



An
Bord
Pleanála

Inspector's Report ABP-305042-19.

Development	Construct part storey and a half/part single storey dwelling with attached carport.
Location	19 Meadowlands, Skehacrine, Abbeyside, Dungarvan, Co. Waterford.
Planning Authority	Waterford City & County Council.
Planning Authority Reg. Ref.	19/338.
Applicant(s)	Eileen Hyland.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Eileen Hyland.
Observer(s)	James and Jean Mansfield Ger Briggs.
Date of Site Inspection	31 st October, 2019.
Inspector	A. Considine

1.0 Site Location and Description

- 1.1. The subject site is located in a mature residential estate called Meadowlands, which is located approximately 1km to the east of the centre of the town of Dungarvan in Co. Waterford. Meadowlands comprises a development of 23 detached houses on comparatively large suburban sites. Houses 11 to 19 back onto the sea, while the subject site is also bound to the west by a sports ground. The existing houses in Meadowland include a variety of single storey and dormer houses of varying designs.
- 1.2. The subject site has a stated area of 0.06ha and comprises the front garden to the north of the existing house on the overall site. The site slopes down from the estate road to the north of no. 19 Meadowlands – east of the proposed site – towards the south and the sea.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for permission to construct part storey and a half/part single storey dwelling with attached carport all at 19 Meadowlands, Skehacrine, Abbeyside, Dungarvan, Co. Waterford.
- 2.2. The application included plans, particulars and completed planning application form. The proposed development comprises the construction of a storey and a half dwelling with a stated floor area of 162m². The house will rise to an overall height of 7.14m and will provide accommodation over two floors. At ground floor level, there will be an ensuite bedroom, kitchen/diner, sitting room, office, utility and WC. 2 bedrooms and a family bathroom are proposed at first floor level.
- 2.3. The house will be finished in a smooth nap plaster with the roof finished in selected dark flat concrete tile / natural slate, or black composite slate. Soffit and fascia will be black PVC and the windows will comprise PVC or timber. The development also proposes a grey proprietary cladding to dormers. A flat roof porch is proposed to the front

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse planning permission for the proposed development for the following 2 stated reasons:

1. There are serious concerns regarding the proposed subdivision of a residential plot within an established / mature residential area where the residential plots generally are larger. The development as proposed would be out of character with the pattern of development in the area and would set an undesirable precedent whereby the existing dwelling becomes backland type development. As such, the proposed development would constitute overdevelopment of the site and would, therefore, injure the residential amenities of the properties in the vicinity and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development on this confined site with confined access arrangements would lead to conflicting traffic movement on the public road and a resultant traffic hazard. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, the third-party submissions, internal technical reports, planning history and the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The Planning Report concludes that the proposed development is not acceptable and recommends that permission is refused for the reasons as stated. This Planning Report formed the basis of the Planning Authority's decision to refuse planning permission.

3.2.2. Other Technical Reports

Part V Assessment: Grant Exemption Cert

ABP-305042-19

Inspector's Report

Page 3 of 18

3.2.3. Prescribed Bodies

None

3.2.4. Third Party Submissions

There are 2 no. third party objections/submissions, including one with multiple signatories, noted on the planning authority file. The issues raised are summarised as follows:

- Impacts on residential amenity and value of property
- The development would result in an overdevelopment of the site and of the existing development
- Visual amenity impacts. It is submitted that all houses to the south of no. 20 and the estate road were conditioned to be single storey.
- Non compliance with development standards in terms of open space
- Traffic hazard
- Precedent set of not permitting any additional development in the estate
- The development will result in overlooking and will impact on light

4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

PA ref 81/510054: Permission refused to Mr. John Pace for the erection of a bungalow on the site.

PA ref 03/510043: Permission granted to the current applicant to alter and extend existing dwelling and to carry out ancillary site works

Adjacent site to north:

PA ref 12/510007: Permission granted to construct ground floor extension to rear of dwelling and first floor bay window extension to bedroom to rear of dwelling, consequential alterations to existing dwelling and ancillary works at No. 20 Meadowlands Abbeyside Dungarvan.

5.0 Policy and Context

5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

The National Planning Framework – Project Ireland 2040 is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas.

5.2. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):

These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:

- quality homes and neighbourhoods,
- places where people actually want to live, to work and to raise families, and
- places that work – and will continue to work - and not just for us, but for our children and for our children's children.

The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.

Section 5.6 of the guidelines suggest that there should be no upper limit on the number dwellings permitted that may be provided within any town or city centre site, subject to the following safeguards:

- compliance with the policies and standards of public and private open space adopted by development plans;

- avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;
- good internal space standards of development;
- conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;
- recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area; and
- compliance with plot ratio and site coverage standards adopted in development plans.

5.3. **Design Manual for Urban Roads and Streets (DEMURS),DoTTS, March 2013**

In terms of the design of the proposed development, including the entrance and access to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DEMURS),DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The implementation of DMURS is obligatory and divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S). The Manual seeks to address street design within urban areas (i.e. cities, towns and villages) and it sets out an integrated design approach.

5.4. **Development Plan**

The Dungarvan Town Development Plan 2012 remains the relevant policy document pertaining to the subject site. The site is zoned R1 residential where it is the stated objective 'to protect the amenity of existing residential development and to provide for new residential development at medium density'. The following chapters are considered relevant:

- Chapter 4 – Housing
- Chapter 8 – Environment and Heritage

- Chapter 10 - Development Standards

5.5. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Dungarvan Harbour SPA (Site Code: 004032) (pNHA Site Code 000663) which is located approximately 75m to the south of the site.

There are a number of designated sites within 10km of the site, including as follows:

- Glendine Wood SAC, Site Code 002324, 3km to the north east
- Mid-Waterford Coast SPA, Site Code 004193, 6.8km to the east
- Blackwater River (Cork/Waterford) SAC, Site Code 002170, 6.9km to the south west and 10.2km to the north west

5.6. EIA Screening

Having regard to nature and scale of the development, together with the brownfield nature of the site, 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.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development. The appeal is summarised as follows:

- It is the applicants plan to build a compact energy efficient passive house more suited to her needs towards retirement. The applicant has lived in the estate for +25 years and wishes to remain in the area.

- The outcome of a pre-planning meeting was encouraging, and they agreed in principle with the proposed in-fill development. It is considered that the refusal is not in line with proper planning.
- It is submitted that:
 - The development complies with zoning
 - The development is infill, and as there are no policies or standards in the Development Plan it must be considered on its merits.
 - The term backland has been erroneously applied and the development is in-fill.
 - The applicant disagrees with the opinion that a permission would result in an undesirable precedent and there is evidence of infill developments in several estates in Dungarvan.
 - The development has regard to the building line to the north and the proposed dwelling does not have an adverse impact on the established character and pattern of development in the area by reason of scale, massing and style.
 - In terms of character, regard must be had to the relatively recent date of Meadowlands and to the fact that there are no protected structures or ACAs in the area. There is a broad mix of house styles.
 - The designation of the Visually Vulnerable Area cannot apply to the subject site as it is located within an existing residential estate.
 - The development will not result in overlooking or overshadowing of adjoining properties.
 - The proposal clearly illustrates parking and adequate turning space to the front of the proposed dwelling, as well as the existing house, with adequate private open space for both provided.
 - The fear of traffic hazard is groundless. There will be clear sightlines at the entrance. Regard must also be had to the cul-de-sac nature of the road.

- The issue of insufficient plot size is invalid as there are existing houses within the residential estate on similar plot sizes. The existing house retains a large site area.

It is requested that permission be granted.

6.2. **Planning Authority Response**

The Planning Authority has not submitted a response to the first-party appeal.

6.3. **Observations**

There are 2 observers noted in relation to this first party appeal, including one with multiple signatories. The issues raised reflect those raised with the Planning Authority during their assessment of the proposed development. The observations are summarised as follows:

- The PA did not consider unauthorised development on the site.
- While agreeing with the decision to refuse permission, it is submitted that the reasons for refusal did not go far enough and sufficient weight was not given to other grounds of objection raised, in particular the impact on the value of adjoining property.
- Any further development will add to the existing deficiency of public open space in the estate.
- The original permission for the estate had a clear cut off point for dormer dwellings ending with no. 20 with all seafront development confined to single storey.
- No shadow analysis has been submitted and the development has potential to overlook adjacent properties.
- Pre-planning meeting is a desk study and the planner would not have been aware of on-site issues.
- Issues raised in relation to the time between the appeal being lodged and third parties notified, which gave only 10 days to third parties to make submissions.

- The submission responds to the specific grounds of appeal refuting same.

6.4. Further Responses

None.

7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Compliance with National Guidelines & Standards, the Town Development Plan & General Development Standards
2. Site Suitability
3. Residential Amenity
4. Other Issues
5. Appropriate Assessment

7.1. Compliance with National Guidelines & Standards, the Town Development Plan & General Development Standards:

7.1.1. The Dungarvan Town Development Plan 2012 remains the relevant policy document pertaining to the subject site. The site is zoned R1 residential where it is the stated objective 'to protect the amenity of existing residential development and to provide for new residential development at medium density'.

7.1.2. Given that the subject site is located on lands zoned for residential purposes, the principle of development at this location is considered acceptable and in compliance with the general thrust of national guidelines and strategies. The Sustainable Residential Development in Urban Areas (DoEHLG, 2009) guidelines updated the Residential Density Guidelines for Planning Authorities (1999) and continue to

support the principles of higher densities on appropriate sites in towns and cities and in this regard, I consider that it is reasonable to support the development potential of the subject site in accordance with said guidelines and in this regard, I have no objection to the proposed development in principle.

7.2. Site Suitability

- 7.2.1. In terms of site suitability, the Board will note that it is intended to connect the house to public services in the area. The Water Service Section of Waterford City & County Council or Irish Water have made no comments in relation to the proposed development. In principle, I have no objection to the proposed development and consider that water services issues can be appropriately dealt with by way of condition.
- 7.2.2. In terms of the private open space, the development proposes an area to the rear of the proposed house. The Dungarvan Town Development Plan requires that detached houses provide 150m² of private open space. The development would accord with the minimum private open space required for a detached house and as such, can be considered acceptable.

7.3. Residential Amenity

- 7.3.1. In relation to the overall height and scale of the proposed development, the Board will note that the ridge height rises above that of the existing house on the site by approximately 2.6m. The existing house to the north, no. 20 Meadowlands, will be approximately 0.44m above the proposed ridge height. In addition, due to the site levels, the finished floor level of the adjacent house to the south, no. 19 Meadowlands, is slightly lower than that of the proposed house, at 0.24m below the proposed house. In relation to the contiguous elevation drawing presented in support of the proposed development, the Board will note that the 'step down' is minimal. However, in the context of the site, I am satisfied that the house can be accommodated. Should the Board be minded to grant permission in this instance, the existing boundary hedge located to the north of the site, and on the boundary with no. 20 Meadowland. could be retained to ensure the protection of privacy and the residential amenity of the existing house.

- 7.3.2. The proposed house provides for accommodation over two floors and I have no objections in principle to the proposed design overall. The design provides for 2 box dormers on the front roof elevation which will be finished in a grey proprietary cladding while the ground floor rear element will have a flat roof. A small balcony is proposed to the rear of the house at first floor level and this area of the building will offer views over the sports ground to the west and over the coastline to the south west and south. The existing houses in the wider estate, which is approximately 30 years old, comprise a variety of single storey to the south of the estate road, and dormer dwellings. Third parties have raised concerns that the proposed dormer dwelling will affect the established character of the estate. Overall, I have no real objection to the proposed design of the house and I am satisfied that the development is acceptable in principle.
- 7.3.3. Further to the above, third parties have raised concerns regarding the potential for the proposed development to result in overshadowing and overlooking of existing private open space and impact on the value of existing houses in the estate. In addition, concerns are raised in relation to the impact of an additional house on the very limited public open space afforded to the wider estate. The proposed house will be located approximately 5.5m from the side walls of the house to the north and the first floor level of the building will extend to be in line with the main eave line of the rear of the property to the north. I note the permitted extension to the house to the north of the site, and in particular, the first floor bay window which is glazed on both the western and southern elevations, which projects beyond the rear wall.
- 7.3.4. I am satisfied that the development, if permitted as proposed, is unlikely to impact the availability of natural light in these windows, and is unlikely to result in overshadowing of these windows, particularly the south facing window. I am satisfied that the development, if permitted would not give rise to any significant overlooking of the existing property to the north. Given the orientation of the site, I am satisfied that the development has been appropriately designed and laid out so as to be unlikely to result in any overshadowing of the adjoining property.
- 7.3.5. That said, I do note the concerns raised in relation to the potential impacts associated with the use of the proposed flat roof area of the proposed house. However, the Board will note that there is no design feature proposed which would result in the easy accessibility of this area from the house. The overall design

proposes a first floor balcony area to the south of the western elevation with a screen proposed along the northern area of the balcony to obviate overlooking of adjoining property. I would be satisfied that an appropriately worded condition which excludes the use of the flat roof area as a patio or amenity space in the interests of protecting the existing residential amenity of the property to the north of the site is sufficient.

- 7.3.6. In terms of the design and overall layout of the proposed house, I am generally satisfied that the development is acceptable and would not significantly impact upon the existing residential or visual amenities of the area or surrounding properties. In terms of the residential amenity of future occupants, I am satisfied that the development is appropriate and acceptable.

7.4. **Other Issues**

7.4.1. **Planning Authority Reason for Refusal no. 1**

The Planning Authority refused the development for two reasons as detailed above in Section 3 of this report. Reason 1 relates to the impact of the development on the character of the area and the rendering of the existing house on the site a backland development. In terms of existing road frontage, the site, as well as the existing property to the east, have a comparatively small length at approximately 8.5m in total. The existing driveway which serves the existing house, is to be subsumed into the proposed development site, with a new driveway to serve the existing house to be constructed along the eastern boundary of the site. The development, if permitted, will result in the total loss of all existing 'front garden' area associated with the existing house. The reason for refusal also concludes that the development would constitute overdevelopment of the site.

I have considered these issues carefully and note that the Dungarvan Town Development Plan is silent in terms of backland or infill development. The Plan seeks to encourage sustainable communities and encourages an appropriate mix of unit types, design and sizes to cater for all users. Section 4.2 of the Plan requires that all housing will be of a form and scale that is appropriate to the location. In the context of the subject site, I would agree that the development, if permitted, would render the existing house on the site in a perceived backland location. However, having regard to the nature and scale of the site on which this site lies, I do not

consider that the result of a permission in this instance would significantly affect the residential amenities of the existing house. While I also acknowledge that the plot sizes of other houses in the Meadowlands estate are quite sizeable, the subject site lies on appropriately zoned land, can connect to public services and provide adequate private open space in accordance with the development plan requirements. I am further satisfied that the proposed house has been so designed as to minimise any negative impacts on existing residential amenities of properties in the area.

7.4.2. Planning Authority Reason for Refusal no. 1 - Roads & Traffic:

The Board will note that the PAs second reason for refusal relates to traffic movements arising from the proposed development. In terms of the design of the proposed development, including the entrance and access to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The proposed development site accesses onto a residential estate road.

In terms of the proposed development site, I would consider that there are potential constraints relating to the access to the site. The development will result in the creation of two entrances with both having a width of approximately 4m each. The construction of the house to the front of the existing house will result in the loss of the existing front garden area. Two car parking spaces are proposed for the new house and the appellant submits that space exists for cars to turn within the proposed site and exit facing forward. The existing house will also have adequate space to park at least 2 cars and have room to turn within the site. Given the location of the entrance within a cul-de-sac estate, I am generally satisfied that the development can be accommodated, and I have no objections to the proposed development in principle.

Having regard to the nominal scale of the development, together with the fact that the proposed development seeks to provide for adequate car parking to serve the house, as well as the existing house, I am generally satisfied that the development is acceptable. If permitted, I am satisfied that the development will not give rise to any

significant impact on the surrounding road network by reason of traffic generated. In addition, I am satisfied that if permitted, the development would not result in a significant traffic hazard for existing residents in the area or would not adversely affect the existing residential amenities of the existing residents by reason of the additional traffic resulting from the proposed development.

7.4.3. Part V

In terms of compliance with Part V, the applicant has been granted an Exemption certification in accordance with Section 97 of the Planning & Development Act, 2000 as amended. I have no objections in this regard.

7.4.4. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

7.4.5. Unauthorised Development

The Board will note that third parties have raised concerns in terms of potential unauthorised development at the applicants site. Such matters are for the Planning Authority and are not within the remit of the Board.

7.5. Appropriate Assessment

The site is not located within any designated site. The closest Natura 2000 site is the Dungarvan Harbour SPA (Site Code: 004032) (pNHA Site Code 000663) which is located approximately 75m to the south of the site.

There are a number of other designated sites within 10km of the site, including Glendine Wood SAC, Site Code 002324, 3km to the north east, Mid-Waterford Coast SPA, Site Code 004193, 6.8km to the east and the Blackwater River (Cork/Waterford) SAC, Site Code 002170, 6.9km to the south west and 10.2km to the north west.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the

nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

9.0 Reasons and Considerations

Having regard to the pattern of permitted development in the area, to the zoning afforded to the site and the provisions of the Dungarvan Town Development Plan 2012, as extended, and to the layout and design as submitted, the Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of adjoining properties, would not seriously injure the residential amenities of future occupants and would be acceptable in terms of traffic safety and convenience. 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. The proposed flat roofed area of the permitted house shall not at any time be accessible from the first floor bedroom or landing and shall not be used as a patio / balcony or other amenity spaces at any time. No walls or other screening shall be erected along the northern area of the flat roofed area.

Reason: To ensure the protection of the existing residential amenities of the adjacent property and to prevent overlooking and overshadowing of existing property.

3. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works. Surface water from the site shall not be permitted to drain onto the adjoining public road.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

5. The site shall be landscaped in accordance with a landscaping plan which shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development. The plan shall provide for the retention of the existing trees / hedges along the northern and eastern boundaries of the site in full. Prior to the commencement of any development on the site, the developer shall submit for the written agreement of the planning authority, proposals for the protection of the boundaries during construction works.

Reason: In the interests of visual and residential amenity.

6. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be

submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable waste management.

7. Site development and building works shall be carried out only between the hours of 08.00 to 18.00 Mondays to Fridays inclusive, between 08.00 hours and 13.00 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 amenities of property in the vicinity.

8. 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.

A. Considine
Planning Inspector
1st November, 2019