a finished floor level of 51.40. This proposed floor level was consistent with and reflected the finished floor levels of the parent permission granted by An Bord Pleanala (Ref. No. PL24.120799), (extract drawing no. 01 enclosed for reference).
- Enclosed also is site section drawing PP04 which shows the relationship between dwelling sites 2,3,4, and 5 as lodged and as currently conditioned. It is clear that the floor level of site 3 is set at the same level as site 2 adjacent, and this is not consistent with the parent permission granted by An Bord Pleanala (Ref. PL24.120799), which stipulated a floor level difference of 0.5 metres between sites 2 and 3.
- The parent permission also stipulated a floor level difference of 0.8 metres between sites 3 and the appeal site no. 4.
- Subsequently the services and roads and footpaths were constructed based on the permitted floor levels as granted by An Bord Pleanala.
- The subsequent permission granted for the site no. 3 (planning permission reference no. 15/434) in their opinion was incorrect in that it did not stipulate a higher floor level for the dwelling as per the parent permission as noted above.
- Contends that the dwelling on site no. 3 was designed with an excessively low floor level to achieve a two storey dwelling.

- Refers to street elevation drawing no. PP03. This shows the street elevation of sites 2,3 4 and 5 as lodged and as currently conditioned. It is clear that the street elevation as currently conditioned represents a significant negative visual and aesthetic impact on site no. 4 with regard to the head height of the windows and doors against the existing height of the front boundary walls.
- As a consequence, they consider that the floor level as conditioned in Condition no. 8 (b) is incorrect as it will present significant issues if constructed.
- There is significant rock outcrop in this area, which makes the construction of a dwelling with the conditioned floor level very expensive to break out to form foundations.
- If the conditioned floor level is not amended the foul and surface water drainage from their site will be very difficult to achieve or provide sufficient falls into existing public surface and foul drainage on the public road. In addition, surface water ponding to the rear of their site will occur, similar to the site no. 3, and surface water ingress from the public footpath into the front garden of their site will occur. Cross section drawing no. PP02 refers.
- Request that condition 8 (b) be omitted and that the proposed floor level of the dwelling is set at 51.40 as per the planning drawings lodged by Fewer Harrington & Partners.

## 6.2. Planning Authority Response

The Planning Authority had no further comment.

## 6.3. Observations

There are no observations with reference to the appeal.



## 7.0 Assessment

7.1. Having regard to the nature and scale of the development and the specific issue arising, that being a 1<sup>st</sup> party appeal against Condition number 8 (b) of the planning authority decision, I am of the opinion that the determination of the application as if it had been made to the Board in the first instance is not warranted. In that regard, I note the provisions of section 139 of the Planning & Development Act 2000 (as amended). This assessment will therefore be confined to the specific appeal of Condition number 8 (b) of the planning authority decision.

I consider the key issues in determining this appeal as follows:

- Visual and Residential Amenity
- Appropriate Assessment

### 7.2. Visual and Residential Amenity

7.2.1. The application is for the construction of a single storey house, on a vacant plot within a partially constructed residential scheme. The site is serviced with new footpaths and front boundary walls already in situ.

7.2.2. The appeal site is located on an elevated site, and the appellant refers to finished floor levels as set out in the original permission and more recent decisions. It is useful to consider the finished floor levels as set out in the original permission to understand the current relationship in site levels and the subject condition of this current appeal.

	Site 1	Site 2	Site 3	Site 4	Site 5	Site 6
FFL	46.	46.	46.5	47.3	47.6	47.6
			(+ 0.5)	(+ 0.8)	(+ 0.3)	

7.2.3. As can be seen from the original parent permission ABP Ref. PL.24.120799 (which I have summarised in the table above), the site layout plan indicated finished floor levels which graduated in level from Site no. 1 to the south to Site no. 6 to the north. The intention was to stagger the building heights and site levels between the plots to

reflect the changes in topography. Sites 1 and 2 were to have similar finished floor levels rising by 0.5m to Site no. 3 and again by 0.8m to Site no. 4. The original permission intended that there would be a significant difference in levels (a difference of 0.8m) between Sites 3 and 4.

- 7.2.4. I would concur with the appellant that sites 2 and 3 which are at the same level are not consistent with the original parent permission, which required a change in levels of 0.5m. I also agree that the permission for site no. 3 should have referenced the site levels indicated in the parent permission which indicated an increased finished floor level over site no. 2. I note in the assessment by the planner of the application on site no. 3 that the ground level on the site appeared to have been altered during the period of developing the lands and some inert filling was evident.
- 7.2.5. Be that as it may, the house on Site no. 3 (which is currently under construction) was explicitly required under Condition 7 (b) of PA 15/434 to have finished floor levels consistent with Site no 2. This decision or condition was not appealed.
- 7.2.6. The current proposal on site no. 4 proposes a finished floor level of 51.40 which is 1.3m above the finished floor level of 50.114m on Site no. 3. The planning authority considered this difference in levels too great, and required the levels be reduced such that the finished floor levels would be no greater than 400mm above that of the dwelling on the adjacent site no. 3, which is roughly in line with that suggested by the owner of site no. 3 in their submission to the planning authority. This will necessitate the lowering of site levels by approx. 0.9m.
- 7.2.7. The appellant contends that the finished floor level proposed is consistent with that as indicated in the parent permission.
- 7.2.8. From inspection of the site the difference in site levels between site no. 3 under construction relative to the existing site levels on site no. 4 is significant.
- 7.2.9. The 1<sup>st</sup> Party appellant submitted two drawings, Site Section drawing no. PP04 and Street Elevation drawing no. PP03. Drawing no. PP03 shows the contiguous elevation between dwelling sites 2,3,4, and 5 as lodged and as currently conditioned. I have examined both drawings submitted on appeal and I consider that the key relationship between site no 3 and 4 is better served by the lowering of the site levels on site no. 4 as conditioned by the planning authority.

- 7.2.10. I consider that given the topography of the area, and the planning history, it is accepted that there was always going to be a significant difference in site levels between sites 3 and 4. The fact that site 3 is lower than originally intended now results in an even greater difference in site levels between site 3 and 4.
- 7.2.11. The appellant also raises concern about the ability to achieve or provide sufficient falls into the existing public surface and foul drainage on the public road, and that surface water ponding will occur to the rear of their site. I have examined Drawing No. PP02 and I consider that there are engineering solutions to these issues that are best resolved with the planning authority.
- 7.2.12. I conclude that there needs to be a greater transition in site levels across the 6 sites and I would support the planning authority in their decision to reduce the site levels accordingly.

### **7.3. Appropriate Assessment**

- 7.3.1. Having regard to the nature and scale of the proposed development and 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 the other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1. I recommend that the Board consider the appeal in the context of section 139 of the Planning & Development Act 2000 (as amended). I further recommend that the Board direct the planning authority to retain Condition No. 8 (b).

## **9.0 Reasons and Considerations**

Having regard to the existing and proposed site levels and existing residential development in the vicinity, it is considered that the proposed lowering of site levels is warranted, in order to protect the residential amenities of adjacent properties, and in the interests of the proper planning and sustainable development of the area.

---

Susan McHugh  
Planning Inspectorate

12<sup>th</sup> May 2017