



An
Bord
Pleanála

Inspector's Report

ABP-306492-20

Development	Construction of house
Location	Glennameenagh / Springvale, Castledockrell, Enniscorthy, Co. Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20191371
Applicant(s)	Aleksandra & Maciey Ligmann
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Annemarie & John Hayes
Observer(s)	None
Date of Site Inspection	30 th April 2020
Inspector	Mary Crowley

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1.0 Site Location and Description

1.1. The appeal site with a stated area of 0.354 ha is located on a local county road in an uplands landscape c2.5km north west of Castledockrell, Wexford. The site is bounded to the east by a two-storey renovated farmhouse with agricultural lands to the south and west. The land slopes up from the road (north) of the site to the rear (south) with forestry on the adjoining field to the south. The area is characterised by one-off rural dwellings, agricultural lands and associated farm buildings. The site offers panoramic views of the surrounding countryside to the north. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

2.0 Proposed Development

2.1. Permission was sought on 9th October 2019 to construct a fully serviced dwelling house (140sqm) and garage (39.96 sqm) with associated site works. The application was accompanied by the following:

- Letter of consent from the landowners
- Letter of consent from the adjoining landowner to setback and maintain boundaries to the southwest of the driveway in order to provide adequate sightlines
- Site Characterisation Report
- Cover Letter from the applicants setting out the reasons for the application

2.2. Further information was submitted on the 3rd December 2019 comprising:

- Revised Site Characterisation Form
- Cover letter from Bio-Crete (The Biodegradable Solution for Wastewater Treatment) describing the treatment plant proposed

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Wexford County Council issued a notification of decision to grant permission subject to 11 no generally standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Case Planner** in their first report was satisfied that the applicant had demonstrated sufficient linkage to the area and that the scheme would not result in ribbon development. Further information was requested on the 27th November 2019 in line with the recommendation of the WCC Environment Section (see below) in relation to wastewater treatment.
- The **Case Planner** in their second report and having considered the further information submitted recommended that permission be granted subject to conditions. The notification of decision to grant permission issued by Wexford County Council reflects this recommendation.

3.2.2. Other Technical Reports

Planning Application

- **Roads Report** – No stated objection subject to conditions relating to sightlines, roadside drainage and surface water.
- **Chief Fire Officer** – No stated planning objection.
- **Environment Section** – Further information sought in relation to the site-specific manufactures specification of the treatment plant proposed and an amendment to Section 5 of the Site Characterisation Form to reflect the type of waste water treatment system proposed.

Further Information

- **Environment Section** – No stated objection subject to conditions set out in the report.

3.3. Prescribed Bodies

3.3.1. There are no reports record on the planning file.

3.4. Third Party Observations

3.4.1. There is one observation recorded on the appeal file from John & Anne Marie Hayes, owner of the adjoining property to the east of the site. The issues raised relate to the proliferation of new houses in the area, ribbon development, proposal is not justifiable, visual amenity, compliance with “Rural Settlement” criteria, scale of the scheme proposed, residential amenity, overshadowing, alternatives available, loss of hedgerow, proliferation and concentration of waste water treatment plants, impact to ground conditions and impact to borehole well.

4.0 Planning History

4.1. The following planning history has been submitted with the appeal file as summarised:

- **Reg Ref 20081748** – Wexford County Council granted outline planning permission for a dwelling house and associated site works at Glenameenagh and Springvale, Castledockrell subject to 15 no conditions. No site location map or other details pertaining to this scheme have been made available with the case history. However, it would appear from the plans and particulars submitted with the application that this previous grant of grant of permission was on the appeal site.
- **Reg Ref 20060751** - Wexford County Council refused planning permission for a dwelling house with services and domestic garage at Glenameenagh or Springvale, Castledockrell for 3 no reasons relating to (1) traffic safety, (2) visual amenity and (3) residential amenities. No site location map or other details pertaining to this scheme have been made available with the case history.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative plan for the area is the **Wexford County Development Plan 2013 – 2019**. The appeal is located within an area designated as a **Structurally Weak Rural**

Area. Objective RH05 states that is an objective *to facilitate the development of individual houses in the open countryside in ‘Structurally Weak Areas’ 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.*

5.1.2. **Section 14.4.2 Landscape Character Assessment** identifies the site as within the “Uplands” Area. **Objective RH07** states that *to minimise the individual or cumulative adverse visual impacts that local concentrations of one-off housing, outside of settlements, may have on Upland, River Valley and Coastal landscape character units or Landscapes of Greater Sensitivity. In this regard, in locations where the Council considers that there is a risk of individual or cumulative adverse impacts, the Council will only consider proposals for housing developments where the applicant has demonstrated an overriding need to reside in the particular location in accordance with the criteria contained in Table No. 12.*

5.1.3. **Table 12 sets out the Criteria for Individual Rural Housing.** It is stated that in “Structurally Weak Areas” housing for people building permanent residences for their own use is permitted.

5.1.4. **Design Guidance** for one-off rural housing is set out in Sections 17 and 18.

5.2. Natural Heritage Designations

5.2.1. The site is not located within a designated Natura 2000 site.

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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

6.1.1. The third-party appeal was prepared and submitted by Anne Marie Sheridan Consultant on behalf of the owners of the two-storey house to the east of the proposed development and may be summarised as follows:

- **Established Character of the Area** – There are a significant number of houses located along the road (the majority of which are modern bungalows); within the c1.5km distance from the main road there are c13 houses, 11 of which are located along the c1km stretch of roadway between the site and the junction between two local roads to the east. This development pattern is characteristic of ribbon development and is at odds with the rural character of the area.
- **Settlement Strategy** – The settlement strategy of WCC set out in Chapter 3 of the Development Plan seeks to direct development to specifically identified towns and villages in the area including Enniscorthy and Bunclody with each of the centres having population growth targets and zoning provision for development to accommodate the projected population within the lifetime of the respective Development Plans.
- **Rural Housing Policy** – Contrary to the view of the Planning Authority the proposal will add to the emerging pattern of ribbon development in the area and thereby constitutes a risk to the rural character and sensitive landscape character of the area. On that basis it is considered that the applicants in line with the Development Plan rural housing policy, should be required to demonstrate an overriding need to reside in the area as a pre-requisite for their application.
- **Absence of Overriding Need for Housing on behalf of Applicants** – The applicants have no connection either socially or economically to the area. They have not presented any evidence of long term landownership or exceptional health reasons for locating in this area. Neither have they presented any evidence as to why their housing need cannot be accommodated closer to their places of work and current home.
- **Inconsistent Proposed Design** – Having regard to the topography of the site and to the elevated positioning and height of the proposed house, it is considered that

the proposed development would form a visually prominent feature on the local landscape. In addition by reason of its urban character the proposal would appear out of place in this rural location. The appellants are seriously concerned also that the siting of the proposed house, significantly elevated above the line of property, will give rise to the overlooking of their house and property. This will detract seriously from their privacy of the appellants home and garden.

- **Proliferation of WWTS in Agricultural Areas** – In the original objection to the Planning Authority the appellant expressed their concerns in relation to issues associated with the proposed waste water treatment system, both in relation to the adjoining area and to their own site. these issues remain of serious concern to them.
- **Impact on Adjoining Area** – The proposed wastewater treatment plant will add to the proliferation and concentration of these systems along this local roadway in a predominantly agricultural area. This concentration is likely to give rise to the contamination of adjoining agricultural lands.
- **Impact on Appellants Property** – The appellants consider that the site conditions make it likely that there will be surface and sewage water runoff from the proposed percolation system into their property. It is also considered that the risk of damage to the appellants property resulting from the proposal has not been addressed by the applicant or the Planning Authority in their assessment.
- **Conclusion** – The accumulation of one-off housing developments in the area is having a detrimental impact on the sensitive landscape character and rural amenities of the area. The applicants do not have an overriding need to live in the area as required by the Planning Authority's policy in relation to rural housing in sensitive landscapes.

6.2. Applicant Response

6.2.1. The first party response to the appeal has been prepared and submitted by Peter Thompson Planning Solutions and may be summarised as follows:

- **Development Plan Settlement Strategy** – The Council considered the proposed development would not result in individual or cumulative adverse impacts,

therefore, demonstrating housing need was not relevant. In any event the Council considers the applicants have a demonstrated housing need.

- **House Design** – The site layout demonstrates the position of the house permitted under Reg Ref 20081747. The finished floor level will be the same. Excavations are minimised and excess material will be retained on-site and reused.
- **Residential Amenity** – The proposed house plans show a storage area in the loft space with a gable window facing the appellants house and garden. While overlooking will not occur from the loft the applicants have no objection to this window being a high-level window.
- **Proliferation of WWTS** - Site suitability tests were carried out which informed the design of the proposed on-site wastewater treatment system. The separation distances for the proposed on-site wastewater treatment system meet EPA minimum standards.
- **Bore Well** – It is not considered the drilling of the proposed well will have any impact on the appellants well.
- **Access** – Sightlines can be achieved to the east and west of the entrance to the satisfaction of the Council.

6.3. Planning Authority Response

6.3.1. Wexford in their response to the appeal set out the following as summarised:

- **Local Need / Linkage** – As Policy RH07 does not apply in this instance the applicants are not required to provide evidence of being from the area, of long term ownership, of reasons affording to health or why they are unable to purchase property closer of their place of work.
- **Cluster Type Development** – The provision of a single storey dwelling house as part of a row of 3 no houses over a cumulative frontage of 110m is not considered to result in either linear / ribbon development or a cluster pattern of development.
- **Siting & Design** – The appearance of the proposed dwelling house would not in anyway diminish the appearance of the adjoining neighbouring property to the east or indeed any surrounding dwelling houses.

- **Potential Residential Amenity Impacts** – A significant separation distance of c40m exists between both properties. The differential in ground levels / finished floor levels would not give rise to adverse overbearing or overlooking impacts from the proposed dwelling to the adjoining neighbouring property.
- **Provision of WWTP, Percolation Area and Private Well** – When assessed against Table B.3 of the EPA Code of Practise, the elevation and separation distances for the proposed and existing wells are over and above the recommended separation distance of 15m from the proposed wastewater treatment system and associated percolation area.
- **Potential Damage During Excavation / Construction Works** – Any potential damage caused to any neighbouring properties including both existing structures and existing features such as private wells resultant of the proposed works are private property matters and not planning matters.

6.4. **Observations**

6.4.1. There are no observations recorded on the appeal file.

6.5. **Further Responses**

6.5.1. There are no further responses recorded on the appeal file.

7.0 **Assessment**

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Policy Consideration
- Residential Amenity
- Visual Impact
- Traffic Impact
- Water & Drainage Services

- Construction Impact
- Appropriate Assessment
- Other Issues

7.2. Policy Consideration

- 7.2.1. In accordance with the recommendations of the Sustainable Rural Housing Guidelines for Planning Authorities (2005) the rural areas of County Wexford have been characterised as ‘Areas under Strong Urban Influence’, ‘Stronger Rural Areas’ and ‘Structurally Weak Areas’.
- 7.2.2. Having regard to Map No 6 of the Development Plan the appeal site is located within an area identified as “Structurally Weak” where there is persistent and significant population decline as well as a weaker economic structure based on indices of income, employment and economic growth. In “Structurally Weak “areas it is an objective to facilitate the development of individual houses in accordance with the criteria laid down in Table No.12 of the development Plan. Objective RH05 refers.
- 7.2.3. Table 12 sets out the Criteria for Individual Rural Housing. It is stated that in “Structurally Weak Areas” housing for people building permanent residences for their own use is permitted.
- 7.2.4. As pointed out by the Planning Authority an overriding need does not require to be justified in this instance and the applicants are not therefore required to provide evidence of being from the area, of long term ownership, of reasons affording to health or why they are unable to purchase property closer of their place of work. Having regard to the information available I am satisfied that sufficient linkage exists and the proposal is compliant with Policy Objective RH05. Finally, I also agree with the Planning Authority that although the site location is in close proximity to an “Area Under Strong Urban Influence” this is not a valid consideration.

7.3. Residential Amenity

- 7.3.1. The appellant raises concerns with regard to the windows included at first floor level in the side elevations. I share these concerns particularly in relation to the eastern elevation. While the floor plans show a storage area in the loft space there is a large gable window facing the appellants house and garden. Taking a precautionary

approach it is recommended that should the Board be minded to grant permission that a condition be attached omitting this window.

7.4. Visual Impact

- 7.4.1. The appellant raises concerns that the house design is urban in style and would be a visually prominent feature on the landscape. It is noted having regard to Map No 13 of the Development Plan that the Landscape Character Assessment identifies the site as within the “Uplands” Area where the objective is to minimise the individual or cumulative adverse visual impacts. Objective RH07 refers.
- 7.4.2. This is a modest sensitively designed dwelling. The style of the dwelling draws from the aesthetics of the vernacular architecture and I am satisfied that it would not result in a high impact development and would detract from the rural character and appearance of the area either individually or cumulatively. However, should the Board be minded to grant permission it is recommended that a suitably worded condition be attached requiring the submission of a detailed landscaping plan to be agreed with the Planning Authority and implemented by the developer.
- 7.4.3. With regard to ribbon development I agree with the Planning Authority that the provision of a dwelling house as part of a row of 3 no houses over a cumulative frontage of 110m would not result in either linear / ribbon development or a cluster pattern of development which would contravene Section 18.12.1 of the County Development Plan.

7.5. Traffic Impact

- 7.5.1. The applicant proposes widening and upgrading the existing agricultural entrance to serve the new house. In addition, it is proposed to set back the roadside boundary on either side of the access to ensure adequate sightlines are maintained. The application was accompanied by a letter of consent from the adjoining landowner to for the setback and maintenance of boundaries to the west of the driveway.
- 7.5.2. I am satisfied that sightlines to the east and west of this this entrance are adequate particularly in the light of the proposed setback and maintenance proposals. Overall the traffic movements generated by this residential development are unlikely to endanger public safety by reason of serious traffic hazard and obstruction of road users at this location.

7.6. **Water & Drainage Services**

- 7.6.1. The development will be served by private well and a packaged wastewater treatment system and polishing filter. Surface water disposal will be by means of a soak pit. The proposed arrangements are considered acceptable subject to compliance with the requirements of the planning authority and the EPA guidelines.

7.7. **Construction Impact**

- 7.7.1. Concerns with regards to excavation works and associated impact is an engineering issue and not a planning issue, whereby it falls to the developer to ensure that no damage or deterioration occurs to adjoining properties.

7.8. **Appropriate Assessment**

- 7.8.1. Having regard to the nature and scale of the proposed development and its 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.

7.9. **Other Issues**

- 7.9.1. **Development Contributions** – Wexford County Council has adopted a Development Contribution scheme; Wexford County Council Planning Authority Area Development Contribution Scheme 2018, under Section 48 of the Planning and Development Act 2000 (as amended). It is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

8.0 **Recommendation**

- 8.1. It is recommended that permission be **GRANTED** subject to the reasons and considerations set out below

9.0 **Reasons and Considerations**

- 9.1. Having regard to the policies and objectives for the area as set out in the Wexford County Development Plan 2013 – 2019, the rural location of the site, the established

pattern of development in the area and the siting, scale and design of the proposed development it is considered that, subject to compliance with the conditions set out below, the proposed development would not be prejudicial to public health or safety and would not detract from the character and visual amenity of the area or the residential amenities of property in the vicinity. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 9th day of October 2019 as amended by the further plans and particulars submitted on the 3rd day of December 2019 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>The first-floor gable window in the eastern elevation shall be omitted.</p> <p>Reason: In the interest of residential amenity.</p>
3.	<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>
4.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the</p>

	<p>development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>(a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. Details illustrating compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.</p> <p>(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwelling house and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.</p> <p>(d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.</p> <p>(e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the Environmental Protection Agency document.</p> <p>Reason: In the interest of public health.</p>

6.	<p>Water supply and disposal of surface water shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
7.	<p>The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.</p> <p>Reason: In the interest of public health.</p>
8.	<p>Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwelling house without a prior grant of planning permission.</p> <p>Reason: In the interest of residential amenity.</p>
9.	<p>Site development and building works shall be carried out between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
10.	<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 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 the 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</p>

	<p>be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>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.</p>
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Mary Crowley

Senior Planning Inspector

28th May 2020