



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307855-20

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<b>Development</b>	For the proposed erection of a fully serviced part single storey part 2 storey (dormer) detached dwelling.
<b>Location</b>	Killowen, Tramore, Co Waterford
<b>Planning Authority</b>	Waterford City and County Council
<b>Planning Authority Reg. Ref.</b>	20227
<b>Applicant(s)</b>	Brendan Hogan & Kate O'Donoghue
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Brendan Hogan & Kate O'Donoghue
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	16 <sup>th</sup> of December 2020
<b>Inspector</b>	Caryn Coogan

## 1.0 Site Location and Description

- 1.1. The subject site 0.3Ha, is located in a rural area positioned halfway between Waterford City and Tramore, 1Km west of Waterford Airport. The public road serving the area is a narrow local road (L8039), similar to a forest road with an enhanced specification.
- 1.2. The site is located to the rear of a number of linear houses, and the access road into the site is sandwiched between two of the existing houses. The site is positioned at the back of the linear development, higher than the road. The access road ascends towards the site between the existing dwellings.
- 1.3. The rear garden areas of the existing dwelling fronting the local road are clearly visible from the subject site. It is a 'backland site'. According to the appeal site, two of the existing dwellings within the pocket of housing are occupied by two brothers of the applicant, Brendan Hogan.

## 2.0 Proposed Development

- 2.1. The proposed dwelling (245sqm), is mainly single storey throughout with one bedroom on the first floor to the rear of the house.
- 2.2. The development will be connected to the public watermains and a new wastewater treatment system on site.

## 3.0 Planning Authority Decision

### 3.1. Decision

Waterford City and County Council **Refused** the proposed development for two reasons:

1. The site is within the zoned Airfield Reserve Area and the proposed dwelling would prejudice the future development of Waterford Airport.
2. The proposed dwelling would represent an excessive density of development and perpetuate an adhoc, backland and disorderly pattern of development w

### 3.2. **Planning Authority Reports**

#### 3.2.1. ***Planning Report (07/07/2020)***

A refusal is recommended on two grounds:

- The development is located within the current zoning Waterford Airfield Reserve designation, and residential use is not compatible. A material contravention would be required.
- Excessive density of development creating an ad hoc, backland and disorderly pattern of development.
- Applicant complies with local needs policy.
- Effluent treatment proposals are acceptable.
- Access acceptable
- This is then 7<sup>th</sup> house within 180metre road frontage creating an ad hoc backland development.

#### 3.2.2. ***Other Technical Reports***

No objections

### 3.3. **Prescribed Bodies**

None

### 3.4. **Third Party Observations**

None

## 4.0 **Planning History**

### **Planning reference 13354**

The applicant's brother Stephen obtained planning permission for a dwelling at Killowen.

## 5.0 Policy Context

### 5.1. Development Plan

Waterford County Development Plan 2011-2017(as extended).

The site is located on the outer edge of the 'Airfield Reserve Area'. It is development plan policy that housing is not normally permitted within the Reserve Area. Relevant sections of plan included in the Appendix including a map and Section 1.6.3 Waterford Airport Strategy outlining Zoning Map.

### 5.2. Natural Heritage Designations

2.4Km north of Tramore Back Strand SPA (Site Code: 000671)

2.4km north of Tramore Dunes and Backstrand SAC (Site Code: 00671)

### 5.3. EIA Screening

Having regard to the small scale of the proposed development, the proposed connection to public water and drainage infrastructure and the separation from any environmentally sensitive sites, 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

#### **Backland Development:**

There were no objections regarding the access or loss of privacy from the existing residents to the north which belong to the applicant's brothers, both of whom are supportive of the application.

The only apparent reason for opposing the backland location are the time lapse since the house belonging to Colm Murphy was permitted in 1997, the density of the

development in the area and that the planning authority considers the proposal would perpetuate an ad hoc backland and disorderly pattern of development.

In terms of density the issue is normally the concentration of wastewater treatment plants, however in this instance it is not a concern.

According to Sustainable Rural Housing – clustering can overcome concerns that might otherwise arise from undesirable patterns of linear ribbon development.

The proposed house will be setback sufficiently from the public road so that views of the dwelling will be limited, and there is no new access been created.

### **Ad-hoc, backland, disorderly development**

There are numerous similar cluster situations throughout Ireland. Rural clusters are a feature of Co. Waterford, Waterford City, and regularly supported by the need to provide housing for family members. The site is a vacant site within an existing cluster. There will be no negative impact on existing housing.

### **Zoning**

The site is within the Airfield Reserve Area as designated in the Waterford County development Plan . there is a precedence for permitting a dwelling within this zone during the lifetime of the plan. Brendan's brother, Stephen obtained planning permission under 13/354 on a site he also inherited from his late father. There was no objection to the proposed development in the planner's reports on file. The development was granted following a Material Contravention of the plan that went through the members. In this instance, the house is for another family member, it will not extend roadside linear development or interfere with any future plans to extend the airport.

## **6.2. Planning Authority Response**

There was no further comment on appeal

## **7.0 Assessment**

7.1. The main issues of this appeal relate to the grounds of the appeal which directly address the two reasons for refusal in the planning authority's decision. I am

satisfied that there are no other substantive issues arising in this appeal. The appeal is assessed under the following headings:

- Compliance with Waterford County Development Plan 2011-2017
- Backland/ Piecemeal Development
- Other Issues
- Appropriate assessment

## **7.2 Compliance with Waterford County Development Plan 2011-2017**

The applicant is from the immediate area. He currently resides at the family home in the general vicinity of the site. Two of the applicant's brothers reside in houses that front the road adjacent to the subject site, one of which was granted planning permission under reference 13354, by Material Contravention, because the landholding/ site location is located within an Airfield Reserve Area as designated in the current Waterford County Development Plan 2011-2017 (as varied and extended) in conjunction with Waterford Airport which is located east of the subject site. The Airfield Reserve Area is to facilitate the future expansion of Waterford Regional Airport and to reserve the designated lands free from inappropriate development that may prejudice the future expansion of the airport.

An additional dwelling within a built-up pocket of one housing in the rural area north west of the airport is an inappropriate form of development and would materially contravene the zoning objective of the development plan. It is submitted on appeal, that a dwelling has been granted in the area since the adoption of the development plan, therefore, allowances should be made for the precedent set by that decision. The decision referred to above to accommodate the applicant's brother under planning reference 13354, underwent a Material Contravention procedure to be favourably considered. In my opinion, the exceptional circumstance relating to the 2013 planning application, do not influence or set a precedent for any further dwellings on the landholding.

In addition, the proposed development was refused on the basis of being a 'material contravention' of zoning objective. In such circumstances, Section 37(2)(b) of the 2000 Act as amended states:

*Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—*

*(i) the proposed development is of strategic or national importance,*

*(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or*

*(iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or*

*(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.*

The applicant has failed to demonstrate compliance with any of the above criteria in accordance with the Act, therefore the Board is precluded from granting the permission. The first reason for refusal should be upheld.

### **7.3 Backland/ Piecemeal Development**

I refer to the site layout and the photographs taken during my inspection on the 16<sup>th</sup> of December 2020. The site is accessed off the public road via a narrow lane way which is positioned between two houses that form part of a linear development along the road. There are clear views into the rear garden areas and rear living areas of the existing houses from this road as noted by me during the inspection. I accept there were no third-party objections to the proposed development received during the course planning application, however, it is obvious there is a significant loss of privacy and serious injury to existing residential amenities caused by the proposed development. The rear garden areas of the existing houses are exposed and clearly visible from the subject site.

It is submitted on appeal that this is not ad hoc development or backland development, the proposed development is a cluster development which is common throughout Co. Waterford and Waterford City. The cluster residential developments

are normally permitted to accommodate family members as in this case, whereby the applicant has inherited the site from his late father, and two of his brothers reside in adjacent dwellings along the road frontage.

This is not a traditional cluster development, i.e. a clachan. It is basically the continuous piecemeal and haphazard development of a landholding which has now resorted to the rear of existing dwellings because there is no remaining road frontage. I do not accept the ground of appeal that the proposed development forms a traditional residential cluster.

It is clear from the site layout, given the siting and layout of the existing dwellings in the immediate vicinity, (this is the seventh house within a limited 180metres stretch) , that the proposed development represents an inappropriate form of haphazard, piecemeal and backland development. It is an unacceptable and suburban-like form of rural housing that will blatantly impact on the amenities of existing dwellings in the vicinity in terms of loss of privacy.

The proposed development if permitted would create a highly undesirable precedent..

#### **7.4 Other Issues**

- The proposed will be served by public mains
- Given the soil percolative capacities and the large site, the proposed sewage treatment is acceptable.
- The contemporary split level house design is acceptable.
- The sightlines and access to the subject site are acceptable in terms of traffic safety.

#### **7.5 Appropriate Assessment**

Having regard to the nature and scale of the 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 sites.



## **8.0 Recommendation**

8.1. The planning authority's decision to refuse should be upheld by the Board.

## **9.0 Reasons and Considerations**

1. The subject site is located within an area zoned in the Waterford County development Plan 2011-2017 (as varied and extended) as Airfield Reserve Area, where it is an objective to facilitate the future expansion of Waterford Regional Airport and reserve lands free from inappropriate development which may prejudice the future expansion of the airport. The propose development would materially contravene this objective and is considered to contrary to the proper planning and sustainable development of the area.
2. The proposed development constitutes haphazard backland development, being situated to the rear of dwellings positioned along a public roadway and accessed from a laneway positioned between two existing dwellings resulting in a loss of privacy to the rear of the dwelling and a seriously injuries to the existing amenities associated with the dwellings. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

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**Caryn Coogan**

**Planning Inspector**

**03 February 2021**