



An  
Bord  
Pleanála

## Inspector's Report ABP-302600-18

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<b>Development</b>	Permission to construct a fully serviced dwelling house.
<b>Location</b>	Eardownes Great, Lady's Island
<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20180792
<b>Applicant(s)</b>	Deirdre Scallan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	To Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Diarmaid MacDermott
<b>Observer(s)</b>	No observers
<b>Date of Site Inspection</b>	12.12.2018
<b>Inspector</b>	Erika Casey

## 1.0 Site Location and Description

1.1. The subject site is located in the townland of Eardownes Great, Lady's Island. It is accessed via the existing Lakeside housing development. Lady's Island is a small settlement comprising ribbon housing development along the approach roads and small clusters of housing within the village core. The settlement is served by a church, petrol station, pub and convenience store. The site is greenfield in character with an existing hedgerow located along the northern boundary. There are two existing dwelling houses located to the south of the site. Agricultural lands are located to the north, east and west.

## 2.0 Proposed Development

2.1. The proposed development comprises a single storey, 2 bedroom dwelling with a floor area of 85 sq. metres on a site is 0.08ha. The overall height of house is 5.6 metres. The elevations will have a plaster finish with some sections of stone cladding. The roof is to be finished in blue/black slates. Access to the site is via the Lakeside Estate, through the dwelling located directly to the south which is in the ownership of the applicant's family. It is proposed to connect the dwelling to the existing foul and surface water mains.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1 To Grant Permission subject to conditions. Conditions generally standard in nature. **Condition no. 7** states:

*"The upgrade and extension of the access road, which is subject of this permission shall be carried out and complete prior to the occupation of the dwelling, and maintained thereafter.*

*Reason: To ensure the development is carried out and completed to an acceptable standard and to ensure the access laneway is maintained in a suitable condition."*

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports (31.07.2018 and 04.09.2018)

- The application site is positioned adjacent to the settlement of Lady's Island and as such the principle of constructing a dwelling in this location is considered acceptable subject to all other material considerations.
- Notes that the dwelling is located c. 29 metres from the boundary of the nearest residential property and c. 40 metres from the rear wall of that property at the closest point. It is considered that the proposed separation distance would be sufficient to ensure that the residential amenity of the existing property is preserved. Furthermore, the applicants have included planting proposals for the boundaries which would be secure if permission is granted.
- Applicant has confirmed that there is a right of way through the existing estate from the public road and that they have consent to use the access road.

### 3.2.2. Other Technical Reports

**Fire Authority (28.06.2018):** No objection.

**Executive Engineer (27.06.2018):** No objection subject to standard conditions.

## 3.3. Prescribed Bodies

**Irish Water (03.05.2018):** Notes that the proposed connection to the Irish Water network can be facilitated subject to a valid connection agreement.

## 3.4. Third Party Observations

**Diarmaid Mac Dermott, Highfield, Lakeside, Our Lady's Island, Eardownes Great, Co. Wexford**

- The observation is similar to the appeal lodged and raises concerns regarding impacts on the residential amenities of his property, visual impact and that the applicant has no need for a rural dwelling.

## 4.0 Planning History

### **Planning Authority Reference 20012039**

- 4.1 Permission granted in March 2001 for the erection of 2 no. fully serviced dwelling houses, domestic garages and associated site works to Jean and Deirdre Scallan.

### **Planning Authority Reference 20052438**

- 4.2 Permission granted on September 2005 for the erection of a fully serviced dwelling house and domestic garage with associated site works to Deirdre Scallan.

Condition 3 stated:

*“Prior to the commencement of development the applicant and his/her/their heirs will enter into an agreement with the Planning Authority pursuant to this condition and pursuant to Section 47 of the Planning and development Act 2000. The agreement will contain an undertaking and covenant by the applicant with the Planning Authority that the applicant or the applicants will use the property as his/her/their primary permanent residence for a period of 5 years from commencement of occupation. The Planning Authority will consent to any sale of the property by a lending institution in service of its power as a mortgagee and likewise consent to any sale by a person deriving title from the lending institution. The cost of agreement shall be born by the applicant.*

*Reason: To ensure that the development in this rural area is appropriately restricted the interests of proper planning and sustainable development and visual amenity.”*

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1 The operative Development Plan is the Wexford County Development Plan 2013 to 2019. The plan sets out its rural housing policy in Chapter 4 and Lady’s Island is identified as an area under Strong Urban Influence. The following objectives are of relevance:

## **Objective RH01**

*To facilitate the development of individual houses in the open countryside in 'Areas Under Strong Urban Influence' in accordance with the criteria laid down in Table No. 12 subject to compliance with normal planning and environmental criteria and the development management standards laid down in Chapter 18.*

## **Objective RH02**

*To facilitate individual houses, other than those referred to in 'Areas Under Strong Urban Influence' in Table No. 12, in the existing settlements including those settlements defined in the settlement hierarchy as Strong Villages, Smaller Villages and Rural Settlements, subject to complying with normal planning and environmental criteria and the development management standards laid down in Chapter 18.*

5.1.2 Permitted development under areas of strong urban influence include:

*"Housing for 'local rural people' building permanent residences for their own use who have a definable 'housing need' building in their 'local rural area'".*

5.1.3 Section 3.4.10 sets out guidance regarding rural settlements:

*"These settlements are best described as rural areas where a collection of one-off rural dwellings and local community or social services, such as a church, school, public house or a shop are clustered around a focal point, such as a crossroads. The Settlement Strategy for these areas is to facilitate a small number of additional dwellings to consolidate the existing pattern of development. Appropriately designed cluster type developments will be considered at these locations subject to complying with other planning, traffic safety and environmental criteria. A cluster development is defined as small residential development comprising of between two and five dwelling houses served by a communal vehicular entrance point and access road from the public road.*

*Local need or the requirement to enter an occupancy agreement will not apply to the occupiers of single dwellings or cluster developments within the boundary of these rural settlements."*

5.1.4 Lady's Island is also located in a coastal zone. It is stated in the plan:

*"In coastal areas there has been a significant pressure for development and as a result some of these areas are reaching capacity in terms of their ability to*

*accommodate further development. There is still demand for development in these areas and this demand needs to be managed in a way which does not take away from the special character of these areas or interfere with sensitive areas or coastal processes.”*

5.1.5 **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).

5.1.6 **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.

## 5.2 **Sustainable Rural Housing Development Guidelines**

5.2.1 The guidelines require a distinction to be made between ‘Urban Generated’ and ‘Rural Generated’ housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those with proximity to the immediate environs or close commuting catchment of large cities and towns. Examples are given of the types of circumstances for which ‘Rural Generated Housing Need’ might apply. These include ‘persons who are an intrinsic part of the rural community’ and ‘persons working full time or part time in rural areas’.

## 5.3 **National Planning Framework – Project Ireland 2040, DoHP&LG 2018**

5.3.1 National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations.

## 5.4 **Natural Heritage Designations**

5.4.1 The nearest Natura 2000 site is the Lady’s Island SPA (004009) and the Lady’s Island Lake SAC (000704) located c. 320 metres to the south of the site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- Consider that the proposed development will have an adverse impact on their residential amenities and will cause a visual intrusion. State that the dwelling would destroy the vista and existing uninterrupted views from their dwelling. Stated that the dwelling should be sited elsewhere on the landholding.
- Concerns regarding construction stage impacts, particularly noise.
- State that the Scallan family own the land in which their property is built and that the applicant was the former owner of the property within which they reside. Note that permission was previously granted to the applicant in 2005 for a one off dwelling to which an occupancy restriction applied. State that the applicant has now sold that dwelling and seeks to build another house. Consider this contrary to policy.
- Request that if permission is granted that additional landscaping be implemented to screen the new dwelling.

### 6.2. Applicant Response

- Note that the house is single storey with a limited floor area of 85 sq. metres and is located c. 40 metres away from the appellant's property. It is considered that no overlooking issues will arise.
- States that the subject site is in the ownership of her parents. Considers that it is irrelevant as to when a previous application was made to the council and that the conditions of the previous permission were fully complied with.
- States that she is a native of the area and that her family all live in proximity to the site. Notes that she needs to downsize her existing house and requires the new dwelling so that she can continue to reside close to her family.

### 6.3. Planning Authority Response

- No response received.

#### 6.4. **Observations**

- No observations.

### 7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal and it is considered that no other substantive issues arise. Appropriate Assessment and EIA Screening also needs to be addressed. The issues can be dealt with under the following headings:

- Compliance with Rural Housing Policy.
- Impact on Residential Amenities.
- Appropriate Assessment.
- EIA Screening.

#### 7.2 **Compliance with Rural Housing Policy**

7.2.1 Concerns have been raised by the appellants that the applicant is not compliant with the relevant rural housing policy. The subject site is located in Lady's Island which is a small settlement located to the south of Rosslare Harbour adjacent to Lady's Island Lake. The settlement comprises a cluster of residential properties with limited social and physical infrastructure including a church, public house and shop. Lady's Island is identified as an area under 'Strong Urban Influence' and is also within a coastal area, and thus subject to additional housing demand and pressure.

7.2.2 The site is located to the north of an existing residential estate known as Lakeside which accommodates c. 40 dwellings. It is proposed to access the site via the existing access road serving this estate as well as the residential property located directly to the south of the site, which is in the ownership of the applicant's parents.

7.2.3 It is acknowledged in the County Development Plan that the settlement strategy is to facilitate additional dwellings in rural settlements to consolidate the existing pattern of development. It is detailed that small clusters of additional dwellings will be facilitated subject to normal criteria including design, traffic, environmental criteria etc. The subject dwelling however, is isolated from the settlement core and in my



view, its location does not represent a co-ordinated approach to promoting appropriate infill development that would consolidate or reinforce the existing pattern of development in Lady's Island. I note that there is no defined settlement boundary for Lady's Island and the subject lands are unzoned. Sequentially, the site is located on the periphery of the settlement.

7.2.4 In this context, the development must be considered in my view, as a rural dwelling located at the edge of an existing settlement and, therefore, should be assessed in accordance with the criteria set out at a national and local level for such dwellings.

7.2.5 It has been confirmed (in both the submission by the applicant and the appellant) that the applicant was previously granted planning permission for a dwelling in 2005. This dwelling, located to the immediate south of the site, was sold in 2018 to the appellants. According to the planning application documentation submitted, the main rationale for seeking permission for a second dwelling at this location stems from financial difficulties and the desire to downsize to a smaller property.

7.2.6 I consider that there is a complete paucity of information to demonstrate that the applicant has any defined economic or social need to reside in the area, other than a desire to be in proximity to her parent's house. I do not consider that the applicant comes within the scope of the rural generated housing need criteria for an additional dwelling at this location. In light of the fact that the site is located in an Strong Urban Influence, wherein the policy framework seeks to strictly control single houses in the countryside, to protect the county's landscapes and to direct urban generated housing to established settlements, it is considered that the proposed development would contravene the rural housing policies set out in the guidelines.

7.2.7 In conclusion, the development represents a piecemeal, haphazard and un-coordinated form of backland development that does little to contribute to the consolidation of the existing pattern of urban development in the settlement. Furthermore, the applicant has previously benefitted from permission for a rural house at this location and has not demonstrated a reasonable or defined social or economic need to reside at this location. The development is thus considered contrary to the proper planning and sustainable development of the area.

### **7.3 Impact on Residential Amenity**

7.3.1 The appellant sets out that the dwelling will have a negative impact on the residential amenities of their properties and an adverse visual impact. I note that the dwelling proposed is relatively modest in scale with a limited floor area of 85 sq. metres and a height of 5.6 metres. The dwelling is located c. 29 metres from the boundary to the south and c. 40 metres to the façade of the appellant's property. Having regard to the proposed separation distances, I am satisfied that no adverse or overshadowing impacts are likely to occur. The visual impact of the development could be further mitigated by way of appropriate landscaping.

7.3.2 With regard to construction impacts, I consider that these are likely to be short term and can be controlled and mitigated through appropriate construction management and limiting hours of construction activity.

### **7.4 Appropriate Assessment**

7.4.1 Having regard to the nature and scale of the proposed development, a single rural house connected to the public mains, and the distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **7.5 EIA Screening**

7.5.1 Having regard to nature of the development comprising a single rural house connected to the public mains and the absence of any significant environmental sensitivity in the vicinity/the absence of any connectivity to any sensitive location, 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**

8.1. It is recommended that permission be refused permission for the reason set out below.

## 9.0 Reasons and Considerations

1. The site of the proposed development is located within an “Area Under Strong Urban Influence” as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2005. Furthermore, the subject site is located in an area that is under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area. Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need to live in this rural area. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location. The proposed development, because of its location constitutes inappropriate, uncoordinated and piecemeal backland development. The proposed development would, therefore, be contrary to the Ministerial Guidelines and to the over-arching national policy, notwithstanding the provisions of the current Wexford Development Plan, and would, be contrary to the proper planning and sustainable development of the area.

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**Erika Casey**  
**Senior Planning Inspector**

**13<sup>th</sup> of December 2018**