



An
Bord
Pleanála

Inspector's Report ABP-302150-18.

Development	35 dwellings.
Location	Killea Road, Dunmore East, Co. Waterford.
Planning Authority	Waterford City & County Council.
Planning Authority Reg. Ref.	17/485.
Applicant(s)	Michael Bredican.
Type of Application	Permission.
Planning Authority Decision	Grant subject to conditions.
Type of Appeal	Third Party.
Appellant(s)	Dunmore Holiday Villas.
Observer(s)	None.
Date of Site Inspection	9 th October, 2018.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. Dunmore East is a fishing port village in Waterford Harbour and is a significant tourism offer in the south eastern area of the Ireland. Development in the village has extended from the traditional village centre towards the north and west.
- 1.2. The subject site is located to the north of Dunmore East, but within the settlement boundary, and immediately north of the existing Dunmore Holiday Villas. The site is located to the east of the Killea Road and the site has a significant slope from the road to the eastern boundary. The site has a stated area of 1.7ha and while the main body of the site is regular in its shape, there is a square section of the existing field, which lies immediately adjacent to the existing Dunmore Holiday Villas access road, omitted from the proposed development site. Access to the site is proposed over the existing Dunmore Holiday Villas access road and it is proposed to construct a new road of approximately 90m in order to access the subject site.

2.0 Proposed Development

- 2.1. Permission is sought for a residential development comprised of 9 three bedroom detached houses, 22 three bedroom semi-detached houses, 4 three bedroom semi-detached part V social & affordable houses, the associated road and site works including a large public outdoor space with gabion retaining walls, a surface water attenuation system and extensive landscaping treatment of boundaries & internal outdoor spaces all at Killea Road, Dunmore East, Co. Waterford.
- 2.2. The development proposes two house types being a detached and a semi-detached. All houses propose 3 bedrooms with the same floor plan, save for handed semi-detached. The development originally proposed 9 no detached houses and 22 semi-detached houses.
- 2.3. The Board will note that a third house type was introduced following a request for further information from the Planning Authority.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission for the proposed development, subject to 25 conditions. A number of conditions require compliance prior to the commencement of development on the site, including condition 10 which states as follows:

Condition no. 10:

(a) This planning permission is predicated upon the developer obtaining the necessary consents (and complying with all conditions) from Irish Water to connect to the water and foul drainage networks. No development shall commence until such time as the developer has obtained a Connection Agreement from Irish Water for the provision of water services necessary to enable the proposed development.

(b) Prior to the commencement of development full details of the Connection Agreement with Irish Water shall be submitted to, and agreed in writing with, the Planning Authority. The submitted details shall include the necessary consents and compliance with conditions, as may be required by Irish Water, for connection to the foul drainage network and water network.

Reason: To ensure an adequate standard of development and in the interest of the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The original planning report considered that the proposed development would be acceptable in principle given the planning history associated with the site as well as the zoning afforded to the site. A number of concerns were raised however, in terms of design, layout, cutting and fill required to accommodate the development as well as the provision of open space provision and access to services which resulted in a request for further information issuing.

Following receipt of the response to the FI, the applicant was requested to re-advertise the proposed development.

The final planning report on file concluded that while there were a number of outstanding issues to be addressed, they could be dealt with by way of conditions. The recommendation recommends that permission be granted.

3.2.2. Other Technical Reports:

Housing Engineer: Part V agreement is satisfactory.

Water Services: Further information required in relation to the design of surface water drainage, letter of consent to discharge from the Dunmore Holiday Villas Management Company for all water services and a confirmation from Irish Water that the proposals are acceptable.

Evidence of Pre-connection Agreements from Irish Water for connection of each proposed properties to the IW sewer and watermain networks required.

Irish Water: Further information required, including a letter of permission to discharge from DHV Management Company and a pre-planning enquiry application to Irish Water to ascertain whether proposals will be acceptable.

3.2.3. Third Party Submissions:

There were 2 submissions from third parties in relation to the proposed development, from Fewer Harrington & Partners, on behalf of the Management Company of Dunmore Holiday Villas and Shona Dunphy. The issues raised reflect those issues raised in the appeal and are summarised as follows:

- Dunmore Holiday Villas has not been taken in charge and services are maintained privately.
- The development does not comply with the current development standards as set out in the development management standards, Variation 1 as adopted by the council.
- The extent of cut and retaining by gabion baskets proposed seem excessive considering the landscape, ecology and drainage of the Killea valley.

- The development does not offer anything to the Killea Road and turns its back to the road.
- Details of boundary treatments have not been provided.
- Query raised regarding the flow of storm water through the stream flowing through Dunphy property. Issue raised in terms of liability for damage as a result of any overflows.
- Question raised over access to site and information provided at a meeting that all lands between the Fairways, Killea and Queally's caravan park, Dunmore East, must access via the Fairways Road.

4.0 Planning History

PA ref 05/1310: Permission granted for the construction of residential development comprising 7 no. detached 4 bed houses, 10 no. detached 3 bed houses and 10 no. terraced 3 bed houses, associated road and site works including a large public outdoor space with gabion retaining walls, a wastewater treatment system and extensive landscaping treatment of boundaries & internal outdoor spaces.

PA ref 11/435: Permission was granted to extend the duration of 05/1310.

The Planning Application Form, question 19, notes that a pre-planning meeting was held with the Planning Department.

5.0 Policy Context

5.1. Development Plan

The village of Dunmore East is included as a District Service Centre in the Waterford County Development Plan, 2011-2017 and is zoned R1 in the settlement plan, contained in Volume 2 of the Plan. In addition, the site has a specific development objective afforded to it, being DO13, which states 'these lands are suitable for medium density residential development. Any design proposal shall include a strong building line to the public road, with an emphasis on high quality design and finishes.'

Medium density is advised as being in the range of 15-30 dwellings per net hectare.

Appendix D of the LAP provides for the Waterford County Development Plan, 2011-2017 Chapter 10 Development Standards.

5.2. Natural Heritage Designations

The site is not located within any designated site. The site is located approximately 3km to the south of River Barrow and River Nore SAC, Site Code 002162.

In addition, the site is located approximately 5km to the east of Tramore Dunes & Backstrand SAC, Site Code 000671 and Tramore Back Strand SPA, Site Code 004027, and approximately 8km to the west of the Hook Head SAC, Site Code 000764.

6.0 The Appeal

6.1. Grounds of Appeal

This is a third party appeal against the decision of the Planning Authority to grant permission for the proposed development. The grounds of appeal are similar to those raised with the Planning Authority and are summarised as follows:

- DHV do not wish to stall development but require clarification of the position regarding the use of third party infrastructure which is privately owned and maintained.
- Condition 10 of the grant of permission requires the applicant to obtain the necessary consents from Irish Water to connect to water and foul drainage works. A letter of permission to discharge is required from the management company of DHV.
- A letter was requested by the applicant but no satisfactory agreement could be reached as the DHV estate has not been taken in charge by the City & County Council.
- If the estate / drainage in DHV is not taken in charge by the Council and / or Irish Water, DHV has no protection against additional capacity added upstream of the system, and any future problems arising.

- The Management Company of Dunmore Holiday Villas would not have the financial capacity to deal with a significant drainage issue were it to arise in the future.
- Given the level of zoned lands to the north of the subject site, there would be future requests for 'flow through' connections. The taking in charge of DHV by the council would appear to address the issue and in the absence of this, the third party has no alternative but to appeal the decision and ask the Board to refuse permission until such time as a solution has been found.

6.2. Applicant Response

The applicant submitted a response to the third party appeal. The submission however, was received outside the appropriate period and was returned.

6.3. Planning Authority Response

The Planning Authority has not responded to this third party appeal.

6.4. Observations

None.

7.0 Assessment

I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards
2. Planning History & Water Services
3. Roads & Traffic
4. Appropriate Assessment
5. Environmental Impact Assessment

7.1. Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards:

7.1.1. The subject site is located in the northern area of Dunmore East, Co. Waterford and on lands zoned for residential development. It is the stated objective of this zoning to protect the amenity of existing residential development and to provide for new residential development at medium density. As such, the principle of development at this location is considered acceptable and in compliance with the general thrust of national guidelines and strategies.

7.1.2. The 2008 guidelines updated the Residential Density Guidelines for Planning Authorities (1999) and continue to support the principles of higher densities on appropriate sites in towns and cities and in this regard, I consider that it is reasonable to support the development potential of the subject site in accordance with said guidelines. The development proposes the construction of 35 dwelling units on a site covering approximately 1.7ha and in terms of the recommendations of the Guidelines, the density could be considered at the lower levels permissible on such zoned lands. However, given the specific nature of site and its location within the context of Dunmore East, I have no objection to the proposed density of same.

7.1.3. The Board will note that the response to the further information request resulted in some amendments to the proposed scheme, primarily in terms of house designs. In this regard, I proposed to consider the three house types, as opposed to the originally proposed two house types. I propose to deal with water service and roads issues further below in this report.

7.1.4. The objective of the Sustainable Residential Development in Urban Areas guidelines is to produce high quality, and crucially, sustainable developments. Section 5.6 of the guidelines provides certain safeguards with regard to such urban developments to deal with both existing and future residents the area of the proposed development and I consider it reasonable to address the proposed development against same.

a) *Compliance with the policies and standards of public and private open space adopted by development plans;*

- In terms of private open space, the Board will note that proposed development layout, as permitted, provides for rear gardens generally

having a depth of between 9m to 11m and with areas of approximately between 80m² to 155m². The Development Plan guidelines require that 120m² is provided for semi-detached houses with 150m² required for detached houses.

- In terms of compliance with the Development Plan requirements for private open space, the Board will note the response to the further information request where the applicant has indicated that the rear gardens of units 5-21 have been increased in size to meet the requirements. The increase in size includes the proposed gabion wall, which rise to 4m towards the north western area of the site, as part of the open space. I would consider that the private open space provision is inadequate in terms of the development plan requirements. I do note that the CDP facilitates, in certain circumstances, that the standards may be reduced for smaller houses if the PA considers it acceptable. However, I do not consider the houses proposed to constitute small houses.
- With regard to public open space, the proposal as amended, proposes to retain a central amenity space with a stated area of 2,706m². The open space proposed would equate to approximately 15.5%. In this regard, I accept that the open space provision generally accords with the requirements of the County Development Plan.

b) Avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;

- The subject site is zoned for residential development and as such, the principle of the development is considered acceptable. I am generally satisfied that the density proposed adequately complies with the plan requirements.
- The Board will note that the current development plan requires a 4m minimum separation distance between the gables of non-adjoining dwellings. The proposed development complies with the minimum standard.

c) *Good internal space standards of development;*

The proposed development provides for 3 different house types. The Waterford County Development Plan, Section 10.3 deals with development standards for new development with Table 10.4 providing guidance for minimum standards for housing estate developments in urban areas. The details of the proposed houses are as follows:

Type	Unit Type	Floor Area
A	Detached (3-bed)	117.2m ²
B	Semi-detached (3-bed)	117.2m ²
C	Semi-detached (4-bed)	138.8m ²

In terms of above, I am satisfied that the proposed houses offer appropriate accommodation, storage and rooms of a size which will support a high level of residential amenity. I have no objections to the proposed houses in terms of the proposed internal spaces proposed.

d) *Conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;*

Given the nature and scale of the proposed development, I am satisfied that the development might reasonably be considered as being acceptable in principle, given the zoning afforded to the subject site. In principle, I have no objection to the proposed house designs.

I have concerns in terms of the proposed layout and house designs however as they relate to the development objective afforded to the site, which requires that development have a strong building line to the public road. The proposed development is inward looking with the rear of houses facing the public road. Also, given the nature and extent of excavation and filling proposed, I would be concerned that the development is inappropriate on this site.

e) *Recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area;*

Not relevant in this instance as there is no protected structure or Architectural Conservation Area in proximity to the subject site.

f) *Compliance with plot ratio and site coverage standards adopted in development plans.*

The Waterford County Development Plan provides guidance in terms of site coverage and density and having regard to the nature of the subject site, I am satisfied that the proposed development is acceptable in my opinion, in terms of density, site coverage and plot ratio.

7.1.5. It is acknowledged that national guidelines encourage the provision of higher density development within urban areas in order to use serviced lands in a sustainable manner, but regard has to be given to the existing nature of development in the vicinity of the subject site as well as the nature and scale of the surround area and existing residential estates.

7.1.6. In terms of compliance with the Dunmore East Plan, Development Objective DO₁₃ relates to the subject site. This objective states that 'these lands are suitable for medium density residential development. Any design proposal shall include a strong building line to the public road, with an emphasis on high quality design and finishes.' The development proposes 34 residential units on the site which has significant level changes across it, and 17 of which will back onto the public road. In developing the site, significant excavation and filling will be required.

7.1.7. Having undertaken a site visit, I have concerns that the house designs, with which I have no objection in principle, may not be particularly suited to the subject site. This concern is compounded by the significant excavation proposed to accommodate the houses on the site. Notwithstanding the planning history associated with this site, and while I accept that some level of excavation and filling is both necessary and acceptable to develop the site, I am not satisfied that the development as proposed is acceptable.

7.1.8. Having regard to the above and acknowledging that the current Plan for the area zones the lands for residential development, I consider that while the principle of the proposed development is acceptable, I do not consider that the proposed layout accords with the requirements of the CDP as it relates to the provision of private open space. In addition, having regard to the proposal for 17 of the houses to

back onto the Killea Road, I do not consider that the development as proposed accords with Objective DO₁₃ of the Dunmore East Plan which requires a strong building line to the public road.

7.2. Planning History & Water Services

7.2.1. The Board will note the planning history associated with the site, where permission was previously granted for the construction of a residential development comprising 27 houses, associated road and site works including a large public outdoor space with gabion retaining walls, a wastewater treatment system and extensive landscaping treatment of boundaries & internal outdoor spaces. This permitted development was not constructed. It is clear that the principle of the development is acceptable at this location, given the zoning objective afforded to the site. The primary issue arising relates to water services and connections to foul and water services. The third party submissions indicate that the existing services within the Dunmore Holiday Villas are privately owned and maintained and no permission has been granted to connect to these services.

7.2.2. In terms of water services, the Board will note that the proposed development is seeking to connect to existing services located within the Dunmore Holiday Villas (DHV) site. It is submitted by the third party appellant that the infrastructure is privately owned and has not been taken in charge and Irish Water has acknowledged this by requiring a letter of permission to discharge to the DHV infrastructure from the DHV management company. The IW report also requires that technical data stating that the system has sufficient capacity, with a full engineering report/survey of the existing system showing pipe type, levels, manhole locations and point of discharge to the public system is required. It is advised from the third party appellant that no agreement could be reached in this regard. As such, the permission to discharge has not been provided.

7.2.3. While I have no objections in principle to the proposed development, I would have a concern that if permitted, the proposed development could potentially have a negative impact on the amenities of the existing residential development as it has not been shown that the water services network within the DHV estate is capable of accommodating the level of development proposed. However, the Board will note the

legal opinion submitted by the applicant in response to the further information request in relation to this issue.

- 7.2.4. Should the Board be minded to grant permission in this instance, I would consider it necessary that appropriate conditions are included to prevent any development occurring on the site until such time as Irish Water requirements have been complied with and that all the necessary consents have been secured. In terms of the third party appeal, I would refer the Board to Section 34(13) of the Planning & Development Act, 2000 as amended, states that 'a person shall not be entitled solely by reason of a permission under this section to carry out any development'.
- 7.2.5. In this regard, I do not consider that the proposed development should fall on this issue and should the Board be minded to grant permission in this instance, a suitably worded condition requiring all necessary consents be submitted prior to the commencement of any development on the site.

7.3. Roads & Traffic:

7.3.1. Access to the subject site is proposed over the existing and permitted estate road serving Dunmore Holiday Villas. This access road has an existing width of approximately 6m and extends from the public road to the west for approximately 36m before turning south and into the DHV estate. There are no footpaths along this access road. If permitted, the proposed development will use the existing estate road, and will turn in a northerly direction to access the subject site. The proposed access road will be 6m in width.

7.3.2. In terms of the design of the proposed development, including the entrance and access to the site, and notwithstanding the previous planning permission pertaining to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The DMURS provides radically new design principles and standards from DMRB. The implementation of DMURS is obligatory and divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S) and is applicable in the case at hand. The Manual seeks to address street design within

urban areas (i.e. cities, towns and villages). It sets out an integrated design approach. What this means is that the design must be:

- a) Influenced by the type of place in which the street is located, and
- b) Balance the needs of all users.

7.3.3. DMURS sets out a road user priority hierarchy as follows:

- | | | | |
|---|--------------|---|------------------|
| 1 | Pedestrians; | 3 | public transport |
| 2 | cyclists | 4 | car user. |

The key design principles for roads include –

- Integrated streets to promote higher permeability & legibility;
- Multi-functional, placed-based, self-regulations streets for needs of all users;
- Measuring of street quality on the basis of quality of the pedestrian environment
- Plan-led, multidisciplinary approach to design.
- The importance of this design approach is dependent on the site context, but also on road type - local, arterial or link. The DMURS defines a hierarchy of places based on place-context and place-value, with centres (such as town and district centres) having highest place-value. Places with higher context / place-value require:
 - Greater levels of connectivity;
 - Higher quality design solutions that highlight place;
 - Catering for and promotion of higher levels of pedestrian movement;
 - A higher level of integration between users to calm traffic and increase ease of movement for vulnerable users.

7.3.4. DMURS provides detailed standards for appropriate road widths - 2.5m to 3m per lane on local streets and a 3.25m standard for arterial and link route lanes, junction geometry - greatly restricted corner radii to slow traffic speed and improve ease of pedestrian crossing, junction design, and requires that roads are not up

designed above their speed limit. In terms of the above requirements of DMURS, the applicant has sought to design the internal roads of the proposed estate to ensure compliance.

7.3.5. The Board will note the intention to provide a central area of public open space area and that pedestrians will have to navigate crossing the estate road in order to access this area. I have concerns that the proposed layout of the subject appeal site seems to prioritise car users, which would be contrary to the requirements of DMURS. Should the Board be minded to grant permission in this instance, I would recommend that a condition be included to provide appropriate traffic calming measures, in the interest of pedestrian safety and compliance with DMURS.

7.3.6. In terms of permeability, DMURS seeks to promote high connectivity which maximises permeability particularly for pedestrians and cyclists. In order to achieve such networks, DMURS seeks to limit the use of dendritic networks and cul-de-sacs that provide no through access. In terms of the proposed development, the Board will note that there are two opportunities for potential expansion of the estate to the north, and a further opportunity to connect to the east with the existing estate road terminating immediately adjacent to that boundary. There is no opportunity for pedestrian or cyclists permeability through the site other than via the proposed vehicular access.

7.3.7. In terms of parking, the Board will note that each proposed house will have 2 spaces. This accords with the requirements of the County Development Plan. In addition, there are 14 no. visitor car parking spaces proposed within the development. In terms of the construction phase of the proposed development, I accept that there is potential for some impacts to existing road users. However, I am satisfied that these impacts are generally temporary in nature.

7.3.8. In conclusion, the Board will note that the zoning of the subject site, affords potential for a residential development. In terms of general roads and traffic issues, I am satisfied, based on the information submitted to date, and subject to appropriate conditions, that the requirements of the Design Manual for Urban Roads and Streets, have and can be met. I am generally satisfied that the potential impact of the proposed development, and the traffic generated by same on the local road network,

that the proposed development would not result in a significant traffic hazard for existing residents in the area and would not adversely affect the existing residential amenities of the existing residents by reason of the additional traffic resulting from the proposed development.

7.4. Appropriate Assessment

The site is not located within any designated site. The site is located approximately 3km to the south of River Barrow and River Nore SAC, Site Code 002162. In addition, the site is located approximately 5km to the east of Tramore Dunes & Backstrand SAC, Site Code 000671 and Tarmore Back Strand SPA, Site Code 004027, and approximately 8km to the west of the Hook Head SAC, Site Code 000764.

Having regard to the location of the subject site immediately adjacent to an established residential area, together with the nature and scale of the proposed development on zoned lands, I am satisfied that there is no potential for impact on any Natura 2000 site, warranting AA.

7.5. Environmental Impact Assessment

Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

It is recommended that planning permission be refused for the proposed development for the following reasons.

9.0 Reasons and Considerations

1. Having regard to the objectives of the current development plan for the area, and in particular Objective DO₁₃ of the Dunmore East Plan which requires a strong building line to the public road and having regard to the pattern of development in the vicinity, it is considered that, by reason of the proposed site layout which proposes 17 houses backing onto the Killea Road, together with the extent of excavation and fill proposed to accommodate the residential development, the proposed development would be contrary to the development plan requirements and would seriously injure the visual and general amenities of the area. The proposed development would, therefore, conflict with the objectives of the development plan and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to its location at the edge of Dunmore East, it is considered that the proposed development would be out of character with the pattern of development in the area and would result in the poor disposition and quantity of private open space, contrary to the minimum standards stipulated in the current Waterford County Development Plan, and a road layout which would not be conducive to pedestrian safety.
The proposed development would thereby constitute a substandard form of development which would seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.

A. Considine
Planning Inspector
28th October, 2018