



An
Bord
Pleanála

Inspector's Report

ABP-307131-20

Development	Erection of a bungalow with garage under roof and with services.
Location	Boley and Bolinready, Ballycanew, Co Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20191559
Applicant(s)	Jake O'Shea
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Brian Cousins
Date of Site Inspection	07 th July 2020
Inspector	Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 2.45 hectares, is located approximately 2km west of Ballycanew village in County Wexford. The appeal site is part of agricultural lands at this location and levels on site rise steeply moving south away from the public road. Adjoining lands to the south, north and east are also agricultural lands. The nearest dwelling is located on the site immediately to the east and is a partially constructed dwelling. The appeal site has existing hedgerow boundaries along the northern and western boundaries.

2.0 Proposed Development

2.1. Permission is sought to construct a single-storey dwelling and associated site works. The dwelling has a floor area of 233sqm and a ridge height of 5.05m. The dwelling features a shallow pitched roof with external finishes including render, stone cladding and a profiled metal roof. It is proposed to install a proprietary wastewater treatment system and a new vehicular entrance.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 11 conditions. The conditions are standard in nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (15/01/20): Further information including the submission of an archaeological assessment for the site, cross section through the polishing filter and provision of alterations to the design of the polishing filter to ensure protection of private water sources.

Planning report (18/03/20): The proposal was considered to be acceptable in context of development plan policy in relation to rural housing, acceptable in relation the visual amenities of the area, public health and traffic safety. A grant of permission was recommended based on the conditions outlined above.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

3.4.1 Submission from Brian Cousins, The Fairy Lane, Tomsilla, Gorey, Co. Wexford.

- The issues raised include boundary issues, visual impact, compliance with rural housing policy, ribbon development.

4.0 **Planning History**

2002334: Permission refused for a dwelling on basis of ribbon development, traffic safety, inappropriate development in a rural area and contrary development plan rural housing policy.

20012112: Permission refused for two dwellings.

2018440: Permission granted for retention of works and permission to complete a dwelling. On the site located to the west.

2019047: Permission refused for a dwelling on basis of backland development, overlooking, lack archaeological assessment and demonstration of sufficient legal interest.

5.0 Policy Context

5.1. Development Plan

5.1.1 The relevant Development Plan is the Wexford County Development Plan 2013-2019.

Rural Housing policy is under Section 4.3.3 of the County Development Plan. The site is classified as being in a 'Stronger Rural Area'.

Objective RH03

To facilitate the development of individual houses in the open countryside in 'Stronger Rural Areas' in accordance with the criteria laid down in Table No. 12 and subject to compliance with normal planning and environmental criteria and the development management standards laid down in Chapter 18.

Table 12 sets out the criteria for each rural area types (attached).

5.1.2 Objective L03: To ensure that development are not unduly visually obtrusive in the landscape, in particular in the Upland, River Valley and Coastal landscape units and on or in the vicinity of Landscape of Greater Sensitivity.

Objective L04: To prohibit developments which are likely to have significant adverse visual impacts, either individually or cumulatively, on the character of the Uplands, River valley or Coastal landscape or a Landscape of Greater Sensitivity and where there is no overriding need for the development to be in that particular location.

5.1.3 Section 18.12.1: Criteria for one-off housing in the rural area.

The development would not result in or extend an existing pattern of one-off linear development. If the development would result in five or more houses in a row over 250m of road frontage, the Council will consider whether it would be appropriate to further extend this pattern of development. The type of rural area, the circumstances of the applicant and the extent to which the development would infill an existing pattern will be taken into account in the Council's considerations.

5.1.4 Under the Sustainable Rural Housing: Guidelines for Planning Authorities (April 2005) the site is located in an Area under Strong Urban Influence.

5.2. Natural Heritage Designations

5.2.1 None in the vicinity.

5.3. EIA Screening

5.3.1 In regard to the nature and scale the development which consists of a dwelling in a rural area 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

6.1.1 A third party appeal has been lodged by Brian Cousins, The Fairy Lane, Tomsilla, Gorey, Co. Wexford.

- The appellant is the owner of the site to the east, which has a partially completed dwelling. It is noted that boundaries of the site do not reflect the registered boundary of the appellant property and the permitted location of the well to serve the appellant's dwelling. It is noted that the previous refusal on the appeal site referred to the boundary issue (20191047).
- The site is in a Landscape of Greater sensitivity on an elevated and exposed site and would have an adverse visual impact and be contrary development plan policy in relation to landscape. Proposal to plant trees along the southern boundary of the appellants' site would have an adverse impact on light.
- The proposal would make up 7 dwellings within a c318m stretch and constitute ribbon development and be contrary development Plan policy in relation to rural housing.

- The proposal is in close proximity to a national monument and such was referred to in the previous refusal on site.
- There is a history of refusal on the appeal site and the current proposal fails to address the issues raised under these previous applications.

6.2. Applicant Response

6.2.1 Response by Molloy Architecture & Design on behalf of the applicant, Jake O'Shea.

- The applicants note that the boundaries submitted are correct and that such issues are not a planning matter.
- The design of the proposal had regard to the previous refusal on site and was designed to integrate with the contours of the site and is at a lower elevation than the previous proposal (9m below previous floor level).
- In relation to ribbon development it is noted that the site is in an infill gap.
- An archaeological assessment was submitted and such demonstrate there would be no adverse impact on the national monument.
- The applicant has demonstrated compliance with rural housing policy.

6.3. Planning Authority Response

6.3.1 Response by Wexford County Council.

- The applicant has demonstrated sufficient legal interest and it is noted that boundary issues are not a planning matter. It is noted that the location of the wastewater treatment system is a significant distance and down gradient of the appellant's well.
- An archaeological impact assessment was submitted and is satisfactory.
- The applicant has demonstrated compliance with rural housing policy of the Development plan.
- The proposal was considered acceptable in the context of the visual amenities of the area and it is noted that it is an infill site between existing dwellings.

- The proposal is considered acceptable in the context of adjoining amenities and traffic safety.

7.0 Assessment

7.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development/Development Plan policy

Design/visual amenity/pattern of development

Boundary Issues

Appropriate Assessment

7.2 Principle of the proposed development/Development Plan policy:

7.2.1 The proposal seeks permission for a dwelling in the rural area of the county. Policy in regards to rural housing is set out under Section 4.3.3 of the County Development Plan. The site is located in an area classified as a Stronger Rural Area. Applicant's in such areas need to comply with the criteria set down under Table 12 (attached), which includes 'local rural people', who currently reside or have previously resided within 15km of the site for a minimum period of 5 years. The appellants' have questioned the applicant's compliance with rural housing policy and noted that they failed to demonstrate compliance with such. According to the information on file the applicant is from the area and resides in his parents' home 500m away as well as working in a family business also located 500m from the site. On the basis of the information on file, I would consider that the applicants comply with Rural Housing policy under the Wexford County development as written.

7.3 Design/visual amenity/pattern of development:

7.3.1 The appeal submission raises concerns regard the visual impact of the proposal due to its location in a Landscape of Greater Sensitivity on an elevated site as well as the fact that it would constitute ribbon development. The appeal site is an elevated location on a steeply sloping site within an area designated as a Landscape of

Greater Sensitivity. Objective L04 of the County Development is “to prohibit developments which are likely to have significant adverse visual impacts, either individually or cumulatively, on the character of the Uplands, River valley or Coastal landscape or a Landscape of Greater Sensitivity and where there is no overriding need for the development to be in that particular location”. The proposal is for a low profile dwelling with a shallow roof pitch to minimise visual impact. Notwithstanding such the nature of the landscape and topography of the site is such that the proposal would require a significant amount of excavation of the site to facilitate the proposed dwelling. Such would result in a significant scar on the landscape and having regard its location in an upland area noted as being a sensitive landscape under development policy, would have an adverse visual impact. The proposal would have an adverse visual impact that would erode the rural character of the area and have disproportionate visual impact, and would be contrary to Development Plan policy regarding landscape character and visual amenity.

7.3.2 The appellant notes that the proposal constitutes ribbon development with it resulting 7 dwellings over a distance of 318m and references the definition of ribbon development under Section 18.12.1 of the County Development plan. I would be off the view that the proposal would not constitute ribbon development as defined by the development plan or the Sustainable Guidelines and would note that there are existing dwelling located to the east and west of the site.

7.3.3 I am satisfied that proposed dwelling is located sufficient distance from the existing dwelling on the adjoining site so as to have no significant adverse impact on the residential amenities of the adjoining property.

7.4 Boundary issues:

7.4.1 There is a dispute regarding the boundaries of the appeal site with the appellant noting that the boundaries of the site as presented overlap with his site and includes the location of an existing well that will serve the dwelling on the adjoining site when it is completed. The appellant has noted that the extent of the boundary of his site is approved, registered and has submitted a folio to demonstrate this fact. The

appellant has also noted that the boundary issue was a reason for refusal under the previous proposal on site under ref no. 2019047. The applicant's response to the appeal has different view on the boundary issue with it claimed that the boundaries presented are accurate and that the issues under which permission was refused previously have been discussed with the Planning Authority and addressed.

7.4.2 There is clear a dispute regarding the boundaries of the site and the adjoining site. As noted in the planning report this is not a planning issue. I am satisfied that the proposal can be dealt with the proposed wastewater treatment system on site does not fall within the disputed area and is more sufficient distance down gradient of the well identified by the applicant. In regards to the boundary issue I would note that granting of permission does not necessarily entitle the applicant to carry out permission and is subject to having adequate legal entitlement to carry out such.

7.5. Archaeology:

7.5.1 The appellant notes that the proposal is in close proximity to a National Monument with concern regarding an adverse impact on such. The monument in question (WX016-010) is a cist burial located 60m east of the western boundary of the site. The applicant was requested to submit an Archaeological Assessment report as part of further information The report submitted indicates that the proposal would have no adverse impact on the recorded monument or any other monument located a further distance from the site and that the location of the development on site is even further away from the recorded monument than the western boundary of the site. The proposal would be satisfactory in the context of archaeology and would have no impact on any recorded monuments in the vicinity of the site.

7.6 Appropriate Assessment:

7.6.1 Having regard to the nature and scale of the proposal, no appropriate assessment issues arise and it is not considered that the proposal 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 refusal based on the following reason.

9.0 Reasons and Considerations

1. The appeal site is located in an upland area designated as being an Area of Greater Sensitivity under the County Development Plan. Objective L04 is “to prohibit developments which are likely to have significant adverse visual impacts, either individually or cumulatively, on the character of the Uplands, River valley or Coastal landscape or a Landscape of Greater Sensitivity and where there is no overriding need for the development to be in that particular location. Having regard to fact that the appeal site is located in an upland area and on a steeply sloping site, to facilitate the proposed dwelling would require extensive excavation of the site and would result in a significant scar on the landscape at this location. The proposal would have an adverse visual impact that would erode the rural character of the area and have a disproportionate visual impact, and would be contrary to Development Plan policy regarding landscape character and visual amenity. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

05th August 2020