



An
Bord
Pleanála

Inspector's Report ABP 305764-19

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| Development | Erect a single storey house |
| Location | Eardownes Great, Lady's Island, County Wexford |
| Planning Authority | Wexford County Council |
| Planning Authority Reg. Ref. | 2191140 |
| Applicant(s) | Deirdre Scallan |
| Type of Application | Permission |
| Planning Authority Decision | Refuse |
| Type of Appeal | First Party |
| Appellant(s) | Deirdre Scallan |
| Observer(s) | Diarmuid MacDermott |
| Date of Site Inspection | December 2019 |
| Inspector | Hugh Mannion |

1.0 Site Location and Description

1.1. The site has a stated area of 0.21ha and is located in the townland of Eardownes Great, Lady's Island, County Wexford. The site is accessed through the existing Lakeside housing estate. Lady's Island is a small settlement with a core comprising a school, church, petrol station, public house and convenience store. The application site is on the northern edge of the settlement; hardcore has been already laid from the site to the residential estate road which serves the site immediately to the west where a house is under construction.

2.0 Proposed Development

2.1. The proposed development comprises the erection of a single storey house connected to a public mains water supply and public sewer at Eardownes Great, Lady's Island, County Wexford.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused because;

The site of the proposed development is located within an "Area Under Strong Urban Influence" as set out in the "Sustainable Rural Housing Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in April, 2005. Furthermore, the site of the proposed development is located in an area that is under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework 2018, 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. The planning authority is not satisfied, on the basis of the submissions made in connection with the planning application, that the applicant has a demonstrable economic or social need to live in this rural area. It is considered 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, by reason of its location constitutes inappropriate, uncoordinated and piecemeal backland development. The proposed development

would, therefore, be contrary to the Ministerial Guidelines and to the over-arching national policy, notwithstanding the provisions of the Wexford County Development Plan 2013-2019, and would, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report recommended that permission be refused for the reason set out in the manager's order.

3.2.2. Other Technical Reports

The Chief Fire Officer reported no objection.

4.0 Planning History

Under ABP302600-18 permission was refused to the same applicant on the same site on foot of a third-party appeal for the erection of a house because;

1. The site of the proposed development is located within an "Area Under Strong Urban Influence" as set out in the "Sustainable Rural Housing Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in April, 2005. Furthermore, the subject site is located in an area that is under urban influence, where 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 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, because of its location constitutes inappropriate, uncoordinated and piecemeal backland development. The proposed development would, therefore, be contrary to the Ministerial Guidelines and to

the over-arching national policy, notwithstanding the provisions of the current Wexford Development Plan, and would, be contrary to the proper planning and sustainable development of the area.

- 4.1. Planning reference **20190467** permission granted to Sharon Scallan/Wayne Morris for a house on the site immediately to the west of the present application site. Construction has commenced.
- 4.2. Planning reference **20012039** permission for two houses immediately to the south which have been completed and occupied.

5.0 Policy and Context

5.1. Development Plan

- 5.2. The operative Development Plan is the Wexford County Development Plan 2013 to 2019. The plan sets out its rural housing policy in Chapter 4 and Lady's Island is identified as an area under strong urban influence. The following objectives are of relevance:
 - 5.3. Objective RH01
 - 5.4. To facilitate the development of individual houses in the open countryside in 'Areas Under Strong Urban Influence' in accordance with the criteria laid down in Table No. 12 subject to compliance with normal planning and environmental criteria and the development management standards laid down in Chapter 18.
 - 5.5. Objective RH02
 - 5.6. To facilitate individual houses, other than those referred to in 'Areas Under Strong Urban Influence' in Table No. 12, in the existing settlements including those settlements defined in the settlement hierarchy as Strong Villages, Smaller Villages and Rural Settlements, subject to complying with normal planning and environmental criteria and the development management standards laid down in Chapter 18.
 - 5.7. 5.1.2 Permitted development under areas of strong urban influence include:
 - 5.8. "Housing for 'local rural people' building permanent residences for their own use who have a definable 'housing need' building in their 'local rural area'".

- 5.9. 5.1.3 Section 3.4.10 sets out guidance regarding rural settlements:
- 5.10. “These settlements are best described as rural areas where a collection of one-off rural dwellings and local community or social services, such as a church, school, public house or a shop are clustered around a focal point, such as a crossroads. The Settlement Strategy for these areas is to facilitate a small number of additional dwellings to consolidate the existing pattern of development. Appropriately designed cluster type developments will be considered at these locations subject to complying with other planning, traffic safety and environmental criteria. A cluster development is defined as small residential development comprising of between two and five dwelling houses served by a communal vehicular entrance point and access road from the public road.
- 5.11. Local need or the requirement to enter an occupancy agreement will not apply to the occupiers of single dwellings or cluster developments within the boundary of these rural settlements.”
- 5.12. 5.1.4 Lady’s Island is also located in a coastal zone. It is stated in the plan:
“In coastal areas there has been a significant pressure for development and as a result some of these areas are reaching capacity in terms of their ability to *accommodate further development. There is still demand for development in these areas and this demand needs to be managed in a way which does not take away from the special character of these areas or interfere with sensitive areas or coastal processes.*”
- 5.1.5 **Section 17.7** refers to the Rural Design Guide. This includes guidance on boundary treatment (17.7.1), sustainability (17.7.2), design brief (17.7.3), site appraisal (17.7.4) and sketch design (17.7.5).

5.1.6 **Section 18.12.2** refers to siting and design requirements for single rural houses, these include criteria in relation to site size, siting, access, effluent treatment, landscaping etc. that should apply. In general the siting of the house should reflect the position of adjoining developments and should avoid adverse impacts on neighbouring properties from overlooking and undue overshadowing and visual impacts.

5.2 **Sustainable Rural Housing Development Guidelines**

5.2.1 The guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those with proximity to the immediate environs or close commuting catchment of large cities and towns. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

5.3 **National Planning Framework – Project Ireland 2040, DoHP&LG 2018**

5.3.1 National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations.

5.13. **Natural Heritage Designations**

No relevant.

5.14. **EIA Screening**

5.15. Having regard to nature of the development comprising a single rural house connected to the public mains and the absence of any significant environmental sensitivity in the vicinity/the absence of any connectivity to any sensitive location, 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 layout of the area has changed since the previous application since other house has been permitted in the same field and is under construction.
- The site is not in use for agriculture. The adjoining site benefited from a grant of planning permission for the applicant's niece and local need was not an issue in that case.
- The site layout has been changed since the previous application to better reflect the adjoining housing development.
- Statements submitted in the observations made in relation to the application are incorrect.
- The applicant is from the area, has strong family ties in the area, works within walking distance of the application site and thereby fulfils the local need criteria for a new house.
- For health reasons it is important to live in the area close to the family.

6.2. Planning Authority Response

- None

6.3. Observations

Diarmuid MacDermott made a submission to the Board.

- Planning permission has been refused previously on this site under reference ABP302600-18. There are no material differences between that earlier application and the present case.
- The observer purchased his current house from the applicant in this case who did not indicate an intention to build on the application site. The proposed house will be behind the observer's house and block views from that house.

6.4. Further Responses

None.

7.0 Assessment

7.1. Rural Housing Policy

- 7.2. The application site is on un-zoned lands on the northern edge of the developed area of Lady's Island in south County Wexford. The village centre is to the south of the site adjoining Lady's Island Lake which is a brackish lake. The village has several commercial uses (a minimarket, petrol station and public house). The site is accessed through an existing development of about 40 houses – Lakelands. The final 50m of access road is partially constructed to facilitate a house under construction which appears to be the house granted under reference 20190467 permission granted to the applicant's niece.
- 7.3. The Wexford County Development Plan has not, generally, designated boundaries for many settlements in the County outside the larger towns and Lady's Island does not have a development boundary. Previously under ABP302600-18 the Board refused permission on this site to the present applicant for a house because the applicant had not demonstrated an economic or social need to live in the area.
- 7.4. The applicant makes two points; that her circumstances should be considered to justify a grant of planning permission on the basis of social need to live in the area and that the nature of the area has changed due to recent planning decisions.
- 7.5. The applicant submitted details in relation to her employment in the Parish Office which is the former local school in the village on the lakeshore and within walking distance of the application site. Furthermore, the application states that the application site is family owned and that the applicant has several family connections in the area. Although the site is designated as under strong urban influence in the current County Development Plan I would distinguish between sites in un-serviced rural areas remote from community facilities and infrastructure and where the predominant land use is agriculture and transitional sites between urban and rural areas. The application site falls into the second category. In the former the high bar of local housing need set out in the Sustainable Rural Housing Guidelines and the

County Development Plan is appropriately applied but in transitional areas, such as the present case, I consider that a more flexible approach may be appropriate.

- 7.6. The second point raised by the applicant – that the nature of the area has altered is significant in this case. At the time of the previous application there were two houses using a new access road from the Lakelands housing development. These houses were in what was originally an agricultural field and a northern building line established by these two houses could have constituted the development boundary within the envelope of Lady's Island village. Since then the planning authority has granted permission to the applicant's niece for a further house to the west which brings the development boundary up to the original hedge line of the field. As that original agricultural field has been reduced by the development of three houses this remaining element has little potential for agricultural use. The most recent house now under construction and the proposed house would be served by a single access from the Lakelands housing previously permitted and currently under construction. The earlier application on the site (reference ABP 302600-18) also set the proposed house further north into the field thereby creating a potential infill site – that is not the case in the present application as the proposed house is centrally located within the site. I conclude therefore that the original hedge of the original agricultural field is now the reasonable edge of the development within Lady's Island village.
- 7.7. The County Development Plan (Section 3.4.10) recognizes that in certain rural settlements a small number of additional houses may be acceptable. Having regard to the housing circumstances of the applicant, her employment within the village and the pattern of development in the area I conclude that the proposed development would be a reasonable extension to permitted and constructed development in the area and that the proposed development does not materially contravene the County Development Plan or the guidance set out in the Sustainable Rural Housing Guidelines.
- 7.8. **Impact on Adjoining property.**
- 7.9. The observer appears to live in the house immediately to the south of the application site and makes the point that he purchased his site from the current applicant and did not expect that additional houses would be constructed on the adjoining lands. Additionally, the proposed house will intrude in views from his house.

7.10. The proposed house is single storey and is set back about 17m from the southern site boundary with the observer's site. Having regard to this separation distance and the relatively flat topography in the area I conclude that the proposed development will not seriously injure the amenity of adjoining property through overlooking or overshadowing. Furthermore, although the proposed house may be visible from the observer's property it cannot be concluded that it seriously injures the amenity of the observer's property for this reason alone.

7.11. **Water and Foul Effluent**

7.12. The application states that it can connect to the public sewer and public water mains and this is supported by the planner's report on file. There is no report from Irish Water on file but the previous application noted that pre-connection agreements had been made with Irish Water for the connection to public water mains and sewerage. I conclude that the proposed development can connect to public water and sewerage and will not be prejudicial to public health.

7.13. **Access**

7.14. The access road to the site is permitted under reference 20190467.

7.4 **Appropriate Assessment**

7.4.1 Having regard to the nature and scale of the proposed development, a single rural house connected to the public mains, and the distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

8.1. I recommend that permission be granted.

9.0 Reasons and Considerations

Having regard to the pattern of residential development in the area, the permitted access to the application site and the availability of public water supply and sewerage services and subject to the conditions set out below it is considered that the proposed development would not injure the residential amenity of property in the vicinity, give rise to traffic hazard or be prejudicial to public health. Therefore, the proposed development would accord with the provisions of the Wexford County Development Plan and with the proper planning and sustainable development of the area.

10.0 Conditions

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| 1. | <p>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.</p> <p>Reason: In the interest of clarity.</p> |
| 2. | <p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.</p> <p>Reason: To ensure adequate servicing of the development, and to prevent pollution.</p> |
| 3. | <p>Prior to the commencement of development, the developer shall enter into water and waste water connection agreements with Irish Water.</p> <p>Reason: In the interest of public health.</p> |

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| 4. | <p>The access road serving the proposed development including junctions, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.</p> <p>Reason: In the interests of amenity and of traffic and pedestrian safety.</p> |
| 5. | <p>(a) The site boundaries, apart from the roadside boundary shall be bounded by block walls 1.8 metres in height, capped, and rendered, on both sides, or timber panel fences.</p> <p>(b) The roadside boundary shall not exceed 1m in height and shall be a block wall capped and rendered or another material or hedge planting.</p> <p>(c) The access arrangements and driveway layout shall be to the satisfaction of the planning authority.</p> <p>Prior to commencement of development the developer shall submit to and agree with the planning authority plans and particulars providing for the foregoing.</p> <p>Reason: In the interests of residential and visual amenity.</p> |
| 6. | <p>Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p> |
| 7. | <p>A landscaping plan for the site shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: In the interests of residential and visual amenity.</p> |
| 8. | <p>Proposals for a house numbering scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of urban legibility.</p> |
| 9. | <p>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</p> |

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.

Hugh Mannion
Senior Planning Inspector

14th January 2020