



An
Bord
Pleanála

Inspector's Report ABP-305554-19

Development	Construction of house, vehicular entrance, wastewater treatment system and all associated site works
Location	Minuan, Faithlegg, Co Waterford
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	19538
Applicants	Cian O'Sullivan & Elaine Leonard.
Type of Application	Permission.
Planning Authority Decision	Refuse Planning Permission.
Type of Appeal	First Party V Refusal.
Appellants	Cian O'Sullivan & Elaine Leonard.
Date of Site Inspection	30 th , December 2019.
Inspector	Paddy Keogh

1.0 Site Location and Description

- 1.1.1. The site of the proposed development which has a stated area of c. 0.592 ha. is located within the townland or Minaun in a rural area between Faithlegg and Cheek Point. The site has been sub-divided from a larger family agricultural holding. Access to the site is via a narrow and poorly surfaced local road located to the north of the L4082 (local road linking Faithlegg and Cheek Point/Passage East). This private road to the site serves a number of other dwellings, including the first named applicant's parent's house and the first named applicant's sister's house (immediately to the south of the application site) together with other farm lands and structures and an entrance (with small car park) to Faithlegg Woods.
- 1.1.2. The site is enclosed by mature boundary planting and hedgerows. Levels across the site fall away gently in a south-easterly direction.

2.0 Proposed Development

- 2.1. The proposed development involves the construction of a single storey dwelling, a new vehicular entrance, wastewater treatment system and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of a decision to refuse planning permission for the proposed development was issued by the planning authority per Order dated 12th, September 2019. The single reason for refusal was as follows:

(1) It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic movements the development would generate on a substandard minor road sections of which are seriously substandard in terms of width and alignment and due to the increase in traffic on the minor road servicing the site which meets the public road at a road junction with poor horizontal alignment of the public road as evidenced by the solid white line fronting the junction of the minor road and public road.

3.2. Planning Authority Reports

3.2.1. Planning Reports

A report from the planning authority Senior Planner dated 12th, September 2019 includes:

- The subject site is located within an 'Area Under Urban Pressure' in the Waterford County Development Plan 2013 – 2019.
- Considered that the applicants have established a housing need to satisfy the criteria set out in Section 4.10 of the Waterford County Development Plan.
- It is considered that the proposed development would not detract from the character or visual amenity of the area (designated as being 'Visually Vulnerable' in the 'Scenic Landscape Evaluation' prepared by Consultants on behalf of Waterford County Council in 1999.
- The site of the proposed development is served by a new entrance onto a private road. 55m sight lines in each direction are provided at the proposed access. The private road is a narrow country road without sufficient width to allow two cars travelling in opposite directions to pass along most of its length.
- There is no objection to the proposal to install a packaged wastewater treatment system and polishing filter in accordance with compliance with the requirements of the Code of Practice for Treatment Systems for single dwellings issued by the Environmental Protection Agency.

4.0 Planning History

Appeal Site

- 4.1.1. There is no record of recent planning history of the subject site.

Adjacent Site (to north of appeal site)

Reg. Ref. 07/1656 – Planning permission for replacement dwelling (fire damaged house), garage etc. was granted by the planning authority per Order dated 2nd, January 2008.

Reg. Ref. 08/578 – Planning permission for change of house design (from that permitted under Reg. Ref. 07/1656) was granted by the planning authority per Order dated 28th, July 2008.

Adjacent Site (to east of appeal site)

Reg. Ref. 10/72 – Application for planning permission for 2 houses WITHDRAWN.

5.0 Policy Context

5.1. Waterford County Development Plan 2011-2017 ('the Development Plan').

5.1.1. The Waterford County Development Plan 2011-2017 is the current Development Plan for the area. With the establishment of Waterford City & County Council, in June 2014, this plan had its lifetime extended (pursuant to *S. 11A of the Planning and Development Act 2000, as amended*) and remains in effect until the new Regional Spatial and Economic Strategy comes into effect.

5.1.2. The appeal site is located in an area zoned 'Agriculture'. The stated objective of this zoning is '*To provide for the development of agriculture and to protect and improve rural amenity*'

5.1.3. The county is divided into three broad categories;

1. Areas Under Urban Pressure
2. Stronger Rural Areas
3. Structurally Weak Rural Areas

The *Rural Area Types Map* contained within the Development Plan identifies the subject site as being located within an 'Area Under Urban Pressure'.

5.1.4. **Section 4.8** refers to Rural Housing Policy

The Council's aim is to

'Minimise the amount of sporadic speculative development which would be more appropriately located on serviceable lands in towns and villages; and

Meet the genuine housing need of rural people and their families who have strong ties to a particular locality and to those who need to reside in rural areas for employment,

economic and social reasons subject to the applicant demonstrating a Genuine Local Housing Need.'

5.1.5. **Policy SS3** seeks 'To cater for the housing requirements of members 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.'

5.1.6. **Policy SS4** seeks 'To direct urban generated housing development in Areas Under Urban Pressure into the adjoining zoned settlements.'

5.1.7. **Section 4.10** refers to 'Genuine Local Housing Need'.

Housing Need criteria includes '*A farm owner or an immediate family member (son, daughter, mother, father, sister, brother, heir) wishing to build a permanent home for their own use on family lands.*'....

and

'Persons who were born and reared 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 places to reside near other family members, to work locally, to care for elderly family members....'

National Policy

5.2. Sustainable Rural Housing Planning Guidelines (2005)

5.2.1. The site of the proposed development is located within an area designated as being under strong urban influence.

5.2.2. The Guidelines distinguish between 'Urban Generated' and 'Rural Generated' housing need. Examples of situations where rural generated housing need might apply as set out in the Guidelines include rural houses for '*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

5.3.1. National Policy Objective No. 19 states

In rural areas under urban influence, 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 and siting and design criteria for rural housing in statutory

guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.4. Natural Heritage Designations

- The Lower River Suir Special Area of Conservation (SAC) (Site Code 002137) is located c. 0.5 km to the north - east of the appeal site.
- The River Barrow and River Nore SAC (Site Code 002162) is located c. 0.8 km to the east of the appeal site.
- The Tramore Backstrand Special Protection Area (SPA) (Site Code 004027) is located c. 11.5 km to the south of the appeal site.

5.5. EIA Screening

- 5.5.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment 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

The submitted grounds of appeal include:

- The site is in the ownership of the first named applicant having been recently transferred from the ownership of his father. The site forms part of a larger family land holding at this location.
- The proposed dwelling will be largely screened from public view by existing boundary planting.
- The removal of two roadside trees will be necessary to facilitate the provision of adequate sight lines at the proposed entrance.

- The first named applicant was born and reared in the area. The first named applicant's live in a house to the south of the appeal site. The applicant's sister lives in the house immediately to the south of the parents' house.
- The applicants currently live in Dublin but wish to return to live in the area where the first named applicant was born and reared. The first named applicant has recently obtained an Organic Horticulture qualification and intends to establish an organic horticulture business on family owned lands adjacent to the appeal site.
- The applicant's comply with Development Plan policy in respect of rural housing for a house at this location.
- The proposed development will not be visually intrusive in the landscape.
- The private road serving the site is single carriageway, but there are many passing opportunities for vehicles travelling along the road. Roads of this nature are not uncommon in rural Ireland and the nature of the carriageway has not prevented planning permission being granted on family owned lands with access via this road. (Aerial photograph indicating passing opportunity points along the carriageway accompany the submitted grounds of appeal).
- The first named applicant intends to establish a horticultural business on a site near the appeal site. In the event, that planning permission for the proposed development is not obtained the applicant will be travelling along this road to and from work and when visiting (on a regular basis) his parents and sister in their homes.
- There is good visibility at the junction of the private road serving the site of the proposed development with the L4082 (Faithlegg to Cheek Point road). It is anticipated that vehicles accessing the proposed development will mostly do so from this direction (rather than from the alternative Cheek Point access route – via the north of the appeal site).

6.2. Planning Authority Response

None

7.0 Assessment

I consider that the key issues arising out of the current appeal are those set out in the submitted grounds of appeal. These can be addressed under the following headings.

(1) Access & Traffic

(2) Rural Housing Policy

(3) Other Matters

The matter of Screening for Appropriate Assessment also needs to be addressed.

(1) Access & Traffic

- 7.1.1. The single reason for refusal given by the planning authority refers to the substandard nature of the carriageway along the private road servicing the appeal site. It is considered that the increase in traffic along this road generated by the proposed development would endanger public safety by reason of a traffic hazard.
- 7.1.2. The submitted grounds of appeal argue that, notwithstanding the acknowledged substandard nature of the carriageway along the carriageway of the private road serving the site, the road is relatively lightly trafficked and there are adequate passing opportunities for cars travelling in opposite directions to pass (field and house entrances, short wide sections of carriageway etc.).
- 7.1.3. It is clear from my site visit that the private roadway providing access to the site of the proposed development is substandard. The road is single carriageway with limited opportunities for cars or other vehicles passing in opposite directions to pass. It would appear that vehicles are forced to stop on regular occasions and forced to execute reverse movements in order to utilize the opportunities for one vehicle to pull in to field and house entrances etc.
- 7.1.4. The submitted grounds of appeal demonstrate that (subject to the removal of two trees) sightlines of 55m in each direction can be provided at the proposed point of access to proposed dwelling. The nature of the carriageway at this location is such

that traffic speeds along the route are slow. In these circumstances, I consider that the design of the proposed entrance as satisfactory.

- 7.1.5. The substandard nature of the carriageway along the private road serving the site is such that vehicles are forced to travel with caution and at a slow speed. Arguably the substandard character of the carriageway acts as a traffic calming device which serves to prevent the creation of potential traffic hazards for vehicles moving along the route. However, the distance along the route from the appeal site to the junction of the private road with the L4082 (local road between Faithlegg and Cheek Point/Passage East) is in excess of 0.5 km. This section of road contains a number of bends and a section with a steep incline together with a number of vehicular entrances. The road is poorly surfaced in sections. Furthermore, as has been highlighted by the planning authority the road joins the L4082 at a junction that is hampered by poor horizontal alignment and at a point where sightlines for vehicles joining the L4082 are, thus, restricted. On balance, I consider that the carriageway lacks capacity to accommodate further development and I would tend to agree with the conclusion of the planning authority Senior Planner that the increase in traffic generated by the proposed development including the increased traffic turning movements at the junction with the L4082 would endanger public safety by reason of a traffic hazard.

(2) Rural Housing Policy

- 7.1.6. The applicants wish to relocate from their current address in Dublin to the appeal site. The parents of the first named applicant live in a dwelling on the adjacent site to the south of the appeal site. The sister lives in the house on the site immediately to the south of the parent's house.
- 7.1.7. The site of the proposed development has been transferred by the parents of the first named applicant. The first named applicant has recently obtained a qualification in organic horticulture. He intends to live permanently at this location and establish a horticulture business on family lands. It is also intended that the parents will provide support to the applicants in the rearing of their children and the applicants will provide support to the parents in their later years.
- 7.1.8. 'Genuine Housing Need' as defined for the purposes of Section 4.10 of the Development Plan includes 'A farm owner or an immediate family member (son, daughter, mother, father, sister, brother, heir) wishing to build a permanent home for

their own use on family lands.’....and *‘Persons who were born and reared 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 places to reside near other family members, to work locally, to care for elderly family members....’*

- 7.1.9. The planning authority accepts that the applicants (based on family ties to the area) comply with the rural housing policy as set out at Section 4.10 of the Development Plan. On balance, I consider that the first named applicant (despite having moved away from the area) by virtue of being a son of the farm owner who wishes to return to his home place to reside near other family members and to work locally complies with the planning authority (local) rural housing policy.
- 7.1.10. National policy on rural housing as set out in the *‘Sustainable Rural Housing Guidelines (2005)’* states that rural generated housing need might apply in the case of rural houses for ‘persons who are an intrinsic part of the rural community’ and ‘persons working full time or part time in rural areas’. On the basis of the submitted documentation, the applicants who work in Print Media (since 2011) and Catering (since 2018) in Dublin are clearly not working full time or part time in a rural area. Furthermore, the first named applicant may have severed his connection to the rural area and no longer qualify as an intrinsic part of the rural community.
- 7.1.11. National Policy as set out in the ‘National Planning Framework’ allows for single houses in rural areas (under urban influence) based on demonstrable economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements.
- 7.1.12. It would be open to the applicants to meet their housing need by returning to live in a house located in a designated town or village in the area while commuting to work on the family owner lands. However, on the basis that the first named applicant intends to develop a horticultural practice on the family owned lands and that active supervision if this facility will be required in the ‘start-up’ years and on the basis of the desire to provide support to the first named applicant’s parents in their later years I consider that the applicants meet the social and economic need criteria to justify living in this rural area as stipulated under the National Planning Framework. Furthermore, in these circumstances, I consider that a refusal of planning permission based on any

failure to fully demonstrate compliance with the requirements of the 'Sustainable Rural Housing Guidelines' would be unwarranted.

Other Matters

- 7.1.13. The proposed development involves the construction of a single storey dwelling that will scale to a maximum ridge height of 5.29 m. The proposed dwelling will be finished with nap plaster external walls and a blue/black 'Trutone' slate roof covering. I consider that the design of the proposed dwelling is acceptable. The site is enclosed by mature boundary and hedgerow planting which will screen the proposed development to a significant degree from nearby vantage points. In these circumstances, I consider that the proposed dwelling can be satisfactorily assimilated into the site and would agree with the conclusion of the planning authority Senior Planner that the proposed development would not injure the visual amenities of the area.
- 7.1.14. On the basis of the documentation on file including the Conclusions of the Site Characterisation Form that accompanied the application lodged with the planning authority I am satisfied that, subject to satisfactory installation and maintenance, the site is suitable to accommodate the proposed wastewater treatment system and polishing filter.

(3) Screening for Appropriate Assessment.

- 7.1.15. The nearest designated European sites to the appeal site are the Lower River Suir Special Area of Conservation (SAC) (Site Code 002137) and the River Barrow and River Nore SAC (Site Code 002162) located c. 0.5 km and c. 0.8 km respectively from the appeal site. Both these Natura 2000 sites meet c. 1 km to the north-east of the appeal site.
- 7.1.16. The most likely impact of the proposed development on either of these SACs is as a consequence of the escape of sediment and particles during the construction of the dwelling and associated works. The intervening area between the proposed construction works and these SACs is characterised by agricultural fields with estuarine riverbank vegetation (trees and other vegetation) nearer the riverbanks. The site is well separated from the estuary of the River Suir/Barrow & Nore. This is a

deposition area of the river characterised by slow moving water and mudflats. Few, if any, of the qualifying interests of either of the latter mentioned SACs are likely to be present in this fluvial deposition zone. Furthermore, the presence of riverbank vegetation will act as a natural filter between the site and the SACs.

- 7.1.17. Having regard to the nature and scale of development proposed and to the nature of the receiving environment and separation distance from the nearest designated site, no appropriate assessment issues arise and it is considered that the proposed development would be unlikely to have a significant effect individually or in combination with other plans or projects on any European site.

8.0 Recommendation

- 8.1. I recommend that planning permission for the proposed development be refused for the reasons and considerations as set out below.

9.0 Reasons and Considerations

- (1) The site of the proposed development is served by a private access road that is substandard in terms of both width and alignment which joins the local public road (L4082) at a bend in the road where sightlines for vehicles joining the public road are restricted. It is considered that the private access road does not have capacity to reasonable accommodate the increase in vehicle movements along this road and at the junction with the L4082. In these circumstances, it is considered that the proposed development would endanger public safety by reason of a traffic hazard.

Paddy Keogh
Planning Inspector

19th, March 2020