



An
Bord
Pleanála

Inspector's Report ABP-303335-19

Development	Construction of 9 dwelling units, access road and associated site works.
Location	Owen Bawn Mor, Graigue West, Glenville, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	186662
Applicant(s)	Still Water Investments
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Still Water Investments
Observer(s)	None
Date of Site Inspection	16 th April 2019.
Inspector	Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 2 ha is located at Graigue West, Glenville and comprises a green filed site bordered by an existing housing estate; Owen Bawn Park to the east and agricultural lands to the north, west and south. There is an existing stone and earth boundary ditch to the south and west of the site. The eastern boundary is largely formed by an existing concrete blockwork boundary wall, which encloses the rear garden space of Owen Bawn Park. The site slopes from north to south. There is an existing gate at the established vehicular entrance form the partially completed access road, which enters the site at the north eastern boundary. It is proposed to upgrade this access road and connect to the proposed development which will include the provision of public footpath.
- 1.2. Glenville is a well-established village dominated by Glenville Manor, which is located to the west of the main street running through the village. Recent residential development is located on the eastern side of the village. The housing mix in the villages is limited with the majority of units detached or semi-detached.
- 1.3. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. Permission is sought for a residential development comprising the construction of 9 no. 5 bedroom split-level dwelling units, access road, waste water treatment plant, and associated site works on a site of approx. 2.0ha. The application was accompanied by inter alia Site Suitability Assessment, Design Rational Statement and Civil Engineering Report.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Cork County Council issued a notification of decision to refuse permission for the following reason:

The municipal waste water treatment facility for Glenville is over loaded and in need of upgrade. In the absence of such capital investment, the proposed development involves treating the foul effluent for the dwellings in a multi-unit developer-provided waste water treatment facility. Future management and maintenance of such facilities generates concerns, and in the absence of the water authority's preparedness to take the facility in charge, the development is considered premature pending the upgrade of sanitary services infrastructure.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- **Case Planner** – The key issue of concern in their report is the provision of a private WWTP. It is stated that the Councils position is that proposals for providing for these are not acceptable in principle. Reference is made to an email from the Director of Planning dated 11th October 2018 in relation to Developer Provided Infrastructure that states as follows:

I am writing to you as delegated decision makers to confirm there has been no change in the Cork County Council approach regarding proposed multi-unit residential developments involving Development Provided Infrastructure (DPI). Currently IW will not take in charge same and accordingly Cork County Council position is that development proposed providing for same are not acceptable in principle.

- The Case Planner recommended permission be refused on the grounds of prematurity and the unacceptability of a communal waste water treatment solution. The notification of decision issued by Cork County Council reflects this recommendation.

3.2.2. Other Technical Reports

- **Area Engineer** - Recommended refusal for the following reason:

Glenville village has been highlighted in the Water Services Investment Programme by Irish Water for improvement works to the Wastewater treatment Plant and wastewater network. The proposed development

can be deemed as premature until the Glenville Wastewater treatment plant and network can accommodate future development in Glenville village.

- **Estates Engineer** - Recommended further information regarding details of footpath and road design.
- **County Archaeologist** – Given the scale, extent and location of the proposed development it is stated that it is possible that subsurface archaeological remains could be encountered during the construction phases that involve ground disturbance. Recommended further information to enable a geophysical survey to be carried out.
- **Environment Report** – Glenville WWTP has a design capacity of 300PE with an actual loading of 599PE. It is noncompliant with the terms of the wastewater discharge authorization (D0515-01) issued by the Environment Protection Agency, and is evidentially adversely affecting the water quality downstream of the wastewater treatment plant. The report concluded that there is no objection to the development subject to conditions as set out in the report.
- **Public Lighting Engineer** - Recommended further information in relation to public lighting.
- **Conservation Officer** – No objection, subject to a condition requiring that prior to the commencement of works the applicant submit a specific landscape mitigation measure for the protection and strengthening of the northern site boundary.
- **Heritage Unit** – A small portion of the site is within a flood risk zone. Given the proximity of the development site to the SAC and the partial overlap of the site with flood risk area and proposed of management of surface water / waste water considered that there may be a possible risk of impact to the SAC. If the application is to be considered further recommend further information comprising a Habitats Directive Screening Report.

3.3. Prescribed Bodies

- **Irish Water** - No objection is raised.

3.4. Third Party Observations

3.4.1. There are 5 no third party observations on the planning file from (1) David Healy, (2) Paul O'Mahony, (3) John & Jackie O'Brien, (4) Adrian Moran and (5) Ivan Whitbread.

The concerns to; as summarised:

- Height, overshadowing and loss of light to adjacent properties
- Safety and wellbeing of road users by reason of traffic
- Health and safety concerns of residents of neighbouring estate
- Location of WWTP to residential property and maintenance of same
- Capacity of existing public water supply and sewerage facilities
- Removal of tree screening
- Impact of construction traffic on adjacent residential amenities and safety
- The existing municipal WWTP requires upgrade and allowing new developments with private systems will reduce the priority of the existing system
- Conflict with LAP which states the without investment in wastewater infrastructure development is limited only to individual treatment systems.
- Impacts of WWTP on the environemnt and ecology, management of WWTP, lack of detail re pump station and lack of detail re attenuation proposals
- Reliability of percolation test result as they were carried out during a drought
- Adequacy of water supply
- Precedent
- Management of public areas,

4.0 Planning History

4.1. There is no evidence of any previous appeal at this location. No planning history has been made available with the planning file. However reference is made to the following history in the applicants appeal at this site:

- In 2008 planning permission was refused for 15 units on the site based on the lack of capacity of public services.
- In 2002 planning permission was granted for 10 units on the site (Reg Ref 02-1576) this was increased in a subsequently granted permission in 2004 for 13

units (Reg Ref 04-4006). Both of these permissions were reliant on connection to the public waste water network, available at the entrance of the site.

- In 2006 permission was refused for 17 units (Reg Ref 06-10991) based on the lack public services and again 2008 permission was refused for 15 units (Reg Ref 08-5392) again based on the lack of public infrastructure. Both of these permissions were deemed premature as they were reliant on a connection to the public waste water network, which was deemed to be at capacity.

4.2. Development Plan

4.2.1. The operative plan for the area is the **Cork County Development Plan 2014** and the **Cobh Municipal District Local Area Plan 2017** (as amended). Glenville is identified as a key village in the Local Area Plan. The site is on lands zoned as within the “settlement boundary” of Glenville. **Objective DB-01** states that *within the development Boundary of Glenville, the following objective applies; Subject to the provision of waste water treatment infrastructure, encourage the development of up to 100 dwelling units in the period 2017-2023.*

- Section 4.4 Glenville states that *the strategic aims for the key village of Glenville to 2023 are to realise its role as the primary focus for the development of the surrounding rural areas, to retain and improve local services and facilities and to strengthen infrastructure and public transport connections to the village.*
- Section 4.4.7 states that *given the status and relatively good service base of this village subject to the provision of wastewater treatment facilities, it is considered that a maximum growth of 100 units can be accommodated in Glenville up to 2023.*
- Section 4.4.9 states that *in the absence of investment in waste water Infrastructure, given the water quality issues affecting the Glashanabrack River, the development potential of Glenville will be limited to a small number of individual dwellings served by individual waste water treatment facilities.*
- Section 4.4.21 Water Supply - *There are capacity constraints within the current water supply to the village. Until a new source is identified, no further large scale development should occur.*

- Section 4.4.22 Waste Water Infrastructure - *The village has a small treatment unit which is currently at capacity. Irish Water are currently progressing plans to address this issue.*

4.3. Natural Heritage Designations

- 4.3.1. The site is not located within a designated Natura 2000 site. The European site that is closest to the appeal site is the Blackwater River (Cork / Waterford) SAC (Site Code 02170) which is located c 160m to the east of the appeal site.

4.4. EIA Screening

- 4.4.1. Having regard to the nature and scale of the proposed development comprising 9 houses in a designated settlement area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

5.0 The Appeal

5.1. Grounds of Appeal

- 5.1.1. The first party appeal against the decision to refuse permission has been prepared and submitted by QDM Architecture on behalf of the applicant and may be summarised as follows:
- The decision of a Local Authority has been influenced by a policy that is not contained within the current Cobh Municipal District Local Area Plan, Cork County Development Plan, National Spatial Strategy or South West Regional Planning Guidelines. This policy is determined by the commercial policy of Irish Water.
 - The proposal is within a settlement boundary, where the current policy for sustainable development is to achieve up to 100 new units by 2023. The proposal meets this objective through the provision of a well-designed, properly managed waste water facility.

- In 2008 planning permission was refused for 15 units on the site based on the lack of capacity of public services. In the interim no effort have been made to resolve this, however the subject site continues to be zoned for residential development.
- Noted that Irish Water had no objection to the proposal, the provision of waste water treatment plant or the future provision for connection to the public sewer.
- The proposal has been designed accordingly with the above EPA Guidance and as such complies with proper sustainable development.
- The primary objective has been ignored by the issuance of the internal policy directive A which unambiguously directs planners that “Cork County Council position is that development proposal providing for same are not acceptable in principle”, hence any such development reliant on private infrastructure should not be considered for approval. The internal directive issued on the 12th October 2018 is contrary to the adopted Cork County Development Plan.
- Although there is an available public sewer connection adjacent to the subject site, the lack of capacity in the available public sewer network which is outside the control of the developer, has resulted in the proposal of a privately operated and managed waste water treatment plant, in accordance with EPA Guidelines.
- The site is zoned in such a manner as to allow for residential development being, located within the settlement boundary of the village of Glenville. This has been the case since the previous development plan (Cork County Development Plan 2003 – 2009) where the site was specifically designated R-03 *low density subject to satisfactory sanitary services* with a zoning objective of 5-12 units / ha. This plan was written over 15 years ago and yet no public services have been provided, despite the continued zoning of the site for residential development.
- In relation to other matters, it is acknowledged that the Cork County Council internal reports raise some areas of concern with the proposal. It is submitted that they can and should be dealt with by means of condition. None of the concerns raised as the basis of a refusal.

5.2. **Planning Authority Response**

- **Cork County Council** in their response to the appeal state that all the relevant issues have been covered in the technical reports already forwarded to the Bord as part of the appeal documentation, and has no further comment to make in this matter.

5.3. **Observations**

5.3.1. There are no observations recorded on the appeal file.

5.4. **Further Responses**

5.4.1. There are no further responses recorded on the appeal file.

6.0 **Assessment**

6.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Waste Water Treatment
- Density
- Traffic Impact
- Appropriate Assessment
- Other Issues

7.0 **Principle**

7.1. The application seeks permission for 9 no houses on lands adjoining the established residential estate of Owen Bawn Park and within the designated settlement boundary of Glenville as identified in the Cobh Municipal District Local Area Plan 2017 (as amended). Objective DB-01 states that within the development boundary of Glenville, that subject to the provision of waste water treatment infrastructure, the development

of up to 100 dwelling units in the period 2017-2023 will be encouraged. Accordingly the principle of developing 9 no dwelling units is acceptable subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.

- 7.2. I would add that having regard to the design of the proposed scheme, I am satisfied that the development in its layout, orientation and proximity to adjoining properties strikes a reasonable balance between the protection of the amenities and privacy of the adjoining dwellings in terms of overlooking and overshadowing. With regards to the provision of private and public open space within the scheme I am satisfied that the proposed development makes adequate provision of public and private amenity space to serve the proposed development. With regard to the elevational treatment proposed I agree with the Case Planner that no design concerns arise with the house types proposed and that the well-designed contemporary structures embody the key principles of good design.

8.0 Waste Water Treatment

- 8.1. Cork County Council in their single reason for refusal stated that the municipal waste water treatment facility for Glenville is over loaded and in need of upgrade; the proposed development is premature pending the upgrade of same infrastructure and that the provision of a multi-unit developer-provided waste water treatment facility generates concerns in the absence of the water authority's preparedness to take the facility in charge.
- 8.2. The applicant submits that the only restriction on future development in Glenville is the lack of provision of proper waste water treatment facilities and that it is not specifically stated that this investment should only be in public infrastructure. It is submitted that the Cork County Council Directive (email from the Director of Planning) has effectively ordered these lands sterilised from multi-unit development until such time as Irish Water change their commercial policy with respect to Developer Provided Infrastructure. It stated that there has been no investment in public infrastructure since 2000 and none is planned in the foreseeable future and that to be fully reliant on non-existent public infrastructure investment will lead to a stagnation and eventual decline of Glenville village and the proliferation of unsustainable "one off" development.

- 8.3. The applicant's position is fully appreciated. It would appear from the information available on file that this site has been zoned for development for a substantial period of time and yet no progress has been made with regard to upgrading what is a documented *small treatment unit which is currently at capacity* (Section 4.4.22 Waste Water Infrastructure of the Local Area Plan refers). Cork County Council Environment Section further states that Glenville WWTP has a design capacity of 300PE with an actual loading of 599PE and that it is noncompliant with the terms of the wastewater discharge authorization (D0515-01) issued by the Environment Protection Agency, *and is evidentially adversely affecting the water quality downstream of the wastewater treatment plant*. While Glenville is not in the current Irish Water capital investment programme, some minor upgrade works are scheduled for 2019 including inlet screening. Without significant upgrade and expansion this plant will likely continue to be noncompliant.
- 8.4. I agree with both the Environment Section and the Area Engineer that a further connection to this scheme cannot be entertained and that this application may be regarded as premature until the Glenville Wastewater treatment plant and network can accommodate future development in Glenville village
- 8.5. As a result of the existing treatment plant being at capacity the applicant proposes to treat the foul discharge on site with a communal waste water treatment unit and this is where further difficulty arises for the applicant. While the Environment Unit do not object to the proposal for a private communal plant, it does raise concerns regarding future maintenance. The general objective for key villages (GO-01) in the LAP states that in the absence of a public WWTP, only the development of individual dwelling units served by individual treatment systems will be considered, subject to normal proper planning and sustainable development considerations.
- 8.6. The Case Planner states that the approach in Cork County Council regarding multi-unit residential developments with Developer Provided Infrastructure is informed by the fact that Irish Water will not take such facilities in charge. The Council's position is that proposals for multi-unit residential developments involving Development Provided Infrastructure (DPI) are not acceptable in principle. I refer to the email from the Director of Planning dated 11th October 2018 in relation to Developer Provided Infrastructure. Notwithstanding the location of lands within the settlement boundary of Glenville and the acceptance of residential development in principle I support this

approach. Future management and maintenance of such facilities generates concerns in the absence of the water authority's preparedness to take the facility in charge. The proposed development is therefore premature pending the upgrade of the municipal waste water treatment facility for Glenville. Refusal is recommended.

9.0 Density

9.1. With regard to density it is a clear and overriding objective of the National Planning Framework Plan (2018) to promote compact growth in serviced urban areas. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) states that in relation to the edge of small town(s) / village(s):

In order to offer an effective alternative to the provision of single houses in surrounding unserviced rural areas, it is appropriate in controlled circumstances to consider proposals for developments with densities of less than 15 - 20 dwellings per hectare along or inside the edge of smaller towns and villages, as long as such lower density development does not represent more than about 20% of the total new planned housing stock of the small town or village in question. (Chapter 6 Small Towns and Villages - Edge of Small Town / Village refers).

9.2. With a total of 9 dwellings proposed on a two hectare site, the density proposed in this scheme is only 4.5 units / hectare. Notwithstanding the concern regarding waste water treatment and capacity in the public infrastructure (discussed above) it remains this is a very low density residential development in a serviced urban area. The established pattern of low density development in the adjoining estate should not be taken as a marker of what would be an acceptable density for this site. Development at the density proposed should generally be discouraged in the interests of land efficiency.

9.3. There are no obvious impediments or constraints pertaining to this site that would permit a reduction downwards from the minimum density of 15 units per hectare. I am of the view that the proposed density would not be sufficiently high enough to provide for an acceptable efficiency in serviceable land usage given the proximity of the site to Glenville village centre. However in view of the overriding constraints in relation to waste water treatment I am reluctant to recommend refusal on density at this time. It is however strongly recommended that any future application at this site would give

consideration to revising the density proposed upwards in line with national guidance in the interest of the efficient use of serviced lands within the designated settlement boundary of Glenville unless it can be justified otherwise.

10.0 Traffic Impact

- 10.1. The site is accessed from an existing site entrance from the local primary road via the Owen Bawn Park Estate road cul de sac. The applicant proposes to upgrade the access road to the site from the Owen Bawn Estate which is to include the provision of a public footpath. The entrance will be shared with the existing estate, but the proposed new roadway will not be in front of any existing houses. As pointed out by the Case Planner any additional traffic will be generated only at the shared entrance, and will not result in additional movements along the existing internal road network. The applicant has detailed adequate parking and turning movements to each dwelling.
- 10.2. No alterations are proposed from the existing entrance. It is stated that the Owen Bawn Park Housing Estate has been taken in charge by Cork County Council. It was noted on day of site inspection that the sightlines at the existing entrance to the Owen Bawn housing estate from the local primary Road are adequate. Given the location of the appeal site together with the layout of the proposed scheme I am satisfied that the vehicular movements generated by the scheme would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area of Owen Bawn estate. Overall I consider the proposal to be acceptable and I am satisfied that the proposed development will not result in the creation of a traffic hazard subject to conditions requiring that all traffic management measures comply with DMURS.

11.0 Appropriate Assessment

- 11.1. The Local Area Plan Objective DB-02 states that *Glenville village is situated adjacent to the Blackwater River Special Area of Conservation. Development in this settlement will only be permitted where it is shown that it is compatible with the requirements of the Habitats Directive and the protection of this site.*
- 11.2. Having regard to the nature and scale of the proposed development comprising 9 houses and its distance to the nearest European site, the Blackwater River (Cork /

Waterford) SAC (Site Code 02170) which is located c 160m to the east of the appeal site; I agree with the Cork County Heritage Unit that given the proximity of the site to the SAC and the partial overlap of the site with a flood risk area it is considered that there may be a possible risk of impact to the SAC.

- 11.3. Accordingly it cannot be concluded that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site. As set out by the Heritage Unit it is recommended that any future application at this location be accompanied by a Screening Report.

12.0 Other Issues

- 12.1. **Flooding** - A small area of the site close to house site no. 1 appears to be in a flood risk area. I agree with the Case Planer in this regard that an assessment of flood management issues associated with this would be required if further consideration were being given to any future application at this location.
- 12.2. **Archaeology** – The Cork County Archaeologist states that it is possible that subsurface archaeological remains could be encountered during the construction phases that involve ground disturbance. I am satisfied that it is acceptable in this instance to deal with areas of unclear archaeological potential by way of condition requiring geo-physical survey and / or testing followed by avoidance or appropriate mitigation.
- 12.3. **Development Contributions** – Cork County Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended) and is in place since 2004; *Cork County Council Development Contribution Scheme (2004)*. The proposed development does not fall under the exemptions listed in the scheme and it is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

13.0 Recommendation

13.1. I recommend that permission be **REFUSED** for the reasons and considerations as set out below.

14.0 Reasons and Considerations

- 1) As set out in Section 4.4.22 Waste Water Infrastructure of the Cobh Municipal District Local Area Plan 2017 (as amended) the municipal waste water treatment facility for Glenville is currently at capacity and in need of upgrade. In the absence of such capital investment, the proposed development involves treating the foul effluent for the dwellings in a multi-unit developer-provided waste water treatment facility. Future management and maintenance of such facilities generates concerns in the absence of the water authority's preparedness to take the facility in charge. The proposed development is therefore premature pending the upgrade of the municipal waste water treatment facility for Glenville.

Mary Crowley

Senior Planning Inspector

30th May 2019