



An
Bord
Pleanála

Inspector's Report PL93.248356

Development	Permission for single storey dwelling.
Location	Parkwood Lower, Passage East, Co Waterford.
Planning Authority	Waterford City and County Council.
Planning Authority Reg. Ref.	17/49.
Applicant(s)	Donal & Helen Tully.
Type of Application	Permission
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellant(s)	Donal and Helen Tully
Observer(s)	None
Date of Site Inspection	4 st July 2017.
Inspector	Brid Maxwell.

1.0 Site Location and Description

1.1. The appeal site has as stated area of 0.35 hectares is located on the northern side of the Regional Road R683 approximately 1.3km to the northwest of Passage East and 8km east of Waterford City. The appeal site presently comprises grassed lawn and is part of the curtilage of an established detached two storey dwelling site which overlooks the estuary, part of the River Barrow River Nore SAC. The front roadside boundary is defined by a stone wall with embankment, trees and post and rail fence to rear whilst the northwestern boundary is defined by a mature hedge.

2.0 Proposed Development

- 2.1. The proposal development involves permission for the a single storey dwelling of 137m², a new vehicular entrance off the existing entrance driveway, new piers and gates, provision of a proprietary treatment system and percolation area, landscaping and boundary treatments and all associated site works.
- 2.2. Letter accompanying the application from Rowe Creavin Medical Practice outlines that the applicants have lived at their two storey dwelling in Passage East since 1972 however due to emergent health problems they require a dwelling without stairs.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for the following reasons
“The site of the proposed development is located along a regional road R683, where it is development plan policy to protect the carrying capacity and safety of Regional Roads by restricting access thereto. It is, therefore considered that the proposed development would result in the intensification of a private access on to that road and contravene the provisions of the Waterford County Development Plan relating to the Regional Road network. The proposed development, by itself or by the precedent which the grant of permission for it would set for other relevant development would adversely affect the use of a regional road. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

It is the policy of the planning authority to encourage development on serviced lands in towns and villages and to restrict development in rural areas to cases of genuine local housing need. The proposed development is located in an Area under Urban Pressure as designated in the Waterford County Development Plan 2011-2017. The Planning Authority is not satisfied that the proposal constitutes a Genuine Housing Need in accordance with Section 4.10 of the current county development plan and that the proposal would be contrary to the rural housing policy. It is considered that, in the absence of a substantiated local housing need for a house at this location, the proposed development would conflict with the policy of the planning authority and be contrary to the proper planning and sustainable development of the area.

Having regard to the location of the proposed development on an elevated site in a coastal area within a scenic rural area and an area zoned as visually vulnerable under the current County Development Plan, it is considered that the proposed development would constitute an excessive density of development in this rural area and would set a precedent for further future development within the coastal zone where there is a presumption against granting planning permission for new houses. The proposed development would, therefore, seriously injure the visual amenities of the area, would contravene the provisions of the development plan and be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner's report notes that the applicants currently own a dwelling in a rural area and whilst this dwelling does not meet their current needs this would not establish a housing need in accordance with development plan policy. Refusal recommended.

4.0 Planning History

4.1 There have been a number of applications in the vicinity of the site within the landholding including the following:

08/1006 Refusal of permission to D Tully on a site to the east of the appeal site for proposed part single part two storey dwelling to include removal of existing entrance piers, wing wall and gates and provision of new entrance piers gates and a new drystone wall capped with grass sod tom match and tie in with existing roadside boundary with septic tank and percolation area.

PL125103 01/265 Refusal of outline permission on site to the east upheld on appeal or single house with its own sewage facility. Applicant D Tully.

The Boards reason for refusal was as follows:

“Having regard to the location of the proposed development on an elevated site in a coastal area, within a scenic rural area and an area zoned as visually vulnerable under the current County Development Plan. It is considered that the proposed development would constitute an excessive density of development in this rural area and would set a precedent for further future development within the coastal zone where there is a presumption against granting planning permission for new houses. The proposed development would, therefore, seriously injure the visual amenities of the area, would contravene the provisions of the development plan and be contrary to the proper planning and development of the area.”

001355 Refusal of permission for two houses with sewage facilities and site works

97/298 Permission for change of house type

96/609 Permission for change of house type

96/182 Permission for single storey house with habitable semi basement.

5.0 Policy Context

5.1. Development Plan

Development Standards are set out in Chapter 10. In relation to Regional Roads

at 10.2 it is set out that no new development requiring direct access onto regional roads shall be permitted save in exceptional circumstances where

“1. the applicant has a minimum landholding of 15 acres which was purchased prior to the adoption of the 2005 County Development Plan and there was no alternative suitable sites within the landholding which have an access onto a local county class road

or

2. A person that the planning authority is satisfied is engaged in full time farming and has a landholding not greater than 15 acres but has land leased prior to the adoption of the 2005 County Development Plan in excess of 100 acres, that is adjoining or in close proximity to his / her landholding. The applicant shall have to satisfy the Planning Authority, with relevant documentary evidence, that the land has been continuously leased since the adoption of the 2005 Waterford County Development Plan.”

The site is within a visually vulnerable landscape and adjacent to scenic route 15.

The Policy with regard to areas designated as Vulnerable notes that these areas or features designated as vulnerable represent the principal features which create and sustain the character and distinctiveness of the surrounding landscape. To be considered for permission, development in the environs of these vulnerable areas must be shown not to impinge in any significant way upon its character, integrity or uniformity when viewed from the surroundings. Particular attention should be given to the preservation of the character and distinctiveness of these areas as viewed from scenic routes and the environs of archaeological and historic sites.

5.2. Natural Heritage Designations

The site is within 100m of the River Barrow and River Nore SAC.

6.0 The Appeal

6.1. Grounds of Appeal

The first party appeal submission compiled by Fewer Harrington and Partners, Architects, Planners and Project Mangers

- Appellants seek to build a retirement / health friendly home.
- Planner's report is inaccurate and decision is based on wrong assumptions
- Planner's report referred to landholding of 7 acres however the actual landholding which comprises 4 separate areas is 18 acres. The proposal complies with Regional roads policy.
- Applicant complies with at least two of the seven criteria listed for housing need. They have owned the property prior to March 2004 and wish to build a permanent residence and comply on grounds of poor and failing health.
- Previous refusal by the Board related to a different location in an open unscreened field. The proposed dwelling is sited in the corner of a field with large bank of mature trees and hedgerows. Photomontages demonstrates effectiveness of careful siting.
- Local authority has permitted a number of houses in the locality since 2001 therefore to suggest additional housing is inappropriate on grounds of excessive density is inappropriate.
- Applicants have an immediate need to build a suitable home.
- Request that the Board overturn decision and grant permission.

6.2. Planning Authority Response

The Planning Authority did not respond to the appeal.

7.0 Assessment

7.1 From my review of the file, all relevant documents and inspection of the site and its environs, I consider that the main issues for consideration in the

Board's de novo assessment of the appeal may be considered under the following broad headings:

- Settlement Strategy
- Traffic safety & Impact on the amenities of the area
- Wastewater Treatment
- Appropriate Assessment

7.2 Settlement Strategy

7.2.1 The site falls within an area indicated as an area under urban pressure in the rural housing guidelines and the Waterford County Development Plan 2011-2017. Within the Development Plan it is the Council's Policy SS3 "To cater for the housing requirements of members of the local rural community who have a genuine local housing need in areas under urban pressure as set out in Section 4.10."

7.2.2 The first party appellants currently reside in the existing dwelling to the north of the appeal site and wish to build a dwelling to cater for their changed health circumstances. It is their intention to sell the current family home. Indeed, I note from the Planning History and as set out in the documentation accompanying the application "*the applicants have owned the lands since 1972 living in the farmhouse initially before obtaining planning permission for a purpose built family home circa June 1997 whereby they sold the farmhouse and built a purpose build family home on their 18 acres landholding.*"¹ Notwithstanding the first party appellants current difficulties with accessibility on basis of the two storey character and design of their current residence, I consider that to permit a further dwelling on this landholding would facilitate and encourage speculative development and would be contrary to the rural housing guidelines. I do not consider that the application demonstrates compliance with national and local policy to accommodate genuine rural generated housing need where it arises.

¹ Cover letter Fewer Harrington and Partners Architects, Planners and Project Managers dated 30th

7.3 Traffic safety and impact on the amenities of the area.

7.3.1 The proposed access to the site is off the Regional Road R683. The development plan highlights the importance of regional routes recognising that in addition to linking settlements they also act as feeder routes to the national road network. Given their strategic importance the carrying capacity and safety of regional roads will be protected as far as possible through the imposition of restrictions on new access points. The proposed development seeks to mitigate the impact on the regional road by way of use of the established entrance. I consider that an increase by way of provision of an additional dwelling would not be insignificant. Clearly the proposal would give rise to an intensification of use which would interfere with the free flow of traffic on and compromise the level of service and carrying capacity of the regional road and would fail to protect the public investment in the regional road network. In this regard the development would contravene the provisions of the development plan and would be contrary to the proper planning and sustainable development of the area.

7.3.2 As regards the visual impact of the proposed development, the site is elevated and enjoys fine views over the Estuary. The site is within a designated visually vulnerable landscape and adjacent to a designated scenic route. Notwithstanding the modest scale of the dwelling and efforts to mitigate negative visual impact, I consider that the proposal to construct a dwelling on this site, would be visually obtrusive in terms of cumulative visual impact in a visually vulnerable area and would be detrimental to the visual and scenic amenities of the area.

7.4 Wastewater Treatment

7.4.1 The site characterisation form submitted with the application details site suitability investigation carried out on 19th August 2008, where a trial hole and T test holes were excavated on the site. Neither water nor bedrock were encountered in the trial hole excavated to 2.1m. Soil structure was described

as sandy silt crumb topsoil to 0.4m leading to sandy silt granular subsoil. A T value of 27 was determined. It is proposed to provide a proprietary treatment system discharging to a percolation area.

7.4.2 I note that the submitted site suitability assessment based on site investigations August 2009 and is not in accordance with the current (2010) code of practice. Whilst based on site visit and submitted site assessment details, it would appear that the provision for on-site treatment might be technically feasible in terms of the requirements of the EPA Code of Practice "Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.≤ 10), I consider that the issue of multiple treatment systems is of concern. On this basis I consider that the proposal would be prejudicial to public health.

7.5 Appropriate Assessment

7.5.1 As regards the issue of Appropriate Assessment the site is outside but within 100m of the River Barrow and River Nore Special Area of Conservation (Site Code 002162). In view of concerns in respect of the issue of multiple wastewater treatment systems, it cannot be established based on the information provided on the appeal file that the proposed development would not have an adverse effect on the integrity of the Special Area of Conservation, in light of its conservation objectives.

The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive (* = priority; numbers in brackets are Natura 2000 codes):

[1130] Estuaries

[1140] Tidal Mudflats and Sandflats

[1170] Reefs

[1310] *Salicornia* Mud

[1330] Atlantic Salt Meadows

[1410] Mediterranean Salt Meadows

[3260] Floating River Vegetation

[4030] Dry Heath

[6430] Hydrophilous Tall Herb Communities

- [7220] Petrifying Springs*
- [91A0] Old Oak Woodlands
- [91E0] Alluvial Forests*
- [1016] Desmoulin's Whorl Snail (*Vertigo moulinsiana*)
- [1029] Freshwater Pearl Mussel (*Margaritifera margaritifera*)
- [1092] White-clawed Crayfish (*Austropotamobius pallipes*)
- [1095] Sea Lamprey (*Petromyzon marinus*)
- [1096] Brook Lamprey (*Lampetra planeri*)
- [1099] River Lamprey (*Lampetra fluviatilis*)
- [1103] Twaite Shad (*Alosa fallax*)
- [1106] Atlantic Salmon (*Salmo salar*)
- [1355] Otter (*Lutra lutra*)
- [1421] Killarney Fern (*Trichomanes speciosum*)
- [1990] Nore Freshwater Pearl Mussel (*Margaritifera durrovensis*)

The Natura 2000 site is of considerable conservation significance for the occurrence of good examples of habitats and of populations of plant and animal species that are listed on Annexes I and II of the E.U. Habitats Directive. Furthermore, it is of high conservation value for the populations of bird species that use it. The occurrence of several Red Data Book plant species including three rare plants in the salt meadows and the population of the hard water form of the Freshwater Pearl Mussel, which is limited to a 10 km stretch of the Nore, add further interest to this site. In view of concerns in respect of the issue of multiple wastewater treatment systems, it cannot be established based on the information provided on the appeal file that the proposed development would not have an adverse effect on the integrity of the Special Area of Conservation, in light of its conservation objectives.

8.0 RECOMMENDATION

- 8.1 I have read the submissions on file, visited the site and had due regard to the provisions of the Development Plan and all other matters arising. I

recommend that planning permission be refused for the following reasons and considerations.

REASONS AND CONSIDERATIONS

1. Having regard to the objectives of the current Development Plan and the “Sustainable Rural Housing Guidelines of Planning Authorities” issued by the Department of Environment, Heritage and Local Government in April 2005, and the provisions of the Waterford County Development Plan 2011-2017, it is considered that based on the information submitted, that the applicant has not demonstrated that the development is rural generated housing as defined by the criteria outlined in the guidelines and the development plan. The proposed development would therefore, contravene policy SS3 of the Development plan and therefore be contrary to the proper planning and sustainable development of the area.
2. It is considered that taken in conjunction with existing and permitted development in the vicinity, the proposed development would constitute an excessive density of suburban type development in a rural area, would injure the amenities of this scenic rural area and give rise to an excessive concentration of effluent disposal systems. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed development is located along a regional route R683 where it is development plan policy to protect the carrying capacity and safety of regional roads by restricting access thereto. It is therefore considered that the proposed development would contravene materially the provisions of the Waterford County Development Plan relating to the regional road network and would, therefore, be contrary to the proper planning and sustainable development of the area.

4. It is considered that the development within a visually vulnerable area and along a designated scenic route would be at variance with the objectives and guidelines as set out in the Waterford County Development Plan 2011-2017. The proposed development, which would be visually prominent, would seriously detract from the visual and scenic amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Brid Maxwell

Planning Inspector

17th July 2017