



An
Bord
Pleanála

Inspector's Report PL93.249018

Development	2 storey dwelling house with foul and surface water drainage connections to existing scheme.
Location	Site 47, Castlewoods, Ballinamona, Old Tramore Road, Waterford.
Planning Authority	Waterford City and County Council.
Planning Authority Reg. Ref.	17/114.
Applicants	Calegreen Properties.
Type of Application	Permission.
Planning Authority Decision	Refuse permission.
Type of Appeal	First Party
Appellant	Calegreen Properties.
Observer(s)	1. Raymond Morrissey 2. Ballinamona Management Company.
Date of Site Inspection	13 th December 2017.
Inspector	Derek Daly.

1.0 Site Location and Description

- 1.1. The site is located in a rural area located immediately to the south of the built up area of Waterford city. in the western inner suburbs of Waterford City. The site is part of a large residential development referred to Castlewoods on a substantial overall site, which has access to two public roads, one running southwards from Waterford and referred to as the Old Tramore Road and a road running eastwards from the Old Tramore Road.
- 1.2. The residential area is comprised of substantial mainly two storied houses on large sites. There are in excess of 50 dwellings currently constructed. The overall development is composed of internal service roads some comprising of cul de sacs and others of long linear roads. and the overall area is heavily wooded and relatively secluded from the surrounding area.
- 1.3. There are currently three current appeals in the development PL93.249018, PL93.249021 and PL93.249023.
- 1.4. The appeal site PL93.249018, is located in a cul de sac and is a corner site heading into the cul de sac. The southern and eastern boundaries adjoin existing service roads. The boundary to the north adjoins a site on which there is a two storied dwelling. The western boundary adjoins a wooded area. The site is level and is currently an open grassed area. The site is referred to site 47 on the submitted drawings
- 1.5. The site is rectangular in configuration and has a stated area of 1,757 m² (0.434 acres).

2.0 Proposed Development

- 2.1. The proposal as submitted to the planning authority on the 21st of February 2017 was for the construction of a 2 storied dwelling house with foul and surface water connections to an existing scheme.
- 2.2. The proposed dwelling is a large two storied dwelling of modern design and construction with a maximum height to ridge roof of 9265mm and a stated floor area of 297m². The design reflects similarity to other dwellings constructed in the overall

development and adjoining sites. The proposed dwelling is located centrally on the site.

- 2.3. It is proposed to connect to the existing water supply scheme and to connect to an existing on site wastewater treatment site and surface water drainage system.
- 2.4. In an accompanying letter it is indicated that the existing wastewater treatment system to which it is proposed to connect the proposed dwelling has the capacity to treat the wastewater from the proposed development.
- 2.5. Further information was submitted on the 19th of June 2017 which included;
 - Details relating to the equestrian centre built on the site.
 - A report on the existing wastewater treatment system and that the system is performing well and as designed.
 - A report on the existing water supply system servicing the overall estate.

3.0 Planning Authority Decision

3.1. Decision

The decision of the planning authority was to refuse planning permission for the development. two reasons were stated;

The first reason refers to the zoning of the site as green belt and that the development would contravene the provision of the County Development Plan.

The second reason refers to the site as located within an area zoned as under urban pressure, the issue of housing need and that the development does not meet the criteria of the County Development Plan.

3.2. Planning Authority Reports

3.2.1. Planning Report

The planning report dated the 4th of April 2017 refers to:

- The site history
- relevant provisions of the current development plan;

- submissions received;
- an appraisal of the development;
- reference is in the appraisal to the site's zoning as green belt, that permissions of the original permission had expired and as this is a new application for planning permission in a rural area full compliance with zoning objective for the area must be demonstrated;
- there is no housing need defined;
- refusal of permission is recommended.

A subsequent planning report recommends further information relating to the planning history; details relating to the wastewater treatment plant of the overall development and a report in relation to water supply.

The planning report dated the 10th of July 2017 refers to the further information as submitted. Notwithstanding the site history it is indicated that the site is within the green belt and cognisance should be taken of current rural housing policies. A material contravention of the plan is referred to if permission is reconsidered. Refusal was recommended.

3.2.2. Other reports.

Water services report dated the 5th of April 2017 recommends further information in relation to the up to date position on the existing wastewater treatment plant and water supply serving the estate.

The water services report dated the 7th of July 2017 indicates no objections.

4.0 Planning History

The site has an extensive planning history dating back to an original outline permission on the site P.A. Ref. No. 98/293 for a residential development of 41 units on and 3 clusters containing 12 residential/holiday units. The development also included an equestrian centre.

Subsequent permissions were granted within the development for phases of the development and replacing the holiday units with individual houses. (P.A. Ref. No

00/978). There was also permission granted to extend the duration of the planning permission. Permissions expired on 2nd November 2016.

5.0 Policy Context

5.1. Development Plan

5.1.1. The current plan is the Waterford County Development Plan 2011-2017.

5.1.2. The site is located within an area zoned GB Green Belt with the objective “to provide for a green belt as a clear physical demarcation to the adjoining urban area, to provide for the development of agriculture and to protect, provide and improve rural amenity to restrict residential development to the provision of permanent dwellings for existing landowners and their immediate family members”

The green belt is a band of land skirting the built up area of Waterford City and the band varies in depth. The southern boundary of the Castlewoods development forms the southern boundary of the green belt in the vicinity of the site.

5.1.3. Chapter 4 of the plan refers to settlement strategy and sets out an overall strategy for future development within a hierarchy of settlements and to make provision for rural areas. The plan reflects the overall approach as set out in the 2005 rural housing guidelines and the identification of rural area types. The appeal site would be within an area defined as an area under urban pressure and section 4.9.1 addresses this area and sets out the objectives in this area which are, “*on the one hand, to facilitate the housing requirements of the local rural community, subject to satisfying site suitability and technical considerations, whilst on the other hand directing urban generated development to areas zoned for housing in the adjoining service centres and settlement nodes*”.

This strategy is further stated in

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 the Criteria in Section 4.10*” and

Policy SS4; “*To direct urban generated housing development in Area Under Urban Pressure into the adjoining zoned settlements*”.

5.1.4. Section 4.11 relates to the green belt and buffer zone restrictions. In this regard it is stated that “within the Green Belt zones and on the outskirts of the zoned settlements, there will be restrictions on development to maintain a clear demarcation between the rural and urban areas, to support the sustainable development of the settlements, to reduce urban sprawl and to safeguard the potential expansion of the settlements in the future”.

Policy SS9 refers to a policy restricting development within the green belt to landowners and immediate family members for permanent dwellings.

Policy SS10 refers to a policy of restricting development in buffer zones around settlements to landowners and immediate family members for permanent dwellings.

Chapter 10 relates to Development Management and outlines guidance and standards in relation to development.

5.1.5. Section 10.57 relates to zoning objectives and in this regard I would refer to section 10.57.2 on non-conforming uses where it is indicated “existing minority (pre-existing, non-conforming) uses within any Land-Use Zone, shall be supported except where such use is incompatible with the major user in the area. In such event the minority use will be encouraged to relocate”.

5.2. **National Policy.**

5.2.1. Guidelines on Sustainable Rural Housing 2005.

5.2.2. The site is located in a rural area and in the context of the Guidelines section 3.2 would be in an area would be defined as a rural area under strong urban influence.

5.2.3. The guidelines refer to the need for a development plan approach and to having similar defined the rural area types as set out in the NSS within the development plan. The guidelines also indicate that planning authorities must then tailor policies that respond to the different housing requirements of both urban and rural communities and the varying characteristics of rural areas.

5.2.4. The Guidelines also differentiate between rural and urban-generated housing. The guidelines refer to rural generated housing; to sustaining and renewing rural communities; to accommodating people of a rural area in their area of origin and in section 2.4 to tailoring policies to local circumstances.

5.2.5. Section 3.2.3 refers to rural generated housing and there is reference to “persons who are an intrinsic part of the rural community” and also reference in this regard to “members of an established rural community, and persons who wish to return to reside near other family members or to care for elderly family members”. There is in addition reference to working in rural areas including full and part time farming.

6.0 The Appeal

6.1. Grounds of Appeal

Sean Lucy and Associates on behalf of the applicant in a submission dated the 28th of September 2017 refers to:

- The appellant refers to the current appeal as one of three current appeals and that the three appeals be considered as one.
- The applicant initially wished to apply for all three sites in a single application but was advised to make three separate applications.
- It is considered that the proposed development should not be assessed under the rural housing policies of the county development plan determined having due regard to the existing serviced housing estate within which it is situated.
- The inclusion of a substantially completed housing estate within a green belt unfairly prejudices against the final completion of the housing estate.
- The restrictions in the development plan relates to the provision of one off housing and is not appropriate to the site.
- The decision fails to give due weight to the necessity to complete the housing estate.
- Reference is made to the planning history dating back to the 3rd of November 1998 and that over a 100 planning applications have been made and no refusal of permission was made based on rural housing policies or the more recent identification of a Waterford Environs green belt.

- There has been a consistency in the overall development of the site. Applications should be assessed and determined having regard to the permitted use of the site.
- Reference is made to the provisions stated in the county development plan and in particular the provisions relating to green belts as a clear physical demarcation to the adjoining urban areas and that the proposed dwellings will not affect the protection of the green belt; undermine the sustainable development of Waterford City, increase urban sprawl and impact on the future development of the city.
- The proposal is for the completion of a development not as new development.
- Reference is made to the assessment on non-conforming uses in section 10.57.2 of the county development plan. The development is not an expansion of a non-conforming use but completion of permitted development.
- Consistency in approach to development is referred to and nothing has changed to warrant a change and in this regard reference is made to the 2005 guidelines and that the rural policies of the county development plan have not significantly altered since 2005.
- The overall site has been implemented within the context of an overall masterplan which has allowed for alterations and ongoing development of the site.

7.0 Observers

7.1. Raymond Morrissey with an address of 51 Castlewoods in a submission dated the 28th of August

- Castlewoods is an estate of 54 houses with only 3 sites remaining to complete the development.
- The 3 sites have always been part of the development and had full planning permission.

- The current decision of the planning permission assesses the sites differently to previous assessments ignoring the fact that the Castlewoods estate exists with services.
- Allowing vacant sites will have a negative effect on the overall development.
- It is a waste of well serviced site.
- The granting of permission will have no effect on the green belt and will not increase urban sprawl owing to its location within a wall estate.

7.2. Ballinamona Management in a submission dated the 29th of August 2017 refers to;

- Each resident of Castlewoods is a member of the management company.
- The submission refers to the three current appeals
- Reference is made to the reasons for refusal and that throughout the planning history of the estate the development plan policies and rural policies have never been applied to this development.
- No conditions relating to rural policy have been applied.
- Castlewoods is an estate of 54 houses and the proposal should not be assessed as a one off house in the countryside.
- All three sites were designated for housing in the original development and the local authority and residents were aware of this.
- Full permissions were granted for these sites.
- It is appropriate that the sites are assessed and determined having regard to the permitted existing use of the sites.
- The observer would like to see the development completed.
- Castlewoods is situated within the walls of Ballinamona estate and will not affect the protection of the green zone or impact on the wider rural area outside of the walls of the Ballinamona estate.
- The observer wishes to see completion of the estate and avoid any derelict or overgrown sites.
- Leaving the sites undeveloped would reduce the value of adjoining houses.

8.0 Assessment

- 8.1. Having regard to the submissions received and the documentation submitted the primary issue in relation to this appeal relates to the acceptability of the nature of the development as proposed in particular in the context of policy and national guidance.
- 8.2. There are three concurrent appeals PL93.249018, PL93.249021 and PL93.249023 relating to three individual applications for single houses in the same Castlewoods residential development. The planning authority have made a decision to refuse planning permission in relation to the three applications and have referred to the provisions of the current development plan to refuse the three applications. I propose initially to address matters common to all three appeals and then where appropriate to address site specific matters where they apply to the individual sites/appeals.
- 8.3. The first issue to consider is the principle of the development.
 - 8.3.1. In section 5 of this appeal I have outlined the main policy provisions as currently applies. The sites are all located in a green belt zoning and in refusing permission the planning authority have referred to this zoning and also the current consideration that the site are in a rural type which is referred to as under urban pressure.
 - 8.3.2. I wish to initially state that I consider that the provision of a green belt on the fringe of Waterford city is a reasonable provision for the reason stated in the development plan which is to provide for a green belt as a clear physical demarcation to the adjoining urban area and as a consequence to achieving this there will be restrictions on development to maintain a clear demarcation between the rural and urban areas; to support the sustainable development of the settlements; to reduce urban sprawl and to safeguard the potential expansion of the settlements in the future.
 - 8.3.3. It is also reasonable when a planning authority reviews its statutory developments to review its policies as provided for legislation and to provide for a review of zoning within its administrative area.
 - 8.3.4. In relation to the zoning as presented currently in the development plan provides for the Waterford city greenbelt and this green belt now incorporates the areas of the individual appeal sites as part of this zoning and the overall Castlewoods residential area.

- 8.3.5. It is also reasonable to consider the overall context and history of the individual sites which are part of an overall permitted residential development; to consider the context and consequences arising from the planning history and the current pattern of development arising and to take these matters into consideration in an assessment of the individual sites and consider the proposals on their merits.
- 8.3.6. It is also reasonable to take into consideration that the residential development in question is a non-conforming use in the context of the green belt zoning and that the development plan does permit consideration of existing minority (pre-existing, non-conforming) uses within any land-use zone and be supported except where such use is incompatible with the major user in the area. In such event it is indicated that the minority use will be encouraged to relocate.
- 8.3.7. The provision as stated in section 10.57.2 of the current development plan on non-conforming uses was not likely to have been inserted in the context to consider an existing major residential development in a green belt but there is a recognition that non-conforming uses must be given due consideration. It is I consider questionable that in these particular appeals given their location within an established use that they are incompatible with their immediate surrounds and it is also unlikely that the minority use as presently constructed will be encouraged to relocate.
- 8.3.8. The Castlewoods development is unusual as it is a major residential development in a rural area consisting of in excess of 50 dwelling units on large sites with supporting infrastructure of roads and other services. The development is largely secluded in a woodland setting and is largely screened from its surrounding area. It is an established use in the green belt with a history of planning permissions dating back to 1998 and the development is largely completed. The provision of additional units will not impact I consider on the overall area and visual impact will largely be confined to within the actual development itself.
- 8.3.9. In terms of the overriding objective of the green belt, consideration of the current three appeals will not assist in any manner a clear physical demarcation to the adjoining urban area as a rural area or the maintenance of a rural area; it will not reduce urban sprawl given the specific nature of the proposed developments; it will not result in significantly expanding the non-conforming area or encroach into the

greenbelt and will not impact in a manner on any potential expansion of the Waterford city area.

8.3.10. In this context I consider that the current individual single housing proposal can be considered on their permits and in doing so will not materially contravene the current plan. I note in this regard although material contravention of the plan is referred to in the planning reports a reasons for refusal refers to contravention of the plan and does not specifically state material contravention.

8.3.11. The principle of the individual proposals is I acceptable.

8.4. I propose to consider each site individually based on site-specific considerations.

8.5. In relation to site 47/appeal site PL93.249018, it is located in a cul de sac and is a corner site heading into the cul de sac. The development of this site which is largely internally within the overall site will not impact on the green belt as it is an infill site surrounded by existing housing and woodland.

8.5.1. The proposed dwelling is a large two storied dwelling of modern design and construction with a maximum height to ridge roof of 9265mm and a stated floor area of 297m². It is largely similar to other dwellings in its vicinity and the overall Castlewoods development. The visual impact of the dwelling is largely confined to its immediate surroundings and not in the wider area. In this context I would have no objections to the siting and design as submitted.

8.6. In relation to services it is proposed to connect to the existing water supply scheme and to connect to an existing on site wastewater treatment site and surface water drainage system which has capacity to accommodate the proposed development.

9.0 Recommendation

9.1. It is recommended that permission for the development be granted for the following reasons and considerations.

10.0 Reasons and Considerations

11.0 Having regard to the pattern of development in the vicinity which is an established residential estate, the planning history of the overall site and the nature and scale of

the proposed development, it is considered that the development will not contribute to an extension of urban sprawl, would not be contrary to the proper planning sustainable development or injurious to the visual amenities of properties of the area.

12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 21st of February 2017 and the 19th of June 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interests of clarity

- 2 Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity

- 3 The roof colour of the proposed house shall be blue-black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.

Reason: In the interest of visual amenity.

- 4 The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) the establishment of a hedgerow along the side and rear boundaries of the site,

(b) any walls forward of the front building line shall not exceed 1.2 metres in

height and

(c) a timescale for the implementation of the planting and landscaping.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

- 5 Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works. Drainage arrangements, shall comply with the requirements of the planning authority for such works and services. Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

Reason: In the interest of public health

- 6 All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

- 7 Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

- 8 Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July

2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management

- 9 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Derek Daly
Planning Inspector

19th January 2018