



An
Bord
Pleanála

Inspector's Report ABP-300159-17

Development	House, garage/store and new entrance and ancillary site works.
Location	Ruanmore (ED. Wells), Kilmuckridge, Gorey, Co. Wexford.
Planning Authority	Wexford County Council.
Planning Authority Reg. Ref.	20170745.
Applicant	Karl Furlong,
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party.
Appellant	Kathleen Murphy.
Observers	None.
Date of Site Inspection	8 th February 2018.
Inspector	Dáire Mc Devitt.

1.0 Site Location and Description

- 1.1.** The appeal site is located in the rural townland of Ruanmore (ED Wells) in County Wexford. It is located c.1.7km west of the village of Kilmuckridge on the northern side of the Kilmuckridge road, a county road which links the R741 and the R742. The main body of the site is c.120m west of the junction with the Ruanmore road which also links to the R741. The area is predominantly rural in character with groupings of houses, forming linear development, along the approach to the Kilmuckridge. There are c.42 houses along the 2.5km western approach to the village. The proposed house would be the fifth house along a c.260m section of the road. Houses in the vicinity are of varying designs, styles and scale.
- 1.2.** The site, with a stated area of c. 0.4 hectares, is taken from a larger field in the applicant's father's ownership. The site has not been marked out and the northern and eastern boundaries are open. The southern boundary (roadside) consists of an embankment with mature hedgerow and a wet ditch running parallel to the road within the site. There are no views into the site from the public road at the point of the proposed entrance. To the east is an agricultural gate into the field from which the site is taken, and views of the site are available from this point. The house to east of the field forms the western corner of a t- junction of two local roads. To the west, set back from the road and at an elevated point, is a dormer house. There is a triangular piece of land to the front of this house, separated from it by a timber post fence. The roadside boundary, along the front of this triangular area, is a post and wire fence with trees planted within its boundaries. To the rear (north) the field is bounded with mature hedgerows from a dwelling which fronts onto and is accessed off the adjoining road to the east.
- 1.3.** The levels of the site rise from south to north away from the public road. A small area of ponding was observed in the south western corner of the site.
- 1.4.** Maps, photographs and aerial images in file pouch.

2.0 Proposed Development

2.1. The proposed development consists of:

- A single storey dwelling with a gfa of 217.8sq.m and a c. 63.8sq.m detached garage/store.
- A new entrance off the public road and the setting back of the roadside boundary to achieve sightlines.
- Private effluent treatment system, soil polishing filter and connection to the water mains.

The application includes a Site Characterisation Form.

3.0 Planning Authority Decision

Grant permission subject to **10** standard conditions.

3.1. Planning Authority Reports

3.1.1. Planning Reports

The Area Planners report formed the basis of the Planning Authority's decision. Issues relating to works to achieve the required sightlines and the relevant landownership/consents and details relating to the proposed effluent disposal system were addressed through further information and a recommendation to grant was made.

The Area Planner concluded that the required sightlines (65m) could be achieved by setting back the existing roadside boundary for the length of site as outlined in red in the application without impinging on third party boundaries.

3.1.2. Other Technical Reports

Environmental Health Officer. No objection following further information submitted relating to the soil polishing filter and treatment system specifications.

Municipal Engineer. No comments on file.

Chief Fire Officer. General guidance on fire regulation requirements.

3.2. Prescribed Bodies

None.

3.3. Third Party Observations

A submission was received by the current appellant at application stage. This generally reflects the grounds of appeal and is dealt with in more detail in the relevant section of this report.

4.0 Planning History

There are a number of history files associated with the application site and the field from which the site is taken for William Furlong, the applicant's father.

Planning Authority Reference No. 20050366 refers to a 2005 refusal of permission for three houses for three reasons relating to 1) excessive density and suburban type development, 2) Insufficient information to adequately assess impact on public health and 3) inappropriate suburban style layout would detract from the rural character of the area.

Planning Authority Reference No. 20052837 refers to a 2005 refusal of permission for two houses for three reasons similar to Planning Authority Reference No. 20050366.

5.0 Policy Context

5.1. Wexford County Development Plan 2013-2019

Section 4.3 refers to the different rural types in the county. The site is located within a Rural Area under Strong Urban Influence. Objectives **RH01** and **RH02** apply. **Table No. 12** sets out the criteria for individual rural housing.

Section 17.7 refers to the Rural Design Guide. This includes guidance on boundary treatment (17.7.1), sustainability (17.7.2), design brief (17.7.3), site appraisal (17.7.4) and sketch design (17.7.5).

Section 17.7.1 is of particular relevance and refers to boundary treatment. This sets out that when creating an opening the existing front boundary should be retained where possible, and proposals should aim to be respectful to the existing landscape and habitats. Where it is necessary to remove roadside boundaries these should be replaced with natural hedgerows and avoid replacing indigenous boundaries with insubstantial fencing, blockwork, walls or post and wire fencing.

Heritage:

Objective NH07 refers to the protection hedgerows from damage and/or degradation and work to prevent the disruption of the connectivity of the hedgerows of the county.

General Development Management Standards.

Section 18.12.2 refers to siting and design requirements for single rural houses, these include criteria in relation to site size, siting, access, effluent treatment, landscaping etc, that should apply. In general the siting of the house should reflect the position of adjoining developments and should avoid adverse impacts on neighbouring properties from overlooking and undue overshadowing and visual impacts.

Section 18.29.3 refers to the siting and design of access/egress points and sets out, amongst other things that:

- An assessment whether there would be an undue proliferation of access/egress points in the locality giving rise to conflicting traffic movements and consequent public safety hazards.

- Sightlines of a minimum of 65m are required for county/local roads outside the 50kph or 60kph speed limit.
- The Council will not permit proposed access/egress points where the position of the access/egress and the achievement of the necessary sightlines entail the undue loss of existing roadside boundary hedgerow or trees where there is an alternative access point possible and where such natural features cannot be replaced.

Section 18.32 refers to on site wastewater treatment facilities.

5.2 Sustainable Rural Housing Guidelines (2005):

The overarching aim of the Guidelines is to ensure that people who are part of rural community should be facilitated by the planning system in all rural areas, including those under strong urban based pressures.

To ensure that the needs of rural communities are identified in the development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated.

The application site is in an area identified as being under strong urban influence. The guidelines advise that houses in such areas may be provided to meet the housing needs of the local rural community, but that urban generated housing should be directed to zoned and serviced land within settlements.

5.3 Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009

The objective is to protect the environment and water quality from pollution and it is concerned with site suitability assessment. It is concerned with making a recommendation for selecting an appropriate on site domestic wastewater treatment and disposal system if the site is deemed appropriate subject to the site assessment and characterisation report. The implementation of the Code is a key

element to ensure that the planning system is positioned to address the issue of protecting water quality in assessing development proposals for new housing in rural areas and meeting its obligations under Council Directive (75/442/EEC).

5.4 Natural Heritage Designations

None of relevance.

6.0 The Appeal

6.1. A third party appeal by Kathleen Murphy, Ruanmore, Wells, Gorey, Co. Wexford, house adjoining the site. The grounds of appeal can be summarised as follows:

Traffic hazard:

- Sightlines cannot be achieved at the proposed entrance due to the poor horizontal alignment of the road and the proximity of the roadside embankments and hedgerow to the road. Works would be required to the appellant's boundary to increase sightlines and the applicant does not have consent to carry out these works.
- The site is located along one of the main routes to holiday destinations in the county and the proposed entrance would constitute a traffic hazard along this busy road.
- There are a multiplicity of entrances along the Kilmuckridge road within the vicinity of the site and an additional entrance at this point would exacerbate the situation and create a traffic hazard. Reference to Planning Authority Reference No. 20031482, where permission was refused in 2003 on the grounds of traffic safety and multiplicity of entrances.

Public Health:

- A t-value of 19 reported in the site assessment is queried. It is not in keeping with the results of other Site Assessments carried out in the

vicinity or with the appellant's local knowledge of drainage/soil conditions in the area.

- Reference Planning Authority Reference No. 20050366 and 20052837 which indicated that the soil profile consisted of marl below a layer of topsoil.
- A site suitability test for the site immediately to the north of the application site with similar ground conditions recorded t-values greater than 60 (P.A Ref. No. 20072046).

6.2. Applicant Response

This can be summarised as follows:

- The required sightlines of 65m can be achieved without interfering with the appellant's property. Sightlines to the west do not cross any common boundary/ditch.
- The Site Suitability Assessment and Report was carried out and prepared by a qualified agent. The applicant has no objection to carrying out a second test if the Board deem it necessary.
- It is noted that the 2005 tests referenced to by the appellant were not carried out in accordance with latest EPA standards (2009).
- The applicant complies with the Wexford rural housing policy and is committed to living in the area.

6.3. Planning Authority Response

This can be summarised as follows.

- Issues raised in the appeal were fully considered by the Planning Authority during the assessment of the application.
- The proposed entrance complies with the required standards as set out in the County Development Plan. Works required to achieve sightlines of 65m can be carried out within lands in the control of the applicant without crossing or interfering with the adjacent land.

- The Site Characterisation Report was reviewed and considered acceptable by the Council's Senior Executive Scientist.

6.4. Observations

None.

7.0 Assessment

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

- Traffic.
- Public Health.
- Appropriate Assessment.

7.1. Traffic

7.1.1 Section 18.29.3 of the County Development Plan sets out that a minimum of 65m sightlines is required for new vehicular entrances off county roads. The grounds of appeal highlight that the required sightlines cannot be achieved in a westerly direction without the appellants consent as it would require works to be carried out to their property.

7.1.2 I consider that the grounds of appeal relating to proposed access have raised both technical and policy issues.

7.1.3 In relation to the technical issues which arise. I note that the site is located to the east of a bend in the road and a maximum speed limit of 80kph applies. The opening of a new entrance and the achievement of 65m requires the removal of c. 96.5m of mature vegetation and embankments along the roadside boundary which has been indicated to be within the applicant's family's control.

- 7.1.4 The appellant has referred to her house as that adjoining the site to the west and that the achievement of 65m sightlines would require works to be carried out to a section of her boundary where she shares a common boundary ditch with the appeal site. The appellant had also highlighted in her submission to the Planning Authority that trees planted within her site would further obstruct sightlines from the proposed entrance. The applicant indicated on the site layout map (date stamped 12th June 2017 by the Planning Authority) that the house to the west is his family home. In his response to the appeal, the applicant has referred to the appellant's property as that to the west to the site.
- 7.1.5 Notwithstanding the conflicting references in the documentation on file relating to the owner of the house to the west and associated roadside boundary. The issue regarding whether or not sightlines can be achieved by carrying out works only to the roadside boundary within the applicant's control remains the same.
- 7.1.6 I note that the house to the west is set back from the public road and there is a triangular area to the front of it with a roadside boundary consisting of a post and wire fence with trees planted within its boundaries. The boundary of the house to the east along the Kilmuckridge road consists of mature trees and hedgerow with its vehicular access off the adjoining local road.
- 7.1.7 The Area Planner concluded that the required 65m sightlines could be achieved by removing the existing roadside boundary and setting back the boundary on lands within the applicant's family's control. Having examined the site and the location of the proposed access, I note that the requisite 65m sightlines in both directions could be achieved by setting back the existing roadside boundary for the extent of the sites road frontage outlined in red on the site layout plan (date stamped 22nd September 2017 by the Planning Authority) and would not require works to roadside boundaries outside this area.
- 7.1.8 I consider that the removal of the existing roadside boundary over a length of c. 96.5m is not acceptable as it would have a negative impact upon the character of the immediate area. To lessen the impact of the hedge removal the applicant proposes to reinstate the boundary treatment, set back from its original position and create an entrance on to the site. The relocated boundary would extend eastwards beyond the main body of the site. In my opinion the impact of hedge

removal and replacement boundaries at other locations along site frontages can be seen in the vicinity of the site. No detailed proposals have been submitted for the replacement boundary. I note that the Wexford County Development Plan seeks to retain existing roadside boundaries, but where removal is required, a replacement hedge should be planted. In my mind, the removal of such a large quantity of mature hedgerow would alter the character of the roadway at this location. The set-back boundary location, even if planted with native species would alter the configuration of the roadway and consequently the character of the immediate area.

7.1.9 The appellant has also raised concerns in relation to the multiplicity of entrances along this stretch of road and that an additional entrance and additional traffic movements would create a traffic hazard. Reference has been made to a 2003 planning application which was refused on the grounds of traffic safety due to the multiplicity of entrances along this section of the road. This approach to Kilmuckridge is characterised in places by linear development, the proposed house would be the fifth one along the northern side of road within a c. 260m stretch of road with two houses along the southern side of the road opposite the site. The proposal would not constitute ribbon development, defined as 5 or more houses alongside 250m of road frontage. I consider that the modest increase in traffic movements generated by a single house at this location not result in an increase in traffic movements that would interfere with the free flow of traffic at this point. In my view the increase in traffic movements that would be associated with a single dwelling would not result in such an increase that would interfere with the safety and free flow of traffic along the adjoining county road.

7.1.10 Therefore, on the basis of technical issues alone, I would consider the proposal acceptable.

7.1.11 In terms of policy, however, the Development Plan seeks to limit the removal of mature roadside boundaries except when there are no alternatives available. Section 17.7.1 of the Development Plan refers to boundary treatment for rural houses and clearly sets out that when creating an opening the existing front

boundary should be retained where possible with an overarching aim that development be respectful of the existing landscape and habitats. Section 18.29.3 of the Development Plan sets out that the Council will not permit proposed access/egress points where the position of the access/egress and the achievement of the necessary sightlines entails the undue loss of the existing roadside boundary hedgerow or trees where there is an alternative access point possible and where such natural features cannot be replaced. I further note Objective NH07 of the County Development Plan which refers to the need to protect hedgerows from damage and/or degradation.

7.1.12 While I acknowledge that the site is located along a section of the road which is the subject of linear development to the west, it remains predominately rural in character. The principle behind the adopted policies is to protect the rural character of the area and to assimilate development into the existing landscape. The removal of mature hedgerows and trees along roadside boundaries to facilitate the opening of new accesses and the required sightlines is, therefore, limited to those circumstances where the access is considered essential and no alternative are available. The adopted policy position would, in my view, not include the current scenario where the applicant proposes to remove c.96.5m of mature roadside boundary to achieve the required sightlines for a new access.

7.1.13 I am not satisfied that the applicant has demonstrated that there is no alternative available and that the removal of the existing mature roadside boundary to facilitate an access at this location is essential in order to comply with the policy requirements in terms of an essential need for the removal of such a large section of roadside boundary as set out in the current County Development Plan. To permit such an access under the circumstances presented in this application would set an undesirable precedent. Such an approach would lead to a proliferation of boundary removal along county roads in rural areas in direct contravention of the overall objective of the Plan which is protect the rural character and biodiversity value of such areas.

- 7.1.13 I therefore consider that the achievement of the required sightlines at the proposed entrance would require the removal of in excess of c.96m of mature roadside boundary which would be contrary to Section 17.7.1, Section 18.29.3 and Objective NH07 of the County Development Plan. Therefore, on the basis of policy issues alone, I would consider the proposal unacceptable.
- 7.1.14 The question of ownership of boundaries is a legal matter and outside the scope of a planning permission. In this context, I would draw attention to Section 34 (13) of the Planning and Development Act 2000 (as amended) which reads '*A person shall not be entitled solely by reason of a permission under this section to carry out development*'.

7.2. Public Health.

- 7.2.1 The appellant has raised concerns in the grounds of appeal with the results reported in the site characterisation form submitted with the application. The appellant's assertions are based on test results submitted for the site and adjoining sites and her local knowledge of drainage conditions in the area.
- 7.2.2 The applicant proposes to install an onsite wastewater treatment system and soil polishing unit with discharge to groundwater. Connection to Water mains is also proposed.
- 7.2.3 The site is located in an area which is classified as low vulnerability and has no ground water protection scheme in place. The Site Characterisation Form refers to past experience in the area as generally poor draining soils. No evidence of poor drainage (vegetation or ground conditions) was recorded at the time of the assessment in April 2017. Section 3.2 of the Form recorded that the watertable was encountered at a depth of 1.8m. The soil is described as Irish Sea Tills. The Site Characterisation report submitted with the application concluded that an Oakstown BAF 6 PE treatment system and a soil polishing filter system would be suitable. A T value of 19.03 (min/25mm) is reported. The Environment Section noted no objection to the proposal and were satisfied on submission of further information that the proposed system was adequate for the application site.

7.2.4 A site inspection was carried out on the 8th February 2018 following a period of heaving rainfall. The trail holes were filled in. No vegetation indicative of poor drainage was observed, a small area of localised ponding was noted in the south western corner of the site. There is a wet ditch running along the southern boundary of the site parallel to the road. The site rises, south to north, away from the road and the area where the ponding was observed, the proposed wastewater treatment system would be located in the north eastern corner of the site at an elevated point relative to the south western corner.

7.2.5 I note the concerns raised by the appellant regarding the findings reported in the site characterisation form on file and references to previous tests carried out on adjoining sites and in the field from which the site is taken. No assessments have been carried out by the appellant to support their assertions. Based on the information on file and the observations at the time of inspection, there is no evidence to dispute the information presented in the site characterisation form submitted with the application. I would further highlight to the Board that infiltration rates can vary significantly within a short distance. I am satisfied based on the information on file that the proposed system once installed to the required specifications in conjunction with a soil polishing filter in compliance with the "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009 and would not give rise to public health concerns.

7.2.6 I therefore consider that the issues relating to public health raised in the appeal should not be upheld

7.3 Appropriate Assessment.

7.3.1 Having regard to the nature and scale of the development and its location relative to European sites, I consider it is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on a European Site.

8.0 Recommendation

8.1 I recommend that planning permission should be refused for the proposed development, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

1. The site of the proposed development is located within a 'Stronger Rural Area' as set out in the Wexford County Development Plan 2013-2019, where emphasis is placed on the importance of integrating with the landscape and of siting of development to minimise visual intrusion as set out Section 17.7 and Section 18.29.3 of the County Development Plan. Having regard to the removal of the roadside boundary, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape, would militate against the preservation of the rural environment as set out in Objective NH07 of the Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Dáire McDevitt
Planning Inspector
28th February 2018