



An
Bord
Pleanála

Inspector's Report

ABP-304326-19

Development

Construction of a new two storey dwelling with adjoining single storey 'granny flat' apartment, new entrance, garage site works, connection to public services and all ancillary works

Location

Ballyrandle Dungarvan

Planning Authority

Waterford City and County Council

Planning Authority Reg. Ref.

1974

Applicant(s)

Aidan McKenna

Type of Application

Permission.

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)

Aidan McKenna

Observer(s)

[Click here to enter text.](#)

Date of Site Inspection

Xx September, 2019

Inspector

Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located at Ballyrandle, approximately 900 metres to the south west of the village of Ballinroad and c.2.5km to the east of Dungarvan. The local road onto which the site has frontage is in a coastal location with the sea on the western side of the road. Locally the road is known as the 'Gold Coast Road' and the site is in a very scenic location with clear views west over Dungarvan Harbour.
- 1.2. The site is located in a rural area outside of any settlement and is currently undeveloped. The vicinity of the site is characterised by a significant number of dwellings both to the north of the appeal site as far north as the railway viaduct and to the south separated by a gap of undeveloped frontage.
- 1.3. The site itself is relatively flat with a slight slope from west to east away from the road. The road in the vicinity of the site is narrow and there is a continuous white line on the road along the full extent of the site frontage.
- 1.4. The stated area of the appeal site is 0.2 ha. and it forms part of a larger holding in this location with additional lands outlined in the same ownership to the north and east. Apart from the appeal site there is approximately 40 metres of frontage to the local road to the south which is within the same overall landholding.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a two storey house with adjoining single storey 'granny flat' apartment unit. The dwelling is contemporary in design with a flat roof. The central part of the building is proposed to be two storey with the northern side of the ground floor plan only being single storey and proposed to house the apartment unit. This apartment accommodation is indicated on the floor plans as having a separate access from the northern (side) elevation and to be connected with the rest of the accommodation internally.
- 2.2. The stated area of the proposed house is 224 sq. metres comprising 110 sq. metres at ground floor level, 69 sq. metres at first floor and an additional 45 s. metres of accommodation at ground floor in the form of the apartment unit.
- 2.3. A detached garage is proposed to be provided at the rear (north east corner) of the site. This structure is single storey and has a stated floor area of 35 sq. metres.

- 2.4. The overall height of the proposed building is significant with a maximum height of c. 6.6 metres above ground level to the roof parapet level. A feature of the contemporary design is the two large windows in the first floor front elevation serving the master bedroom and the area above the front door which has a void to ground floor level in the hall area.
- 2.5. The development is proposed to be connected to the existing public water supply and drainage networks.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission for two reasons that can be summarised as follows:

1. That the site is located partially with the green belt and partially on white zoned lands, is in an area under urban influence and a location designated as being visually vulnerable. It is considered that the proposed development in a sensitive area is not in compliance with the rural housing provisions of the development plan and or national policy 19 of the National Planning Framework and the Sustainable Rural Housing Guidelines for Planning Authorities. The proposed development would therefore contribute to the pattern of one off development in an area already characterised by ribbon development, would mitigate against the preservation of the rural environment and the provision of public services and infrastructure and would be contrary to the proper planning and sustainable development of the area.
2. That the proposed development would result in the overlooking of adjoining properties, private open space and lands and have significant negative impacts on the residential amenities of the area such that it would be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The report of the planning officer notes the location of the site in a rural area that is characterised by high development pressures and a significant amount of existing residential development. The fact that the site is also located in an area under urban influence and a visually sensitive area is also noted.

Refusal of permission for three reasons are recommended the first two of which are consistent with the Notification of Decision to Refuse Permission which issued. The third reason included in the recommendation of the Planning Officer related to the creation of a traffic hazard due to the additional entrance in a location where there is already a proliferation of entrances, significant traffic volumes and where there is a continuous white line.

3.2.2. Other Technical Reports

None

3.3. **Third Party Observations**

None

4.0 **Planning History**

The submitted application form states that there is no planning history relating to the appeal site. The report of the planning officer makes reference to a previous incomplete application on the appeal site (Waterford City and County Council ref. 1939).

Waterford County Council Ref. 03/1393 – Permission granted to Noel and Nicky McKenna (parents of the first party) for the demolition of an existing cottage and the construction of a single storey dwelling, septic tank and associated site works on a site at Ballinacourty Dungarvan, c.2km to the south east of the current appeal site.

5.0 Policy Context

5.1. Development Plan

Under the *Waterford County Development Plan, 2011* (as varied), the majority of the appeal site comprising the part closest to the road is zoned 'Agriculture' with the stated objective '*to provide for the development of agriculture and to protect and improve rural amenity*'. The rear section of the site (approximately one fifth) is zoned 'Green Belt' with the stated objective '*to provide for a green belt area as a physical 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*'.

The site is located in an area Under Urban Pressure as identified in the rural housing policy section of the *Waterford County Development Plan, 2011* (as varied).

The site is also located in an area that is identified as visually vulnerable.

In the ***Sustainable Rural Housing Guidelines for Planning Authorities, 2005*** the site is identified as being in an area that is identified as an Area Under Strong Urban Influence.

5.2. Natural Heritage Designations

The site is located immediately adjacent to the Dungarvan Harbour SPA, the boundary of which is the western side of the public road which fronts the appeal site. The closest SAC site is Glendine Wood SAC which is located c.2km to the north of the appeal site at the closest point.

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the main issues raised in the first party grounds of appeal:

- That the development plan provides for a strip of white zoned lands along the road in this location which is specifically for the provision of residential development.
- Policy SS3 and section 4.10 of the plan states that it is policy to cater for the housing requirements of members of the local community as per the criteria set out in section 4.10.
- That Ref. 17/358 a few hundred metres to the north of the site was granted permission despite being ribbon development and the applicant not owning the site or having any connection with the site.
- Ref. 03/1393 is for permission for a replacement dwelling for the parents of the first party Aidan McKenna). The parents of the applicant have therefore owned a house since 2003 and are established residents of the area.
- That there is no requirement in the rural housing policy for the applicant to own the site. This is indicated in the decision on 17/358.
- That no part of the house would be located within the Green Belt area. If an issue, the garage could be relocated out of the green belt lands.
- Ref. 17/358 was partially located on lands zoned green belt and partly on white zoned lands.
- That the site is located in an area under urban pressure. This means that Policy SS3 is applicable and the applicant meets these requirements.
- That the site is located in an area that is zoned as visually vulnerable however so was the house granted under Ref. 17/358. The zoning allows for residential development and other houses have been constructed within the area identified as visually vulnerable.

- That contrary to the conclusion of the planning authority, the applicant has demonstrated full compliance with the housing need provisions of the plan. He is an immediate family member of an existing property owner (mother) who has owned her property prior to March, 2004. The definition of local area is within 10km of the site. The applicant was born and raised in Ballinacourty where his mother still lives and within 10km of the site. The planning officer deemed that the applicant does not live in the area as the family home is removed from the site, however the same criteria were not applied in the case of Ref. 17/358.
- The statement that the applicant does not comply with the housing need criteria on the basis that he remains in full time education in Cork is wrong. Reference by the planning authority to the applicant not complying 'at this time' indicate that it is only the fact that he is away studying that makes him not comply with the policy.
- That there is a cluster of agricultural buildings to the west which breaks the run of buildings / houses and means that the proposed development cannot be considered to constitute ribbon development.
- Contrary to the statement of the planning officer, the appeal site is an infill site. In the case of ref. 17/358 the site was considered to be infill and not to constitute ribbon development.
- That the separation between the proposed house and the boundary to the west is such that there would not be a loss of residential amenity. There are no windows in the west facing elevation that would facilitate overlooking. The roof of the single storey family flat element will not be used as a terrace and the door access to this area is only for maintenance purposes.
- Overall, the decision of the planning authority has significant implications for the assessment of rural housing applications, in particular the requirement that family lands / residence needs to be immediately proximate to the application site, that the applicant is not considered to qualify as local on the basis that he is temporarily away studying and that the lands are zoned white lands rather than greenbelt.

6.2. Planning Authority Response

There is no response on file from the Planning Authority to the grounds of appeal.

7.0 Assessment

7.1. The following are considered to be the main issues in the assessment of the subject appeal:

- Principle of Development,
- Housing Policy,
- Design and Impact on Visual and Residential Amenity,
- Other Issues
- Appropriate Assessment

7.2. Principle of Development,

7.2.1. I note the fact that a significant part of the first party appeal submission made to the Board makes reference to a permission granted for a dwelling on a site to the north of the appeal site (***Waterford City and County Council Ref. 17/358***). This permission is referenced as a ***precedent*** as to why permission should be granted for the proposal the subject of this appeal. Specifically, reference is made to the fact that the circumstances of Ref. 17/358 are such that the site is located in the green belt, within an area identified as visually vulnerable, was not owned by the applicant and was an infill site. These issues are noted, however Ref. 17/358 was granted permission by the Planning Authority and was not the subject of any appeal to the Board. The extent to which the decision in Ref. 17/358 forms a precedent for the decision of the Board is, therefore, considered to be limited and the proposed development needs to be assessed on its own merits having regard to the proper planning and sustainable development of the area and relevant local and national planning policy.

7.2.2. The appeal site is located in an area that is outside of any identified settlement, with the majority of the site zoned Agricultural use. I note the fact that part of the rear of the site is identified as being zoned green belt and that the development plan policy relating to the development of green belt lands (section 4.11 of the *Waterford County Development Plan, 2011* as varied) sets out more restrictive policies for residential development in such areas, limiting development within green belt zones to landowners and immediate family members and setting out a buffer zone of 400 metres from local service centres and settlement nodes where such a policy would also apply. In the case of the appeal site the majority of the site is not zoned Green Belt and no part of the dwelling is proposed to be located on lands zoned Green Belt. I also note that while Ballinroad to the north of the appeal site is identified in the development plan as a settlement node (Table 4.2), the straight line distance from the appeal site to the closest part of the settlement is c.400 metres with the road distance greater than this. I also note that there is specific reference in **Policy SS10** of the plan to the policy not being applicable along the Gold Coast Road. Having regard to the above, it is considered appropriate that the site would be assessed on the basis of policies applicable to rural housing in an agricultural area.

7.3. Housing Policy,

7.3.1. As set out above, the site is located within an area under urban pressure. Therefore **Policy SS3** and the criteria set out in paragraph 4.10 (Local Housing Need) are applicable. Policy SS3 states that it is the policy of the council '*to cater for the housing requirements 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.*' **Section 4.10** sets out 7 no. criteria with applicants for rural housing in areas under urban pressure being required to comply with at least one. The specified criteria include a landowner who owned the property prior to 4th March, 2004, a farm owner or immediate family member, close relations of a farm owner, persons employed in a rural area, sons or daughters looking to build immediately adjacent to elderly parents, persons born and lived a substantial part of their lives in a specified rural area, moved away and now wish to return, persons who require to reside in an area due to exceptional health reasons.

7.3.2. The circumstances of the first party are that he is stated to have resided with his parents at a house in Ballinacourty c.2 km to the south of the appeal site. The submitted information indicates that the mother of the first party still resides at this location (Ballinacourty) and that the first party is currently in college in Cork and intends to return to the local area. The first party is not the owner of the site which is proposed to be purchased from the current owner who lives in the adjoining house to the north west.

7.3.3. From a review of the housing criteria set out at section 4.10 of the Plan, the one which would appear to potentially apply to the first party is the following:

'Persons who were born and raised and lived for substantial parts of their lives (three years or more) in a specific rural area, who then moved away and who now wish to return to their home place to reside near other family members, to work locally , to care for elderly family members or to retire.'

The first party appeal contends that the first party meets these requirements as he resided at the family home which is within the 10km radius to comprise the local area for a period in excess of 3 years. The first party appeal contends that the interpretation of the housing policy taken by the Planning Authority is unreasonable and is based on the fact that the applicant is currently in full time education in Cork.

7.3.4. In my opinion, while the first party would appear likely to have resided for a significant period in Ballinacourty within approximately 2km of the appeal site, there are a number of issues that are noted. Firstly, while the first party is stated to have resided in Ballinacourty, no documentary evidence in the form of school attendance or other information has been provided. Similarly, no information regarding the age of the first party is provided and given that he is currently in college it is likely that he was born before his parents moved from the US to live in Ballinacourty in 2004. The criteria cited above also makes reference to persons who were born and raised in a local area and then moved away. The first party would appear to be in college in Cork and it is not clear to me that he can reasonably be considered to have moved away from his local place. The criteria cited above also makes reference to the reason for returning to the local area being related to residing near or caring for family members. The report of the Planning Officer makes reference to the family flat on the appeal site being for the grandmother of the first party however I do not

see this confirmed in the application documentation. Overall, on the basis of the information available, I do not consider that a clear case has been presented as to how the first party complies with the requirements of section 4.10 of the development plan or how they currently have a clear rural generated housing need to reside in this rural location. For these reasons it is recommended that permission be refused for reasons similar to those set out in reason for Refusal No.1 on the Notification of Decision to refuse Permission issued by the Planning Authority.

7.4. Design and Impact on Visual and Residential Amenity,

- 7.4.1. The report of the Planning Officer makes reference to the proposed development comprising ribbon development with the proposed house being the 6th dwelling over a 250 metre road frontage when measured in either direction along the road. This is refuted by the first party appeal which states that the second site to the north west of the appeal site is in agricultural use which breaks the ribbon effect and that the appeal site should actually be considered as an infill site. The general vicinity of the appeal site is one where there is a very significant concentration of existing residential development reflecting the high visual amenity and views of the area. Regarding ribboning, to the south, the site would result in the creation of six houses within 250 metres albeit that two of these houses are on backland sites. To the north, while the run of houses is broken by agricultural buildings c.100 metres to the north, the effect of the proposed development would be the extension of what is a continuous run of development south from the railway viaduct. Overall therefore while it is debatable whether the definition of ribbon development contained in national guidance has or has not been met, the proposed dwelling would in my opinion exacerbate the existing concentration of residential development in this scenic area which is identified as visually vulnerable in the development plan and would lead to a deterioration in the rural and visual amenities of the area.
- 7.4.2. The design of the proposed dwelling is contemporary and, in principle, I do not have any objection to the design approach proposed. As noted under the heading of housing policy, there is no clear information presented with regard to the proposed use or purpose of the family unit proposed on the northern side of the house and the addition of this element adds to the overall scale and bulk of the building.

7.4.3. Reason for Refusal No.2 issued by the Planning Authority makes reference to the development having a negative impact on residential amenity by virtue of overlooking of adjoining properties, open space and lands. From the wording of the report of the Planning Officer this overlooking specifically relates to the impact of the development on the adjoining dwelling to the north west and the potential impact of the flat roofed area on the northern side of the building being used as a terrace. I note that access to this flat roof is proposed via a bridge / link from the first floor level and door and that the roof is proposed to have a balustrade on top of the parapet. These design features would indicate that it is intended that the flat roof area adjacent to the third party dwelling to the north could be used as a terrace and such use would in my opinion have a significant negative impact on the residential amenity of the adjoining property. In the event that a grant of permission was being considered it may be feasible that revisions to the design to omit the balustrade and link to the flat roof area on the northern side of the building could be required by way of condition.

7.5. Other Issues

7.5.1. Access to the site is proposed to be via a new vehicular entrance that would be located at the southern end of the site frontage. The local road in the vicinity of the appeal site is narrow with a bend to the south where visibility is restricted. The road is characterised by a significant number of existing vehicular entrances and, in the vicinity of the appeal site, there is a continuous white line. A sight line of 55 metres in each direction is indicated on the submitted plans, the achievement of which is facilitated by the removal of the existing roadside bank / boundary along the majority of the site frontage as well as on contiguous lands to the south which are in the same ownership as the appeal site. It is noted that the recommendation of the Planning Officer was for refusal of permission for reasons relating to the creation of a traffic hazard, however this reason was omitted in the final Notification of Decision

- 7.5.2. Sight line requirements are set out at Table 10.1 of the development plan and specify a sight line of 55 metres for a local road with an 80km/hr speed limit and 70 and 90 metres respectively in the case of 50 and 60km/hr zones in built up areas. The appeal site is located on a local road albeit one where there is a significant level of development. A 55 metre sight line would appear to me to be a limited requirement for a road with the level of development and volume of traffic that is present in the vicinity of the appeal site. While additional sight lines at the entrance could be provided I note that no proposals for site landscaping or reinstatement of the roadside boundaries have been submitted and that it has not been demonstrated that safe sight stopping distance for traffic stopped on the north bound side of the road waiting to pull across the road into the site can be provided. Views of such traffic for approaching vehicles would be restricted by the wall on the seaward side of the road and the bend in the road to the south of the site.
- 7.5.3. Servicing of the site is proposed to be by way of connections to the public water supply and drainage network. These proposals are considered to be acceptable. Surface water is proposed to be disposed of on site and this is also considered to be acceptable in principle.

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development including the fact that it is proposed to be connected to the public water supply and foul drainage network, and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

- 8.1. Having regard to the above, it is recommended that permission be refused based on the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the location of the site within 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 the current Waterford County Development Plan, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment in this scenic location 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. Having regard to the design and scale of the proposed dwelling, in particular the proposed accessible flat roof / terrace area on the northern side of the building, its location on the site and proximity to the adjoining dwelling to the north, it is considered that the proposed development would result in the overlooking of the adjoining dwelling and private amenity space. The proposed development would therefore seriously injure the amenity and depreciate the value of the adjoining property and would be contrary to the proper planning and sustainable development of the area.

3. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a road characterised by a multiplicity of existing entrances at a point where sight stopping distances are restricted in a southerly direction and there is a continuous white line.

Stephen Kay
Planning Inspector

2nd October, 2019