



An
Bord
Pleanála

Inspector's Report ABP 303656-19.

Development	House, garage, new entrance, waste water treatment unit system, percolation area and associated site works
Location	Ballyadam, Killincooly, Kilmuckridge, Co. Wexford.
Planning Authority	Wexford Co. Council
Planning Authority Reg. Ref.	20181301
Applicant	Lynne Meyler
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellants	Alan and Karen Toner
Observers	None
Date of Site Inspection	9/5/19
Inspector	Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The subject site is located in the townland of Ballyadam, Co. Wexford. The appeal site, which has a stated area of 0.78 hectares, is located in a rural area circa 1.7km to the south-west of the village of Kilmuckridge.
- 1.2. The site is situated on the southern side of a local road. There are existing dwellings located to the east and west of the site and also opposite the site. The site comprises the western half of an existing field.
- 1.3. The northern roadside boundary is formed by mature hedgerow. A power line runs across the southern section of the site. The western site boundary shared with the appellant's property and another residential property is formed by mature hedgerow and trees. Lands to the south of the site comprise agricultural lands with mature vegetation forming the boundaries.

2.0 Proposed Development

- 2.1. The proposed development comprises a two-storey, 4 bedroom dwelling with a floor area of 267.45sq. metres on a site of 0.78ha. The house design is contemporary featuring a pitched slate roof with a knapp plaster and stone clad external finish. The overall ridge height of house is 8.195 metres. A 29.25sq. metre garage is proposed. Water supply is proposed from a private well with on-site waste water treatment.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 11 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Report dated 9/11/18 – Further Information requested in relation to the following;

- (1) Submit longitudinal diagram showing invert of the trench and existing ground levels across the polishing filter.
 - (2) Submit improved photographs of the trial hole. If this cannot be provided the trial hole shall be reopened for inspection by Environment Staff of the Council.
 - (3) Submit amended site layout map relocating the proposed polishing filter outside of but within the vicinity of trial hole testing area.
 - (4) Provide the signature of the site assessor.
- Report dated 14/1/19 – The proposed dwelling is considered acceptable in principle on the proposed site and it was concluded that the applicant complies with the local rural housing need requirements for this rural area ‘Under Strong Urban Influence’. The Planning Authority considered that the issues raised in the further information have been satisfactorily addressed. Permission was recommended.

3.2.2. Other Technical Reports

Senior Executive Scientist – Grant of permission recommended.

Chief Fire Officer – Recommends compliance with Fire Safety Regulations and building standards.

3.3. Prescribed Bodies

- None

3.4. Third Party Observations

- 3.4.1. The Planning Authority received one observation/submission in relation to the application. The main issues raised are similar to those set out in the appeal.

4.0 Planning History

PA Reg. Ref. 20072707 – Permission was refused for 2 no. detached dwellings, effluent treatment unit and raised percolation area on the site. Permission was refused on the basis that the development would give rise to overlooking of adjoining

residential properties and would seriously injure the amenities of the adjoining residential properties.

PA Reg. Ref. 20073869 – Permission was granted for 2 no. detached dwellings, effluent treatment unit and raised percolation area on the site. The development was not carried out.

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 Ballyadam, Kilmuckridge is identified as an area under Strong Urban Influence. The following objectives are of relevance:

5.1.2. 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.

5.1.3. 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'".

5.2. 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 sites are;

- Kilmuckridge-Tinnaberna Sandhill SAC (site code 001741) located 3.4km to the east of the appeal site.
- Cahore Marshes SPA (site code 000717) located 6km to the north-east of the appeal site.
- Cahore Polders and Dunes SAC (site code 000700) located 6km to the-east of the appeal site.

5.5. Environmental Impact Assessment (EIA)

- 5.5.1. Based on the information on the file, which I consider adequate to issue a screening determination, it is reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the proposed development and an environmental impact assessment is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal was submitted by Alan and Karen Toner. The relevant planning considerations can be summarised as follows;

- The appellants contend that the proposed development would negatively impact upon their residential amenities.

- They submit that the proposed siting and design of the dwelling adjacent to the boundary of their property would unduly impact upon their privacy and enjoyment of their garden and property.
- The scale of the proposed dwelling is considered excessive. The appellants contend that the proposed dwelling would appear visually prominent on the site and that it would have a negative impact upon the landscape and character of the area.
- The proposed dwelling would be setback beyond the building lines of the existing surrounding houses along the local road. The appellants submit that due to the proposed siting and design of the dwelling that it would cause overlooking of their rear garden and dwelling.
- Concern is raised that the proposed dwelling would cause overshadowing of their garden.
- The proposal would result in the extension of the existing pattern of linear development in the area. The proposal would generate additional traffic movements on to the busy local road. It is noted that sections of the local road are narrow with a number of bends.
- The matter of flood risk on the site is raised and the suitability of the site for on-site effluent treatment.
- The appellants request that the Board refuse permission for the reasons set out in the appeal.

6.2. Applicant Response

A response to the third party appeal has been submitted by Joe Fallon Design on behalf of the applicant Lynne Meyler. The issues raised are as follows;

- The first party submit that the proposed development complies with all the policies and provisions of the Wexford Co. Development Plan 2013-2019.
- In relation to the proposed height and design of the dwelling, it is noted that the proposal for a two-storey dwelling was discussed at pre-planning stage. The Planning Department advised at pre-planning stage that subject to

careful, high quality design that a two-storey dwelling would be acceptable on the site.

- The site is not backland in nature and the proposed dwelling addresses the public road. While the dwelling is somewhat setback relative to the appellant's property it is in keeping with the previous planning history on the site where permission was granted for 2 no. dwellings.
- In relation to the matter of overshadowing the proposed development is located to the east of the appellant's property and therefore it would not impact the late afternoon or evening sun. Furthermore, the separation distance between the properties means that the proposal would not cast a shadow on the appellant's property. It is also noted that the height of the proposed dwelling does not exceed that of the boundary trees which separate the two sites. Therefore, any shadows case would be as a result of the existing planting.
- Regarding the issue of overlooking it is noted that mature trees and thick hedges approximately 4m deep separate the two sites. The separation distance between the two-storey element of the proposed dwelling and the appellant's house is over 22m. The western section of the proposed dwelling which is closest to the boundary with the appellant's property is single storey and is substantially removed at 17.6m at the closest point. The west facing elevation has two windows which face into the mature tree boundary. The proposed windows are also angled away from the appellant's property. Should the Board have concerns in relation to the proposed west facing windows, the applicant is amenable to the imposition of a condition in relation to the omission of the windows.
- In relation to access and traffic matters, the public road adjacent to the site is a tertiary rural road which is lightly trafficked. Sightlines of 65m are proposed at the vehicular entrance. It is submitted, given the class of road and sightline provision that the proposed development would not give rise to a traffic hazard and that the proposed vehicular entrance is acceptable in terms of public safety.

- Regarding the issue of the pattern of development in the area and linear development raised by the appellants, it is submitted that the site is essentially an infill site between two existing dwellings. The site does not extend the line of housing development any further west from the village than is already the case.
- In relation to potential flood risk, the site falls within flood zone C, the low risk area.
- In relation to the proposed on-site effluent treatment system, it is confirmed that the tests were undertaken in December 2017. The Wexford Co. Council Environment Section were satisfied with the proposal and recommended permission be granted.
- The appeal refers to the scale of the proposed dwelling. The proposed dwelling has a floor area of 267sq m which is a less than that of the appellant's dwelling. It is also noted that the 2 no. dwellings granted on site under PA Reg. Ref. 20073869 had floor areas of 321sq m. It is submitted that the proposed dwelling respects the site context and that there are other examples of two-storey dwellings in the area.
- The house is proposed on a lower point on the site which is setback from the road. It is proposed to undertake cut and fill build the dwelling into the site. The height of the dwelling at 8m would be below the height of the trees which would screen the site.
- In relation to rural housing need, the applicant Lynne Meyler is from the area, her parent's home is 900m from the site. She grew up in the area, attended the local primary school and was married in the local church. She and her husband currently live with her parents at "Clonmara", Kilmuckridge. The applicant has a housing need for this specific area and they fall into a category provided for in Objective RH01 and table 12 of the Wexford Co. Development Plan 2013-2019.
- Therefore, it is submitted to the Board that the applicant meets the qualification criteria to a rural dwelling at this location.

6.3. **Planning Authority Response**

- None received

6.4. **Further Responses**

- 6.4.1. A further submission has been received from Alan and Karen Toner. The contents of the submission are noted, they do not raise any new material planning issues.

7.0 **Assessment**

Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Rural Housing Policy
- Siting and Design
- Traffic and vehicular access
- Effluent treatment
- Appropriate Assessment

7.1. **Rural Housing Policy**

- 7.1.1. With regard to compliance with rural housing policy the proposal should be in accordance with the provisions of the Sustainable Rural Housing Guidelines and the provisions of the Wexford County Development Plan 2013 – 2019, as it relates to settlement in rural areas. The appeal site is located in an area identified as an Area Under Strong Urban Influence on Map No.1 – Indicative Outline of NSS Rural Area Types in the Sustainable Rural Housing Guidelines. These areas are typically close to larger urban centres which are under pressure for housing in the countryside and have road networks which are heavily trafficked. The guidelines suggest that certain classes of persons e.g. those occupied full time or part-time in agriculture, forestry, those who are an intrinsic part of the rural community, sons/daughters of farmers and returning emigrants, may be considered for housing in the countryside.

- 7.1.2. Chapter 4 of the Wexford County Development Plan 2013 – 2019 sets out policy in relation to rural housing. The site at Ballyadam, Killincooly, Kilmuckridge, Co. Wexford is located within an area designated as being a “Strong Urban Influence” in Map 6 attached to the development plan. Objective RH01 refers to ‘Areas under Strong Urban Influence’ and states that it is an objective of the Council 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.
- 7.1.3. For the purposes of assessing what classes of persons should be facilitated in rural areas “local rural people” are considered to be those who fulfil the criteria set out in Table 12 of the plan. These are persons who were born or who have lived in an area for 5 years, persons who have lived there in the past or are returning emigrants, those who were born in a rural area but are now within a settlement or zoned land, persons who have links by virtue of being a long term rural landowner or the son or daughter or successor of such a person. The local rural area has a radius of 7km from where the person has lived or is living. It is advised in the plan that people who have a ‘housing need’ are considered to be people who have never owned a rural house.
- 7.1.4. The applicant is Lynne Meyler. It is stated in the application form that the applicant does not own a home and they qualify as first-time buyer. Details provided with the application and the appeal response state that Ms. Melyer lived at her family home at “Clonmara”, Kilmuckridge from 1987 – 2005 and then on and off during college and her early working life. The applicant and her husband have been living at her family home with her parents from 2015 to the present. Ms. Meyler’s family home is situated circa 1km to the east of the appeal site. Her grandmother’s home is located circa 300m to the south of her family home. Ms. Melyer attended the local primary school at Kilmuckridge and a letter provided by the parish priest from St. Mary’s Church, Kilmuckridge indicates that Ms. Melyer was baptised, confirmed and married at Kilmuckridge parish church.
- 7.1.5. On the basis of the information provided on file, the applicant Lynne Meyler has demonstrated that she has a housing need for the specific area, and I conclude therefore that the applicant has demonstrated that they fall into a category provided

for in objective RH01 and table 12 of the Wexford Co. Development Plan 2013-2019. Therefore, I conclude that the applicant meets the qualification criteria to build a rural dwelling at this location in accordance with the provisions of the Development Plan and the provisions contained in the Rural Housing Guidelines.

7.2. Siting and Design

- 7.2.1. The appellants have raised concern at the design and location of the proposed dwelling. The proposed dwelling has a floor area of 267.45sq m. The house design is two-storey with a proposed maximum ridge height of 8.195m. It is proposed to locate the dwelling a minimum distance of 40m from the public road to the north. The appellant's dwelling would be located 17.5m to the west of the proposed dwelling at the closest point. The proposed dwelling would be located over 87m from the closest residential property to the east and over 90m from the neighbouring dwelling to the south-west.
- 7.2.2. The appellants have raised concern that the proposed dwelling would cause overshadowing and overlooking of their property and that it would negatively impact upon their residential amenities.
- 7.2.3. Regarding the matter of overshadowing, the appellants property is situated to the west of the proposed dwelling. I note that closest section of the proposed dwelling to the boundary would be located 17.5m from the corner of the appellants dwelling. The western section of the proposed dwelling and the section closest to the appellants property is single storey. The two-storey element of the proposed house is located over 22m from rear of the appellants dwelling. Furthermore, on the site inspection I observed that the western boundary is formed by mature high hedgerow and trees which screen the appeal site from the appellant's property. Therefore, any shadow of the appellant's garden or property would arise from the existing planting and landscaping. Accordingly, I am satisfied that the proposal would not cause any undue overshadowing of the appellant's property.
- 7.2.4. In relation to the matter of potential overlooking, I note that windows proposed to the front and rear of the dwelling do directly address the appellant's dwelling. The west facing side elevation of the dwelling features two first floor windows serving bedrooms. I note that these windows are set back over 15m from the western site boundary and that they would not cause of overlooking of the appellant's property

and rear garden, having regard to the separation distances between the properties and the existing mature boundary screening.

- 7.2.5. The eastern site boundary is proposed to be defined by a new timber fence with silver birch trees planted along the fence between the site and the adjoining agricultural lands. Should the Board decide to grant permission I would recommend that a condition be attached requiring that all existing trees and hedgerow be retained and that additional screen planting of native deciduous trees and shrubs be planted along all boundaries in the interest of visual amenity.
- 7.2.6. Having regard to the existing and proposed landscaping and tree planting I consider that the proposed dwelling can be successfully integrated within the landscape setting. Accordingly, I would consider that this development can be positively absorbed without any negative impacts on the visual setting and the rural amenities and residential amenities of the surrounding area.

7.3. Traffic and vehicular access

- 7.3.1. It is proposed to develop a new site access onto the local road. The construction of the entrance would involve the removal of a limited section of existing roadside hedgerow, approximately 12m. It is indicated on the site layout plan that sightlines of 65m can be provided to the east and west and the proposed entrance. I note that the eastern section of the entrance would involve the removal of roadside boundary outside the site. A letter of consent from the landowner has been submitted with the application in relation to matter. Having inspected the site and viewed the location of the proposed entrance I am satisfied that an adequate sightline distance is available in both directions. Accordingly, I consider the proposed location of the entrance acceptable.
- 7.3.2. The proposed development, an individual dwelling would not generate substantial volumes of additional traffic. On inspection of the site, I noted that traffic volumes on this stretch of roadway are low and no vehicles passed at all during my site visit. Furthermore, I note that the Planning Authority previously granted permission for two dwellings on the site under Reg. Ref. 20073869. Accordingly, having inspected the site and local road in the vicinity and given the relative low volume of traffic using the public road, I am satisfied that the proposal would be acceptable from a traffic perspective.

7.4. Effluent treatment

- 7.4.1. It is proposed to install a Biocrete secondary wastewater treatment system and polishing filter. It is proposed to locate the treatment plant circa 30m to the south of the dwelling and the percolation is located on the layout plan over 32m to the south of the dwelling. It is proposed to locate a well 40m to the south-west of the dwelling and 27m from the percolation area. Table 6.1 of the EPA Manual – Treatment Systems for Single Houses sets out the minimum separation distances, the minimum distance from a watercourse or stream to a percolation area is stated as 10m and the minimum distance from a road to the percolation area is stated as 4m. There is a stream located along the southern boundary of the site which is over 7m from the proposed percolation area. The water table was encountered up to a depth of 2.9m below ground level during the site testing.
- 7.4.2. The site suitability assessment indicates that T value of 51 was recorded on site. A T value of greater than 50 and less than 75, means that the site is not suitable for a septic tank system, however it may be suitable for a secondary treatment system with polishing filter at the depth of the T-test hole. P tests were also carried out and a P value of 33.36 was recorded. Table 6.3 of the EPA Manual advises that where the P value is greater than 3 and less than 75 then the site is suitable for a secondary treatment system with polishing filter at ground surface or over ground.
- 7.4.3. The site is located within an area classified by GSI as having a poorly productive groundwater aquifer except for local zones, however the vulnerability rating of the aquifer is high. The groundwater protection response is R1. As per the EPA manual, in a R1 protection zone, on site effluent treatment would be acceptable subject to normal good practice.
- 7.4.4. The invert level of the distribution pipes is proposed to be 0.85m below the current ground level. It is proposed to construct the polishing filter from imported permeable soil. It is proposed to discharge the treated effluent to ground water. Having regard to the information submitted including the site characterisation report and the proposal to install a secondary treatment system with soil polishing filter, I would concur with the assessment of the planning authority that site is suitable for the proposed on-site effluent treatment system subject to the system being constructed and maintained in accordance with the details submitted.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the proposed development and the distance from 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.

8.0 Recommendation

- 8.1. I recommend a grant of permission subject to the following conditions.

9.0 Reasons and Considerations

- 9.1. Having regard to the to the provisions of the Wexford County Development Plan 2013-2019, the pattern of development in the area and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on 17th of December 2018, 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]. Prior to commencement of development, 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. The site shall be landscaped, using only indigenous deciduous plants and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All existing trees and hedgerow be retained except the extent that its removal is necessary to provide for the site entrance. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced

within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

4.

(a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent pollution.

5.

(a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 17th day of December, 2018, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) 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 proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

6. The water supply to serve the proposed dwelling shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details, demonstrating compliance with these requirements, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate water is provided to serve the proposed dwelling, in the interest of public health.

7. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 hours to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

8. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

9. The garage shall not be used for human habitation or for the keeping of pigs, poultry or pigeons, ponies or horses or for any other purpose other than a purpose incidental to the enjoyment of the house.

Reason: In the interest of protecting the residential amenities of neighbouring property.

10. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Siobhan Carroll
Planning Inspector

28th of May 2019