



An  
Bord  
Pleanála

## Inspector's Report ABP-302978-18

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<b>Development</b>	Permission to construct a fully serviced dwelling house and associated site works
<b>Location</b>	Ballynestragh, Gorey, Co. Wexford
<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20181180
<b>Applicant(s)</b>	Danny Grannell
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Adrian and Anna- Maria Phelan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	25 <sup>th</sup> January 2019
<b>Inspector</b>	Emer Doyle

## **1.0 Site Location and Description**

1.1. The appeal site, which has a stated area of 0.4 hectares, is located in a rural area 4km to the north of the town of Gorey and 2km to the south of the village of Killinierin, Co. Wexford.

1.2. The subject site is part of a larger field and comprises of a heavily wooded area which was formerly a Coillte forest. There is an existing dwelling to the west of the site and a very large two storey dwelling served by a long entrance to the north of the site on the opposite side of the county road. The site slopes from west to east

## **2.0 Proposed Development**

2.1. The development is described in the site notice as the construction of a fully serviced dwelling house and associated site works. The proposed dwelling is a single storey dwelling with a stated floor area of c. 142m<sup>2</sup>. Water supply is proposed from a well and a treatment system is proposed for effluent disposal.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission granted subject to 11 No. standard conditions.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

- The planning report considered that the applicant complied with the requirements of the local need policy for this area.

#### **3.2.2. Other Technical Reports**

- Environment Section: Grant subject to conditions.
- Fire Officer: Grant subject to conditions.

### 3.3. Prescribed Bodies

- No reports received.

### 3.4. Third Party Observations

- One third party observation was received. The issues raised are similar to those raised in the grounds of appeal.

## 4.0 Planning History

No history on site.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1 The operative Development Plan is the Wexford County Development Plan 2013 - 2019. Map 6 indicates Rural Area Types and the site is located in a 'Stronger Rural Area'. The following objectives are of relevance:

#### **Objective RH03**

*To facilitate the development of individual houses in the open countryside in 'Stronger Rural Areas' 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 RH04**

*To facilitate individual houses, other than those referred to in 'Stronger Rural Areas' 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". 'Local rural need'*

*for Stronger Rural Areas is defined as within a 15km radius of where the applicant has lived or was living.*

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 stronger rural areas which are defined as areas where population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. 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 need to distinguish between areas under urban influence and elsewhere. The subject site is not within an area under urban influence. There is a need to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

#### 5.4. **Natural Heritage Designations**

There are two Natura 2000 sites within 10km of the site as follows:

- Slaney River Valley SAC (site code 000781) c. 2.5km to west.
- Kilpatrick Sandhills SAC (site code 001742) c.9.7km to east.

### 6.0 **The Appeal**

#### 6.1. **Grounds of Appeal**

The main grounds of appeal can be summarised as follows:

- Concerns regards overlooking and impact on privacy.
- Concerns regarding drainage.
- Concerns regarding water quality.
- Concerns regarding the protection of ecology and other key assets in this rural area.
- Rural Housing Policy.
- Concerns regarding precedent for further houses in this area.

#### 6.2. **Applicant Response**

The response submitted on behalf of the applicant can be summarised as follows:

- The applicant complies with the local needs policy for 'Stronger Rural Areas' as set out in the Development Plan.
- A site classification report was prepared in accordance with the E.P.A 2009 Code of Practice which indicated the suitability of the site for waste water disposal.
- The site was situated as far as possible from the adjoining house and it is considered that together with the retention of much of the existing forestry

plantation, the proposed dwelling will not have adverse impacts on the adjoining dwelling.

- The proposal aims to retain as much as possible of the existing forestry plantation to retain a natural screen and to preserve the natural ecology.

### 6.3. **Planning Authority Response**

- No response to grounds of appeal.

### 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 issues of appropriate assessment and environmental impact assessment also need to be addressed. The issues can be dealt with under the following headings:

- Rural Housing Policy
- Impact on Residential Amenity
- Public Health
- Appropriate Assessment
- Environmental Impact Assessment

### 7.1. **Rural Housing Policy**

- 7.1.1. The application site is in an area designated as a 'Stronger Rural Area'. Section 4.3.3.2 of the Wexford County Council Development Plan sets out policy and objectives in relation to 'Stronger Rural Areas'. Applicant's in such areas need to comply with the criteria set down under Table 12 which includes 'local rural people', who currently reside or have previously resided within 15km of the site for a minimum period of 5 years.

7.1.2. The applicant has submitted copious documentation and details in order to demonstrate his compliance with the rural housing policy as follows:

- He purchased the site from Coillte last year and it represented the only opportunity for him to build a permanent home for himself in the local area where he was reared.
- He was born and raised in Clonsilla West approximately 2km from the site.
- He works full time in O' Connor Nurseries which is located within 1km of the site. He has been employed there since 2002.
- He attended St. Josephs Primary School, Gorey and Gorey Community School.
- He is a member of Tara Rock GAA club and has played underage and adult hurling and football with the club.
- He is a member of a local gun club.
- A map was submitted with the application which indicated the location of his place of work, his family home, his sister's home and the home of his uncle.

On the basis of the information on file, I would consider that the applicant complies with the Rural Housing Policy.

## 7.2. **Impact on Residential Amenity**

7.2.1. The appellants express concern in their appeal regarding impact on privacy and negative impact on enjoyment of their dwelling.

7.2.2. The proposed dwelling is a single storey dwelling and the stated distance to the site boundary is 41.9m. The distance between the proposed dwelling and the appellant's dwelling is c. 55m. The site was purchased from Coillte and there is heavy tree coverage on the site. It is stated in the application and appeal response that it is proposed to retain as much as possible of the existing trees for screening purposes and to preserve the natural ecology.

7.2.3. Having regard to the separation distances between the dwellings and the retention of existing screening, I am satisfied that the proposed development would not detract

from the residential amenities of the adjoining property to the east by reason of overlooking or loss of privacy.

### **7.3. Public Health**

- 7.3.1. The main issues raised in relation to public health relate to wastewater treatment and high iron levels in the water.
- 7.3.2. The proposal entails the installation of a proprietary wastewater treatment system. Site characterisation was carried out including trial hole and percolation tests. The trial hole tests note that the water table level was encountered at a depth of 1.2m in the trial hole. Both T and P tests were carried out and the P values are within the standards that would be considered acceptable for the operation of a wastewater treatment system set down under the EPA code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses (2009).
- 7.3.3. The drawings submitted meet the required separation distances set down under the EPA Code of Practice (based on site size and separation from site boundaries). I am satisfied that there is adequate separation between the wastewater treatment and the proposed well on site and the existing well on the adjoining property to the east.
- 7.3.4. High iron levels in well water is a common problem which can be difficult to treat and it would appear that the appellants who reside in the adjoining site to the east have had this difficulty for many years. The appeal response points out that this is a naturally occurring problem which occurs when rainwater infiltrates the soil and underlying geologic formations dissolve iron, causing it to seep into aquifers that serve as sources of groundwater for private wells. The response considers that the proposed development will not have any adverse impact on water quality. I concur with this and I also note that the Environmental Section raised no issues in relation to water quality or concerns in relation to the proposed proprietary wastewater treatment system.
- 7.3.5. Based on the information on file and subject to appropriate conditions requiring compliance with the EPA Code of Practice, I consider that the proposal would be acceptable in the context of public health.



#### **7.4. Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the proposed development, a one off house in a rural area, 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. Environmental Impact Assessment**

- 7.5.1. Having regard to the minor nature and scale of the proposed development and the location of the site some distance from any sensitive locations or features, 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 granted subject to conditions for the reasons and considerations set out below.

#### **9.0 Reasons and Considerations**

Having regard to the provisions of the Wexford County Development Plan 2013-2019 and to the nature, form, scale and design of the proposed development, it is considered that, subject to compliance with the following conditions, the proposed development would be acceptable in the context of the visual amenity of the area, the amenities of adjoining properties, traffic safety and convenience, and satisfactory in regards to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

#### **10.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions

require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. The applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

**Reason:** To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. a) Water supply and drainage arrangements, including the disposal of surface water shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

4. (a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled “Wastewater Treatment Manual – Treatment Systems for Single Houses” – Environmental Protection Agency, 2009.

(b) Treated effluent from the septic tank system shall be discharged to a raised percolation area which shall be provided in accordance with the standards set out in “Wastewater Treatment Manual – Treatment Systems for Single Houses” – Environmental Protection Agency 2009.

(c) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the raised percolation area is constructed in accordance with the standards set out in the EPA document.

(d) The applicant shall enter into an annual maintenance agreement with the system supplier.

**Reason:** In the interest of public health.

5. In the first planting season following occupation of the house, the site shall be planted in accordance with a planting scheme which shall have been submitted to and agreed in writing with the planning authority before the development is commenced.

**Reason:** In the interest of visual amenity.

6. a) The external finishes of the proposed development shall be nap plastered, dry dash or natural stone, unless otherwise agreed in writing with the planning authority.

b) The roof shall be of a blue/black, black, dark brown or dark grey colour.

**Reason:** In the interest of visual amenity.

7. All service cables associated with the proposed development (such as electrical, television and telephone) shall be run underground within the site.

**Reason:** In the interest of the visual amenities of the area.

8. During construction the developer shall provide adequate off carriageway parking facilities, for all traffic associated with the proposed development, incl. delivery and service vehicles / trucks. There shall be no parking along the public road.

**Reason:** In the interest of traffic safety.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Emer Doyle

Planning Inspector  
20<sup>th</sup> February 2019