



An
Bord
Pleanála

Inspector's Report

ABP-306985-20

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| Development | Potable water pump station consisting of 6.6sqm kiosk. |
| Location | Gortaclade, Kilmeaden, Co. Waterford. |
| Planning Authority | Waterford City and County Council |
| Planning Authority Reg. Ref. | 19759 |
| Applicant(s) | Irish Water |
| Type of Application | Permission |
| Planning Authority Decision | Grant with Conditions |
| Type of Appeal | Third Party |
| Appellant(s) | Martin Doyle |
| Observer(s) | None |
| Date of Site Inspection | 22 nd of June 2020. |
| Inspector | Caryn Coogan |

1.0 Site Location and Description

- 1.1. The subject site is the small corner of an agricultural field located to the west of Kilmeaden village. It is an elevated location in the townland of Gortaclade (note planning application and appeal documentation spell the townland incorrectly, the relevant O.S. mapping states *Gortaclade*). The site abuts a one-off dwelling to the east, and there is a row of one-off dwellings on the other side of the local road to the subject site.
- 1.2. There is a mature hedgerow along the northern and eastern site boundaries. There is a contemporary timber gate and piers positioned abutting the site that is associated with the curtilage of the adjoining dwelling.

2.0 Proposed Development

- 2.1. The proposed development is a potable water pump station consisting of a 6.6sq.m. kiosk on a 3m x3m footprint and an overall height of 2.4metres.
- 2.2. The proposal is an integral part of the ongoing Adamstown Water Treatment Plant Consolidation Scheme. The station allows for the upgrading of the east Waterford Water Supply Scheme to Ballyvadden, Kilmacthomas and other areas.

3.0 Planning Authority Decision

3.1. Decision

Waterford City and County council granted planning permission for the proposed development subject to 5No. conditions including a development contribution of €118.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Grant with Conditions is recommended.

3.3. Prescribed Bodies

None.

Prescribed bodies were notified on appeal, however there was no response received.

3.4. Third Party Observations

The third-party appellant objected to the planning application on similar grounds to the appeal regarding legal status of applicant to carry out works, Sporting and Activity Rights, procedural matter.

Other third-party objectors were concerned about overshadowing, traffic hazard, environmental impact.

4.0 Planning History

None

5.0 Policy Context

5.1. Development Plan

Waterford County Development Plan 2011-2017 that site is zoned Agriculture – *To provide for the development of agriculture and to protect and improve rural amenity.*

5.2. Natural Heritage Designations

Lower River Suir SAC is 1.5Km south

Tramore Back Strand SPA 11.4Km north-west

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, 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

Martin Doyle of The Cosy Thatch, Kilmeadan has taken this appeal against Waterford Co. Co. decision to grant planning permission for a potable water pump station at Gortaclade, Co. Waterford. The planning authority's decision to grant permission should be refused. A summary of the relevant points raised in the appeal can be summarised under the following bullet points. There is a lengthy account in the appeal relating to procedural matters between the appellant and the planning authority/ planning application, which are beyond the remit of the Board, and not relevant to the appeal.

- There should have been an EIA carried out where habitats of protect wildlife species are in danger of intrusion on their natural habitat.
- There was no preplanning meeting held with the planning authority or the residents in the area
- The appellant is the registered owner of Sports and Ancillary Land Property Rights on land folio WD1647, and he feels the ownership of these rights has been looked upon with contempt. There is no instrument in Irish Law to remove fishing rights which will affect the planning site other than the transfer of said rights by the legal owner, or by filing with just cause under section 18 of the Land Act 1965. The PA should not be citing the Planning Managerial Guidelines to circumvent the law in matters concerning the ownership of property rights.
- The appellants sporting rights cover an area of over 12,000 acres, and sporting rights are a legal complex structure. The sporting rights were vested 165years ago by Viscount Hayes Doneraile in 1855.

6.2. Applicant Response

Irish Water has responded to the third-party appeal. The following is a summary of the relevant issues raised in the response:

- The proposed water main which the Gortaclade water pump has been designed to enable excessive pumping is not required. The site was carefully chosen using a hydraulic modelling report carried out in 2017. The landscape in Gortaclade is sloping up, and the site ensures the 15m pressure is achievable at the high point at Fairbrook.
- The appellant has raised four main issues:
 - (a) The appellant does not have sufficient legal interest in the lands
 - (b) Biodiversity and environmental impact
 - (c) Procedural issues, and pre-planning consultations.

Sufficient Legal Interest

The registered owner of the subject site is Mr. Thomas O'Keefe. He has signed an Option Agreement in favour of Irish Water. The landowner has granted Irish Water consent to enter the lands, apply for planning permission and acquire a portion of his lands, 0.085ha if planning permission is obtained.

Biodiversity and Environmental Impact

The point been made by the appellant is not very clear. The proposed development does not require EIA. In relation to biodiversity the site is not the subject to any designation.

The Lower R. Suir Sac (NPWS Code 2137) is located 1.3KM to the east of the proposed booster station, and there are no Qualifying Interests associated with the SAC in proximity to the subject site. There is no surface water connectivity between the subject site and the SAX.

Procedural Issues

The procedural issues cited on appeal are a matter for Waterford County Council to address.

Pre-planning and Consultation

Irish Water is not obliged to hold a pre-planning consultation with the PA nor are they obliged to consult with the residents of the area.

The proposed development is a potable water pump station and not a portable water pump station.

6.3. **Planning Authority Response**

Nothing further to add.

7.0 **Assessment**

- 7.1. The proposed development is a new potable water kiosk structure (3m x3m) on a site area of 0.085Ha which is the corner (north eastern extremity) of a large agricultural field west of Kilmeaden village. The new pump is part of a larger upgrading works in the area to facilitate the continued distribution of the Kilmeaden/ Ballyduff mains water supply. The roof height is 2.4metres. The zoning provision for the site under the provisions of the current development plan for the area is *Agricultural* use, and the proposed development would comply with this objective.
- 7.2. The proposed pumphouse is a modest development in the context of the one-off housing abutting the site and located opposite the site. The structure will have a negligible visual impact on the receiving environment which is an elevated topography to the west of Kilmeaden village.
- 7.3. The proposed location was selected following a hydraulic modelling report carried out by Irish Water in 2017. The proposed location is the optimum location to achieve a minimum pressure of 15m at high points along the mains to Kilmoyemoge and Fairbrook.
- 7.4. The registered landowner of the site is Mr. Thomas O'Keefe, who has given his consent to the applicant to submit the planning application and has agreed to sell the subject site to Irish Water in the event of a favourable planning decision. The third-party appeal claims to have Sporting and Ancillary Rights to the landholding. Extensive documentation has been submitted on appeal to support the appellant's claim to Sporting and Activity Rights over the same Folio number owned by Mr. Keefe. i.e the subject site. The appellant does not detail how the rights would be

interfered with by the proposed development. There is a reference to Fishing rights in the appeal submission, however the nearest river is to the east of the site, and watercourse is not accessed from the field where the pump house is proposed. The appellant also states the Sporting and Ancillary Rights must be placed as a burden on any new folio registered to Irish Water. In my opinion, the entire issue is beyond the remit of the Board or the planning process, and should be addressed through the broader legal system.

7.5. Following the construction phase the level of traffic associated with the proposed development will be negligible. The sightlines are adequate at the proposed entrance to the site. An onsite carparking space is provided to cater for the general maintenance

7.6. It is my opinion, a lot of the content in the lengthy third-party appeal is beyond the remit of the Board. Therefore, I consider the Board should uphold the planning authority's decision to grant permission for the development as the augmented water pressure in the wider area created by the proposed development, is a benefit and planning gain to the wider community of the area, with little or no visual or residential impacts.

7.7. **Appropriate Assessment**

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, 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 the decision to grant permission for the proposed development be upheld by the Board.

9.0 Reasons and Considerations

Having regard to the limited nature and scale of the proposed development which will involve the enhancement of the existing and long-established water supply infrastructure at this location and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

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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>Details, including samples, of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of the visual amenities of the area.</p> |
| 3 | <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</p> |

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| <p>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 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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Caryn Coogan
Planning Inspector

29th of July 2020