



An
Bord
Pleanála

Inspector's Report PL93.249021

| | |
|-------------------------------------|----------------------------------------------------------------------------------------------|
| Development | 2 storey dwelling house with foul and surface water drainage connections to existing scheme. |
| Location | Site 58, Castlewoods, Ballinamona, Old Tramore Road, Waterford. |
| Planning Authority | Waterford City and County Council. |
| Planning Authority Reg. Ref. | 17/116. |
| Applicants | Calegreen Properties. |
| Type of Application | Permission. |
| Planning Authority Decision | Refuse permission. |
| Type of Appeal | First Party |
| Appellant | Calegreen Properties. |
| Observer(s) | None. |
| 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 PL93.249021, is irregular in configuration and has frontage onto two of the estate roads in the overall development and also a public road. The site has an estate road frontage on its eastern boundary and also has a limited frontage onto its northwestern boundary between two existing house sites. The public road forms the site's southern boundary and this boundary is defined by a wall.
- 1.5. There is a pond located in the western section of the site to the rear (south) of one of the existing houses and the remainder of the northern boundary adjoins a wooded area. The site has a fall in level in a southwesterly direction and is currently an open grassed area with the exception of the pond. The site is referred to site 58 on the submitted drawings
- 1.6. The site has a stated area of 7,740m² (1.900 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 10.265 metres and a state floor area of 485m². The design reflects similarity to other dwellings constructed in the overall development and adjoining sites. The proposed dwelling is located in the eastern area of the site to the south of the western area and west of the pond.
- 2.3. The site has two accesses with an access onto both estate roads with the access road from the northwestern corner of the site traversing around the pond to the location of the proposed dwelling. There is also an entrance and driveway off the eastern boundary.
- 2.4. It is proposed to connect to the existing water supply scheme and to connect to an exiting on site wastewater treatment site and surface water drainage system.
- 2.5. 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.
- 2.6. A submission was received in response to a third party submission to the application dated the 27th of March 2017 referring to the site history and that the subject site was not envisaged as a woodland link area and is unsuited as open space, clarification in relation water supply and the intention to retain both access points.
- 2.7. 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 and refers to matters specific to the appeal site. In particular, it is indicated that this particular site differs from the other two applications as the layout did not provide for a site at this location. Reference is made to a previous permission for a change of house type on this particular site PD06/1639 and the application was assessed as a change of house type when it was an additional site.

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.

3.3. Other submissions.

A submission was made from the residents of 18 Castlewoods, David Dundon/Sandra Carroll, which refers to issues of the public site notice, that the site was identified as a grass area, the issue of sufficient water supply is raised, over development and impact of the development on nearby residents, the necessity of having two entrances, impact of construction traffic, increased screening and conditions to minimise noise from the proposed internal road.

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.

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

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.
- Reference is also made to a grant of an overall development of 57 houses and that sites 50 and 51 were sold as one unit and were developed as one unit with site 50 forming a large garden space associated with the main dwelling.
- 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.
- The grounds of appeal also refer to the submission of David Dundon/Sandra Carroll made to the planning authority
- The site was never identified in any application as a grass area.
- With the location of pond on the site not overlooked by housing the site as an open area would constitute an unobserved, hazardous location for children within the estate and it not a suitable location for open space.

6.2. **Response to the Grounds of appeal**

6.3. David Dundon and Sandra Carroll Raymond Morrissey with an address of 18 Castlewoods in a submission dated the 26th of September 2017 refer to;

- Site no 58 never formed part of the original design but was introduced in 2006 under planning PD06/1639 on the back of the original application 99/323.
- Planning 99/323 did not identify site 58 as a site but as a green area and that the application is flawed and should not have been granted.

- It should have been an application for an additional house and not for a change of house type.
- The site should therefore be viewed on its own merits.
- Because an owner bought 2 sites and developed them as 1 house site it that a reason for the applicant to utilise this to develop another site which was identified open space.
- Site 58 acts as a conduit linking two areas of the overall development, developing it in effect creates two estates and removes this link.
- As site 58 did not form part of the original development it should come under current guidance.

7.0 Assessment

- 7.1. 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.
- 7.2. 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.
- 7.3. The first issue to consider is the principle of the development.
- 7.3.1. 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.
- 7.3.2. 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.

- 7.3.3. 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.
- 7.3.4. 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.
- 7.3.5. 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; 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.
- 7.3.6. 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.
- 7.3.7. 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.
- 7.3.8. 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.

- 7.3.9. 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.
- 7.3.10. 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.
- 7.3.11. The principle of the individual proposals is I acceptable.
- 7.4. I propose to consider each site individually based on site-specific considerations.
- 7.5. In relation to site 58/appeal site PL93.249021, this site is irregular in configuration; has a stated area of 7,740m² (1.900 acres) and has frontage onto two of the estate roads in the overall development and also a public road. The site has an estate road frontage on its eastern boundary and also has a limited frontage onto its northwestern boundary between two existing house sites. The public road forms the site's southern boundary and this boundary is defined by a wall.
- 7.5.1. There is also a pond located in the western section of the site to the rear (south) of one of the existing houses and the remainder of the northern boundary adjoins a wooded area. The site has a fall in level in a southwesterly direction and the site is currently an open grassed area with the exception of the pond.
- 7.5.2. There is a third party submission in relation to the current proposal questioning whether the site has a previous valid planning permission, that the site was originally

a green area and site no 58 never formed part of the original design but was introduced in 2006 under planning PD06/1639 on the back of the original application 99/323 with reference to a change of house type and therefore should not have been granted. There is also reference to the site providing a link between two areas of the overall development.

- 7.5.3. This view is also referred to in the planning report. The issue is not fully disputed by the applicant submissions which refer to two sites sold which were developed as a single unit and on this basis site 58 was so designated within a housing estate of 57 units owing to the amalgamation of sites 50 and 51 as one unit.
- 7.6. In examining this particular site in the context of the overall development it is somewhat different to other sites and the overall established pattern of development. It does not conform to the overall linear pattern appearing to be a backland site in the context of sites 18 and 19 where the site has a narrow road frontage along this area of the development and the dwelling is located to the rear of the pattern of development. When considered in relation to the other road frontage along its eastern boundary it is a single dwelling with no other residential development on the western side of the estate road and a row of houses on the eastern side of the estate road.
- 7.6.1. There is I consider a serious doubt as to whether site 58 formed part of the original layout and a permission for a change of house type subsequently granted has a questionable validity if there was no dwelling permitted on the site originally. The argument that a party bought two houses amalgamated them to build a single house does not lend itself to transferring the unused permission elsewhere in the development without an authorised permission. It is equally conceivable that an additional house could at some time in the future be applied for on the amalgamated sites 50/51 given the location of the constructed house on that site(s).
- 7.6.2. In any event any existing permission on the site and the overall Castlewoods development has expired and there in effect no extant permission relating to site 58 and therefore it can be considered on its current merits.
- 7.7. In relation to retaining the site as an open area I would accept that its retention would facilitate a linkage between two areas of the overall development. It would however be questionable with the presence of a pond and as it is not overlooked or observed

by existing housing constitute as suitable area or location for open space. It would also be a hazard. I would therefore have no objection to the overall site being developed for a single dwellinghouse as proposed.

- 7.8. I would however consider that the provision of two vehicular access points is unnecessary and that a single vehicular access onto the eastern boundary should only be permitted and if an access is permitted at the northwestern boundary it should be limited solely to a pedestrian access.
- 7.9. The development of this site will not I consider impact on the green belt as it is largely an infill site surrounded by existing housing and woodland.
- 7.9.1. 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. Although I note it has a public road on its southern boundary 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.
- 7.10. 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.

8.0 Recommendation

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

9.0 Reasons and Considerations

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.

Having regard to the pattern of development in the vicinity and the nature and scale of the proposed development appeal site, it is considered that the development would not be contrary to the proper planning sustainable development or injurious to the residential amenities of properties in the area.

10.0 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 The site shall provide for a single vehicular entrance located onto the eastern boundary of the site. No other vehicular access shall be constructed onto the other estate road at the northwestern boundary of the site. A pedestrian access on this boundary can be constructed on this boundary. The formation of the vehicular access shall be constructed in

accordance with the requirements of the planning authority.

Reason: In the interest of orderly development and traffic safety

- 8 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.

- 9 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

- 10 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