



An
Bord
Pleanála

Inspector's Report ABP-302882-18

Development	Construction of single storey dwelling, 4 no. stables, general storage shed, new entrance and associated site works
Location	Portally, Co. Waterford
Planning Authority	Waterford City & County Council
Planning Authority Reg. Ref.	18557
Applicant	Claire Jones
Type of Application	Permission
Planning Authority Decision	Refuse Planning Permission
Type of Appeal	First Party – v – Refusal
Appellant	Claire Jones
Observers	None
Date of Site Inspection	13 th , December 2018
Inspector	Paddy Keogh

1.0 Site Location and Description

- 1.1. The appeal site which has a stated area of 0.61 hectares is located in a coastal rural area in the townland of Portally c.3km southwest of the village of Dunmore East. The site is accessed via a narrow and poorly surfaced minor road linking Portally Cove with the Dunmore East to Tramore Road. The access road terminates at the Cove. Levels in the vicinity of the site and across the site itself fall away in a south-easterly direction towards the coast and cove.
- 1.2. The north-eastern (roadside) boundary of the site is defined by mature hedgerow planting containing a gated field entrance. The southern and western boundaries of the site are also defined by mature hedgerows. The eastern boundary is undefined.
- 1.3. The site is in agricultural use, open in character and currently grassed.
- 1.4. The access road serving the site also serves a significant number of houses and agricultural buildings located between the coast road and Portally Cove.
- 1.5. Appendix A includes maps and photographs.

2.0 Proposed Development

- 2.1. The proposed development, which has a stated floor area of 343 sq.m., involves the construction of a detached 3 bedroom bungalow to be located on the western end of the site. The proposed bungalow will be finished to a ridge height of 5m.
- 2.2. It is also proposed to construct a stable block (4 no. stables) and a shed together with a new vehicular entrance and landscaping works.
- 2.3. The proposed vehicular entrance will replace the existing agricultural field entrance.

3.0 Planning Authority Decision

3.1. Decision

Notification of a decision to refuse planning permission for the proposed development for two reasons was issued by the planning authority per Order dated 4th, October 2018. Briefly, the reasons for refusal related to (1) excessive density of

development in an unserviced rural area and (2) the planning authority not satisfied that the applicant had demonstrated compliance with rural housing policy as set out in the Waterford County Development Plan.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report is the basis for the Planning Authority's decision. It includes:

- The site is zoned for agriculture in the current County Development Plan.
- The site is located within an area designated as an 'Area Under Urban Pressure' in the current County Development Plan.
- The site is located within a 'Visually Vulnerable' scenic classification as per Scenic Landscape Evaluation prepared by Consultants on behalf of the Planning Authority (referenced in the Development Plan). These areas are stated to have '*very distinct features with a very low capacity to absorb new development without significant alterations to the existing character over an extended area*'.
- There has been a significant history of refusals of planning permission by the planning authority and An Bord Pleanála for dwellings in the vicinity of the site.
- The proposed development is similar to an earlier development proposed on a nearby site (under Reg. Ref. PD15/344) which was refused planning permission on grounds relating to excessive density of development in an unserviced rural area.
- The removal of a section of roadside boundary will be required to facilitate the proposed development. Sightlines in accordance with Development Plan standards have been indicated on the submitted plans.
- There is a public water supply in the area. The third party submission in relation to an existing well serving a dwelling to the east of the site has been noted. The well is located in excess of the minimum distance recommended

in the Environmental Protection Agency (EPA) Code of Practice for single houses in rural areas.

- Having regard to the development pattern and planning history in the area it is recommended that planning permission for the proposed development be refused for 2 reasons.

The decision is in accordance with the Planner's recommendation.

3.2.2. Other Technical Reports

- **Roads Department:** No objection subject to conditions.

3.3. Third Party Observations

There was one valid submission from the owner of an adjoining dwelling located downhill of the appeal site. The issue raised concerns the potential for the contamination of the well serving this dwelling as a consequence of the installation of the proposed on site effluent treatment unit.

4.0 Relevant Planning History

There is no record of planning history pertaining to the appeal site itself.

The planning authority Planner's Report refers to a number of refusals of planning permission for dwellings accessed from the local road serving the site. These include:

- **Reg. Ref. PD15/344 (Appeal No. PL 93.245386):** Planning permission for a split level dwelling for Jane Dunne & Edmond Brick refused by the Board per Order dated January 2016. The stated reasons for refusal related to (1) excessive density of development and perpetuate disorderly ad-hoc development in a rural area and (2) traffic hazard by reason of the location of site on a minor road which is seriously substandard in terms of width and alignment.
- **Reg. Ref. 051124:** Notification of a decision to refuse outline planning permission for a bungalow and effluent treatment system for Elizabeth &

Santiago Balbontin was issued by the planning authority per Order 9th, February 2005. (1) non-compliance with rural housing policy including national guidelines, (2) interfere with views from the public road in a designated visually vulnerable landscape and (3) traffic hazard.

- **Reg. Ref. 08776:** Notification of a decision to refuse planning permission for a dormer dwelling and effluent treatment plant for Anita Halley was issued by the planning authority per Order dated 4th, September 2008 for four reasons. Briefly, these were (1) ad hoc substandard backland development, (2) non-compliance with rural housing policy, (3) traffic hazard and (4) suburban design.

5.0 Policy Context

5.1. Waterford County Development Plan 2011-2017

- 5.1.1. The Waterford County Development Plan 2011-2017 is the current Development Plan for the area. With the establishment of Waterford City & County Council in June 2014 this plan had its lifetime extended (pursuant to *S. 11A of the Planning and Development Act 2000, as amended*) and remains in effect until the new Regional Spatial and Economic Strategy comes into effect.
- 5.1.2. The appeal site is located in an area zoned 'Agriculture'. The stated objective of this zoning is '*To provide for the development of agriculture and to protect and improve rural amenity*'
- 5.1.3. The 'Green Belt' associated with Dunmore East is located immediately to the north/east of the site. The stated objective of the 'Green Belt' is '*To provide for a green belt area as a clear demarcation to the adjoining urban area, to provide for the development of agriculture and to protect and improve rural amenity and to restrict residential development*'.
- 5.1.4. The site is located within a 'Visually Vulnerable' area according to the Scenic Landscape Evaluation for Waterford County (Consultant's report prepared on behalf of the planning authority),

5.1.5. **Chapter 3** refers to *Core Strategy* and identifies Dunmore East as a District Service Centre within the County settlement hierarchy.

The county is divided into three broad categories;

1. Areas Under Urban Pressure
2. Stronger Rural Areas
3. Structurally Weak Rural Areas

5.1.6. The *Rural Area Types Map* contained within the Development Plan identifies the subject site as being located within an 'Area Under Urban Pressure'.

5.1.7. **Section 4.8** refers to Rural Housing Policy

The Council's aim is to

- *'Minimise the amount of sporadic speculative development which would be more appropriately located on serviceable lands in towns and villages; and*
- *Meet the genuine housing need of rural people and their families who have strong ties to a particular locality and to those who need to reside in rural areas for employment, economic and social reasons subject to the applicant demonstrating a Genuine Local Housing Need.'*

Policy SS3 seeks *'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.'*

Policy SS4 seeks *'To direct urban generated housing development in Areas Under Urban Pressure into the adjoining zoned settlements.'*

Section 4.10 refers to 'Genuine Local Housing Need'.

Housing Need criteria includes *'A farm owner or an immediate family member (son, daughter, mother, father, sister, brother, heir) wishing to build a permanent home for their own use on family lands.'*

5.2. National Policy

5.2.1. Sustainable Rural Housing Planning Guidelines

The site of the proposed development is located within an area designated as being under strong urban influence.

The Guidelines distinguish between 'Urban Generated' and 'Rural Generated' housing need. Examples of situations where rural generated housing need might apply as set out in the Guidelines include rural houses for '*persons who are an intrinsic part of the rural community*' and '*persons working full time or part time in rural areas*'

5.2.2. **National Planning Framework**

National Policy Objective No. 19 states

In rural areas under urban influence, 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 and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.3. **Natural Heritage Designations**

The appeal site is located:

- 3.48 km. south east of the Tramore Back Strand SPA (Special Protection Area) (Site Code 004027 refers).
- 3.42 km. south east of the Tramore Dunes and Backstrand SAC (Special Area of Conservation) (Site Code 000671 refers).

6.0 **The Appeal**

6.1. **Grounds of Appeal**

A first-party appeal has been lodged against the planning authority's decision to refuse planning permission. It was submitted by a Consultant on behalf of the appellant. It includes:

- The Appellant has demonstrated compliance with the *‘Guidelines on Sustainable Rural Housing, 2005’*, in the supplementary application form and accompanying documentation submitted to the planning authority.
- As *‘a member of the established rural community wishing to reside near family members’* the appellant fulfils the criteria outlined in Policy SS3 of the Waterford Development Plan 2011-2017 which seeks *‘to cater for the housing requirements of members of the local rural community with a genuine local housing need...’*
- The appellant is the daughter of a William and Frances Jones who have lived at a house within 10km of the appeal site since 1987.
- The concerns of the owner of a neighbouring property concerning a well can be adequately addressed by way of the attachment of a condition to a grant of planning permission.
- The proposed shed is intended for domestic use and not for use as a workshop.
- The proposed development complies with site development standards in relation to access, sightlines and boundary treatment as set out in Section 10.2 of the Development Plan.
- No concerns have been raised by the planning authority in respect of ground water and surface water.
- As set out in the Design Statement submitted with the application to the planning authority the proposed development has been designed to take account of the local topography, to provide adequate screening and to take account of the existing pattern of development in the vicinity of the site. The proposed house will be located within an existing cluster of rural houses.
- The planning authority Area Planner has reported that concerns in relation to access (cited as a reason for refusal of planning permission on a neighbouring site) are not considered to be an issue in the context of the appeal site.

- The proposed development would not give rise to ribbon development as defined in the development plan (in excess of 3 dwellings in a row or in excess of 5 dwellings on either side of the road on a 250m stretch).
- The proposed development can be distinguished from other proposals that have been refused planning permission by the planning authority in recent years by reason of the fact that (i) the current proposal is modest in scale, (ii) the appellant in the current instance has established a genuine housing need in compliance with Development Plan requirements and national guidelines.
- The proposed development can be distinguished from a recent Board decision to refuse planning permission for a dwelling on a neighbouring site (Appeal No. PL.93.245386) by reason of the fact that the current proposal is located within a cluster of development. The Planning Inspector's recommendation to refuse planning permission in the latter case cited *the ad hoc nature of the development being proposed with no direct relationship to an existing cluster of development to the east of the site.*

6.2. Planning Authority Response

No submission has been received from the planning authority in response to the submitted grounds of appeal.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issues of environmental impact assessment and appropriate assessment also need to be addressed. The issues can be dealt with under the following headings:

- Rural Housing Policy
- Rural Density & Settlement Pattern
- Design
- Appropriate Assessment
- Environmental Impact Assessment

7.1. Rural Housing Policy

- 7.1.1. The appeal site is located within an area zoned for agricultural use in the current Development Plan. The council's rural housing policy applies.
- 7.1.2. Documentation on file includes a statement accompanying a 'Supplementary Planning Application' lodged with the planning authority. This statement outlines the case made by the appellant in compliance with the rural housing policy. It states that the appellant has roots in the locality having been reared in the area and continuing to have immediate and extended family living in the area. The appellant's parents live within 10 km of the appeal site.
- 7.1.3. The applicant's parents (family home) is located on a c. 1 acre site at Barristown. Passage East. A copy of Land Registry documentation accompanying the appeal state that the applicant's parents are William Jones (Architect) and Frances Jones (Social Worker).
- 7.1.4. The applicant currently resides with her partner and children in rented accommodation in Dunmore East. The applicant's children are enrolled in the local primary school. The applicant is employed in a permanent position with University Hospital Waterford. Her partner also has family ties to the locality.
- 7.1.5. The Development Plan policy on rural housing makes it clear that provision will be made for members of the local rural community who have a genuine local housing need in areas under urban pressure and to seek to direct urban generated housing development in Areas Under Urban Pressure into the adjoining zoned settlements. The plan seeks to make provision for the housing needs of rural people and their families who have strong ties to a particular locality and to those who need to reside in rural areas for employment, economic and social reasons.
- 7.1.6. Notwithstanding the fact that the applicant has strong ties to the local community it is clear that she is currently living in the village of Dunmore East, no longer resides in a rural area and is employed in a permanent position in the city of Waterford. She is not engaged in agriculture or engaged in employment that would necessitate her living in the rural area. In these circumstances, despite the applicants ties to the local community I consider that she does not meet the threshold to justify a dwelling at this location in accordance with the planning authority rural housing policy.

7.1.7. Having regard to the applicant's current place of residence (within the village of Dunmore East) and the nature and location of her employment, I consider that the appellant has not demonstrated a functional economic or social requirement for housing in accordance with the requirements of National Policy Objective 19 of the National Planning Framework. Furthermore, (and for the same reasons) I do not consider that the applicant falls within the categories of person for whom a rural generated housing need might apply for the purposes of meeting the suggested criteria set out in the *Sustainable Rural Housing Planning Guidelines* namely, 'persons who are an intrinsic part of the local community' and 'persons working full time or part time in rural areas'.

7.2. Rural Density & Pattern of Development

7.2.1. The applicant submits that the proposed development will be located within an existing rural cluster and, thus, can reasonably be accommodated in the receiving environment. In this regard the applicant highlights the fact that the proposed development complies with Development Plan standards in relation to access and the avoidance of ribbon development etc. Furthermore, it is submitted that public water supply is available to serve the proposed dwelling and the proposed proprietary waste water treatment system can be accommodated on site while adequately protecting local groundwater and wells.

7.2.2. I do not share the applicants opinion that the area in which the appeal site is located can be reasonably characterised as a rural cluster. The appeal site lies off the approach road to Dunmore East. This general area is described in the Waterford County Development Plan 2011-2017 as an Urban Pressure Area. There is a large scattering of modern dwellings located along and in the vicinity of the approach road to Dunmore East. This pattern of development is repeated in the area in the immediate vicinity of Portally Cove (within which the appeal site is located). This attractive and scenic area appears to be under similar development pressure. Existing development nearer to the Portally Cove could perhaps be classified as a cluster settlement. However, this is not the situation in the case of the lands in the vicinity of the cove. In these circumstances, I consider that the proposed development would contribute further to the undesirable pattern of scattered and sporadic development in the area. Accordingly, notwithstanding the fact that the

appeal site can comply with site development standards, I concur with the conclusion of the planning authority, as expressed in Reason No. 1 of their decision to refuse planning permission, that the proposed development would contribute to an excessive density of development in an unserviced rural area.

- 7.2.3. Furthermore, I note that (in accordance with the recommendation of the Planning Inspector) the Board previously refused planning permission for a dormer dwelling on a nearby site and included a reason relating to ‘excessive density of development and the perpetuation of disorderly ad hoc development in a rural area (Appeal No.93.245386). The Planning Inspector’s Report had pointed out that the house in that case was remote from a nearby cluster of development to the east of the site at Portally Cove. I note that the current appeal site is similarly remote from the same cluster.

7.3. Design

- 7.3.1. The appeal site is located in an area immediately adjacent to the ‘Green Belt’ around Dunmore East and within an area designated as a ‘Visually Vulnerable’ area. These areas are described as having *‘very distinct features with a very low capacity to absorb new development without significant alterations of the existing character over an extended area’*. The site itself is relatively open and forms part of an attractive landscape on the seaward side of the coast road from Tramore to Dunmore East. There are very attractive views from the site (and through the site from the coast road) to Portally Harbour and the seascape beyond.
- 7.3.2. I note that the planning authority have previously refused outline planning permission to Elizabeth & Santiago Balbontin for a dwelling on an adjoining site. Reason No. 2 (of 3) reasons for refusal in the latter decision related to interference with views from the public road in a designated visually vulnerable landscape. (Elizabeth Balbontin is named as the vendor of the site of the current appeal).
- 7.3.3. Despite the fact that the planning authority had not specifically cited interference with views in a designated visually vulnerable landscape in their reasons for refusal in the current appeal, the matter has been raised in the submitted grounds of appeal.
- 7.3.4. The appeal grounds refer to the design statement that accompanied the application lodged with the planning authority. It is submitted that this document demonstrates

that the proposed bungalow can be satisfactorily visually assimilated into the landscape without injury to the visual amenities of the area.

7.3.5. I note the relatively low-profile design and nature of the proposed bungalow (c. 5m ridge height) and consider that, subject to the implementation of an appropriate scheme of landscaping and supplementary boundary planting for the site, the proposed development could be satisfactorily assimilated into the receiving environment without injury to the visual amenities of the area. In these circumstances, I consider that the inclusion of a reason for refusal based on design or visual amenity grounds in any decision that may issue from the Board would be unwarranted.

7.4. Environmental Impact Assessment

Having regard to the nature and scale of the proposed development and the nature of the receiving environment 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.

7.5. Appropriate Assessment

Having regard to the nature and scale of development proposed and to the nature of the receiving environment including the distance between the source of any impacts arising from the development and the nearest designated 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.

8.0 Recommendation

I recommend that planning permission for the proposed development should be refused for the reasons and considerations 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 identified in Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and in an area where housing is restricted to persons demonstrating local need in accordance with policy as set out in Section 4.8 of the Waterford County Development Plan 2011-2017. The Board is not satisfied that the appellant comes within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location. Accordingly, it is considered that the proposed development would contravene national Guidelines and Development Plan policy and, in the absence of any identified locally based need for the house, would constitute random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- (2) Taken in conjunction with existing development in the area, the proposed development would give rise to an excessive density of development in a rural area lacking certain public services and community facilities and served by a poor road network. It is policy of the planning authority, as expressed in Policy SS4 of the Waterford County Development Plan 2011-2017, to direct urban generated housing development in Areas Under Urban Pressure into the adjoining zoned settlements. It is considered that the proposed development would constitute urban generated housing, would contravene Development Plan policy and would lead to demands for the uneconomic provision of further public services and facilities in an area where these are not proposed. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Paddy Keogh
Planning Inspector

22nd, January 2019