



An
Bord
Pleanála

Inspector's Report ABP-305370-19.

Development	Outline permission to construct a two storey dwelling with on-site waste water treatment system, new entrance onto public road and all associated site works.
Location	Ballynaneashagh, Waterford.
Planning Authority	Waterford City & County Council.
Planning Authority Reg. Ref.	19/449.
Applicant(s)	Clodagh Walsh.
Type of Application	Outline planning permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Clodagh Woods.
Observer(s)	None.
Date of Site Inspection	20 th November, 2019.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located to the south of Waterford City, and to the south west of the outer ring road which circles the city. The area has evidence of being under significant pressure from one-off housing with a number of detached houses, on private waste water systems, in the area. Immediately to the south and east, there is a small cluster of houses, with additional houses lining the public road. The existing houses include a range of detached houses from single storey, dormer and two storey houses. To the north of the proposed entrance, there is a commercial development.
- 1.2. The site has a stated area of 0.3583ha and comprises part of a much larger agricultural field, which is currently under grass. The larger field lies immediately adjacent to the ring road, which dissected the family landholding with additional lands located to the north of the road. The larger site is bound by a hedgerow with intermittent trees. The site itself is located to the southern area of the field and is accessed via an existing agricultural access from the public road to the east. The site is located approximately 170m from the public road and the site is located to the rear of the existing houses.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for outline planning permission to construct a two storey dwelling with on-site waste water treatment system, new entrance onto public road and all associated site works all at Ballynaneashagh, Waterford.
- 2.2. The application included a number of supporting documents including as follows;
 - Plans, particulars and completed planning application form
 - Site Characterisation Report
 - Supplementary Form
 - Letters of consent
 - Planning Report

3.0 Planning Authority Decision

3.1. Decision

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

1. The proposed development, in conjunction with existing and permitted development in the vicinity, would constitute an excessive density of development and perpetuate an ad-hoc, disorderly pattern of development on lands zoned 'agriculture' as designated in the Waterford City Development Plan 2013-2019 and would be therefore contrary to the proper planning and sustainable development of the area. The proposed development would therefore contravene the zoning objective for such agriculturally zoned lands, which is to protect and conserve rural character and preserve agricultural uses, as identified in the Waterford City Development Plan 2013-2019.

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, planning history in the area and the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The report notes the location of the site within the agriculture zoned lands and notes that a number of sites have been transferred from the overall landholding to family members and non-family members in the past. It is considered that there is no justification for an additional dwelling, albeit on family lands. 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

None.

3.2.3. **Prescribed Bodies**

None

3.2.4. **Third Party Submissions**

There are no third party objections/submissions noted on the planning authority file.

4.0 **Planning History**

There is no relevant planning history pertaining to the subject site other to note that the overall family landholding was dissected following the CPO of land for the construction of the Outer Ring Road around the city of Waterford.

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.

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. In rural areas elsewhere, it refers to the need to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.2. **Sustainable Rural Housing Development Guidelines 2005**

The Rural Housing Guidelines seek to provide for the housing needs of people who are part of the rural community in all rural areas and makes a distinction between

'Urban Generated' and 'Rural Generated' housing need. Chapter 4 of the guidelines relates to rural housing and planning applications and states that in areas under significant urban influence, applicants should outline how their proposals are consistent with the rural settlement policy in the development plan. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply, including 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

The Guidelines further require that new houses in rural areas be sited and designed in a manner so as to integrate well with their physical surroundings and generally be compatible with water protection, roads, traffic and public safety as well as protecting the conservation of sensitive areas.

The subject site is located in a rural area under strong urban influence.

5.3. **Development Plan**

The Waterford City Development Plan is the relevant policy document pertaining to the subject site and is zoned for Agriculture with the objective 'to protect and preserve rural character and preserve agricultural uses'. The agricultural zone, wraps around the built up area of the City and provides a demarcation of the outer boundary of the development area of the City. A total of 1008.7 ha is being zoned for agricultural use in the Development Plan. Development in this area will be confined to agricultural uses, housing for specified categories of persons, recreational uses and public service installations.

The lands immediately adjacent to the site to the west comprise lands zoned for the Green Belt around the city.

Section 7.4 of the CDP relates to the Rural Area. The following policies and objectives are relevant:

- To protect the integrity, special character and landscape of the rural parts of the City, by ensuring that the growth of the City takes place in an orderly fashion, which is economic and sustainable in relation to land use and the provision of public infrastructure. (POL 7.4.1)

- To maintain a clear demarcation between the rural and built up areas and to prevent urban sprawl. (POL 7.4.2)
- To promote the use of the rural areas of the City for sustainable agriculture. (POL 7.4.3)
- To preserve, and promote the use of existing public rights of way in the rural area of the City. (POL 7.4.4)
- To discourage the construction of new buildings and structures in the area of the City zoned for agricultural uses other than for the purposes of:
 - Agriculture and forestry
 - Facilities for outdoor sport and recreation
 - Alteration and extension of existing buildings
 - Housing for the immediate family members of long standing residents, farmers and farm workers
 - Essential public service installations. (POL 7.4.5)

The site the subject of this appeal is not located within an area which is not accessible to public water services, with a private well and wastewater treatment system proposed to service the development.

5.4. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Lower River Suir SAC (Site Code: 002137) which is located approximately 2.8km to the west of the site.

The Kilbarry Bog pNHA, Site Code 001700, lies approximately 2.4km to the east of the site.

5.5. EIA Screening

Having regard to nature and scale of the development, together with the 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 presents a background to the development and the issues are summarised as follows:

- The subject site comprises part of a long-established family farm which was bisected by the city ring road. This area of the landholding is remote from the original and main farm complex and is the only area which is not subject to a long-term lease agreement by local farmers.
- The future use of the site will not include any agricultural activities by the Walsh family as they do not work in the agricultural industry and it is determined that the land is not economically viable for agricultural purposes. The only way it can be used is to allow the applicant to build her first home on it.
- The applicants father has considered alternatives for the land including forestry, but is reluctant as the height of the trees would be out of character for a city area and would impact on the light of neighbouring houses.
- Access to the site is via an existing gate.
- There is precedent for granting permission for houses in the vicinity of the site.
- The indication that 4 sites have been transferred or sold to family members and 17 sold to non-family members is misleading as these transfers were made by the applicants grandfather and not her father, the current owner of the land for the past 10 years. No sites have been sold or transferred in this time.
- The appellant has a housing need as provided for in the Waterford City Development plan, 2013-2019 and has always resided in the immediate area.

- The PA has shown inconsistency in considering the proposed development in terms of housing need criteria having regard to other recent decisions.
- The proposed development will materially increase the density in the area.
- The existing pattern of development in the area has evolved in an ad-hoc way and has become an informal cluster of houses rather than a ribbon.
- While it is an objective of the 'agricultural' zoning to protect and conserve rural character and preserve agricultural uses, it is equally an object to provide for the housing needs of persons who are an intrinsic part of the rural community on agricultural zoned lands.
- The subject site is not worked as part of the main farm landholding due to the physical barrier created by the development of the outer ring road.
- Issues raised in relation to the issuing of the decision to refuse, which referenced a different applicant.

It is requested that permission be granted for the proposed development.

6.2. **Planning Authority Response**

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

6.3. **Observations**

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 County Development Plan & General Development Standards
2. Visual Impacts
3. Roads & Traffic
4. Water Services
5. Other Issues
6. Appropriate Assessment

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

- 7.1.1. The subject site is located within the rural area around the City of Waterford, and just outside the boundary of the Ring Road, but within the zoned area of the City. The site is zoned for agricultural purposes. There is a presumption against development in such areas save for in instances where it can be demonstrated that an applicant complies with the Planning Authority's policies relating to the rural area. Should the Board be minded to grant planning permission in this instance it should be satisfied that the appellant adequately complies with the requirements of these stated policies as detailed in Section 7.4 of the Plan, as well as National Policy Objective 19 of the National Planning Framework. The wider area is under urban influence given its proximity to the city of Waterford.
- 7.1.2. Objective 19 of the National Planning Framework seeks to ensure that in rural areas under urban influence, the provision of single housing in the countryside will be

based on the core consideration of demonstratable economic or social need to live in a rural area..... having regard to the viability of smaller towns and rural settlements.

- 7.1.3. In terms of the policy requirements of Waterford City & County Council, the subject site and is zoned for Agriculture with the objective 'to protect and preserve rural character and preserve agricultural uses'. The agricultural zone, wraps around the built up area of the City and provides a demarcation of the outer boundary of the development area of the City and development in this area will be confined to agricultural uses, housing for specified categories of persons, recreational uses and public service installations.
- 7.1.4. In the context of the subject appeal, the Board will note that the applicant has advised that the site is located on lands which are not farmed by the family and that the family are not engaged in farming. The farm lands to the north of the ring road are leased and the subject site is located on lands which are described as 'the only field which has no long-term lease agreement by local farmers'. The applicant currently resides in the family home approximately 0.64km from subject site to the north east, and on the northern side of the R710 Ring Road. Ms. Walsh works locally as a teacher and her family is the fifth generation living in the area. It is clear that the applicant does not have a specific economic need to live on the landholding and in this regard, I have serious concerns in terms of the proposed development, particularly given the lack of any public water services in the area and the agricultural zoning afforded to the site. As such, I consider that the development amounts to urban-generated housing.
- 7.1.5. Notwithstanding the indication that the applicant intends to apply for a flock licence, I consider that a grant of planning permission will contravene the policies of the CDP as they relate to the Rural Area, Section 7.4 of the plan, and in particular would constitute an inappropriate development on lands zoned for agricultural purposes and in an unserviced area. As such, I am satisfied that the applicant has not demonstrated adequate compliance with the policy objectives of the City Development Plan as they relate to rural housing, Objective 19 of the National Planning Framework or the guidance provided within the Sustainable Rural Housing Guidelines.

7.2. Visual Impacts

- 7.2.1. The subject appeal relates to an outline planning permission application and in this regard, no details plans have been provided. The application is however for the development of a two storey house. While there is a variety of house types in the immediate vicinity of the subject site, the Board will note that the site will be visible from the outer ring road. The existing hedgerow while extensive, is not significant in terms of height. Any proposed structure will be visible from the north. However, should the Board be minded to grant outline planning permission for development on this site, I am satisfied that any visual impact can be alleviated by landscaping. Any application for permission consequent on the grant of outline planning permission should include a full and detailed landscaping plan. This could be dealt with by way of condition.

7.3. Roads & Traffic

- 7.3.1. Access to the site is via an existing agricultural entrance. There is adequate sight distance available at this entrance and I am satisfied that if permitted, the development would not give rise to any significant traffic issues.

7.4. Site Suitability issues

- 7.4.1. In terms of site suitability, the Board will note that the applicant submitted a full site assessment and recommendations for the treatment and disposal of waste water. The applicant proposes the installation of a proprietary waste water treatment system and percolation area/polishing filter. Having considered the information provided with regard to the proposed development, I am satisfied that the applicant submitted a robust and complete site assessment regarding its suitability in terms of the treatment and disposal of wastewater generated on the site. The site assessment appears to have been carried out by a suitably qualified professional.
- 7.4.2. I have considered all of the information presented on the file and I am generally satisfied that the subject site has been adequately assessed to show that it is capable of accommodating the proposed development in terms of the treatment and disposal of wastewater arising from the development of a house. I am therefore

satisfied that the development, if permitted, is unlikely to result in a public health hazard or impact on the quality of ground or surface waters in the area.

7.5. Other Issues

7.5.1. 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.

7.6. Appropriate Assessment

The site is not located within any designated site. The closest Natura 2000 site is the Lower River Suir SAC (Site Code: 002137) which is located approximately 2.8km to the west of the site.

The Kilbarry Bog pNHA, Site Code 001700, lies approximately 2.4km to the east of the site.

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 refused for the proposed development for the following stated reason.

9.0 Reasons and Considerations

The site of the proposed development is located in the rural area of Waterford City and on lands zoned 'agriculture' in the Waterford City Development Plan, 2013-2019, where it is the stated objective to protect and conserve rural character and preserve agricultural uses'. Further, it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area.

Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need to live in this rural and unserviced area. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location. The proposed development would, therefore, be contrary to the Ministerial Guidelines and to the over-arching national policy, and having regard to the provisions of the current Waterford City Development Plan, 2013-2019, would contravene the zoning objective afforded to the site and would be contrary to the proper planning and sustainable development of the area.

A. Considine

Planning Inspector

10th December, 2019