



An
Bord
Pleanála

Inspector's Report ABP 308411-20

Development	Erect a dwelling house, garage, construct a DWWTP.
Location	Perrymount, Ballylarkin, Inch, County Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20200595
Applicant(s)	Michael Molloy
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party v Grant
Appellant(s)	Noreen & Patrick Byrne Sergiu Braila
Observer(s)	None
Date of Site Inspection	13 th November 2020
Inspector	Hugh Mannion

1.2. **Site Location and Description**

- 1.3. The application site has a stated area of 0.32ha and is located at Inch, County Wexford. The site is in agricultural use. The Inch River flows west to east to the north of the site and comprises the field boundary of the field of which the application site forms part. The application site boundary is undefined. There is a field drain along the southern/roadside boundary of the site and no existing entrance from the public road. The roadside boundary comprises a raised bank with native species that have recently been trimmed. The western boundary with the adjoining two storey house is defined by a post and rail fence. The eastern boundary is along the bank of a noticeably fast flowing river (the Boleybaun) which flows north under a bridge on the public road and has a confluence with the Inch River immediately northeast of the application site. Opposite the application site is a dormer bungalow which is in use as Perrymount B&B. To the west of the site along the local road is a line of three two storey houses and a bungalow all with individual accesses onto the road. To the east over the Boleybaun river bridge is Toss Byrnes public house/guest house.
- 1.4. The local road serving the site has a junction with the former N11/now R772 at the Toss Byrnes public house and about 900m northeast of that junction is a filling station.

2.0 **Proposed Development**

- 2.1. The proposed development comprises the erection of a detached two storey house with a garage, a relocated site entrance, domestic wastewater treatment plant and site works at Perrymount, Ballylarkin, Inch, County Wexford.

3.0 **Planning Authority Decision**

3.1. **Decision**

Grant Permission with conditions.

Condition 7 and 8 referred to compliance with the EPA code of practice for DWWTS.

Condition 12 required the set back of the roadside boundary to accommodate sightlines.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

3.3. The initial planner's report recommended requesting further information in relation to the location of the DWWTs.

3.4. Subsequent to the submission of further information the planner's report recommended a grant of permission.

3.4.1. **Other Technical Reports**

3.4.2. The first **Environment Section** report sought further information in the form of a site layout drawing showing the correct wastewater treatment plant being proposed. Subsequent to the submission of an further site layout the Environment Section recommended a grant of permission subject to compliance with the EPA Code of Practice.

4.0 **Planning History**

No relevant history.

5.0 **Policy and Context**

5.1. National Policy Objective 19 of the **National Planning Framework**, states that where a site is located in an area that is designated as under urban influence, applications for the provision of single housing in the countryside should be based on the core consideration of demonstrable economic or social need to live in a rural area.

5.2. The **Sustainable Rural Housing Guidelines for Planning Authorities** (2005) designate four rural area types. The application site is a rural area under strong urban influence in the rural area types map referred to in the guidelines. The Guidelines require planning authorities to distinguish between rural generated housing need and urban generated housing need and frame policies accordingly to

limit housing development in rural areas not associated with a demonstrable need to live in the countryside.

5.3. **The Planning System and Flood Risk Management Guidelines for Planning Authorities** (Department of Environment, Heritage and Local Government 2009) provide guidance on flood risk assessment for plan making and development management.

5.4. The core objectives of the Guidelines are to:

- Avoid inappropriate development in areas at risk of flooding;
- Avoid new developments increasing flood risk elsewhere, including that which may arise from surface water run-off,
- Ensure effective management of residual risks for development permitted in floodplains,
- Avoid unnecessary restriction of national, regional or local economic and social growth,
- Improve the understanding of flood risk among relevant stakeholders and
- Ensure that the requirements of EU and national law in relation to the natural environment and nature conservation are complied with at all stages of flood risk management.

5.5. **Wexford County Development Plan 2013 to 2019¹**

5.6. **Objective FRM04**

5.7. To ensure that all development proposals comply with the requirements of the Planning System and Flood Risk Management-Guidelines for Planning Authorities (DEHLG and OPW 2009) and to ensure that the Justification Test for Development Management is applied to development proposals and in accordance with methodology set out in the guidelines.

¹ The lifetime of this plan has been extended to allow for the incorporation of the Regional Spatial and Economic Strategy in the new plan.

5.8. **Objective WQ05**

5.9. To ensure that development permitted would not have an unacceptable impact on water quality and quantity, including surface water, ground water, designated source protection areas, river corridors and associated wetlands, estuarine waters, coastal and transitional waters.

5.10. **Natural Heritage Designations**

See Assessment section below.

5.11. **EIA Screening**

5.12. Having regard to the modest scale of the proposed development there is no real likelihood of significant effects on the environment within the meaning of the EU EIA Directives 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 application site is opposite the appellant's house and will negatively impact on the appellant's property by overlooking and visual bulk.
- The proposed development will give rise to traffic hazard on a narrow stretch of public road.
- The proposed development is in the flood plain of the Inch and Boleybaun Rivers.
- The site has been raised 2.5 feet prior to the carrying out of percolation tests. There was mottling in the trial hole indicating a variable water table.
- The garage is within 10m of the Boleybaun river.
- The County Development Plan advises avoiding flood plains. The site is in zone A for the purposes of flood risk assessment.

- The proposed development would be contrary to the County Development Plan (section 18.12.1) in relation to linear housing development.

6.2. Planning Authority Response

- The application site is close to Inch village.
- The Flood Risk Assessment submitted with the application demonstrates that the proposed house is not within flood zone A.
- The proposed wastewater treatment arrangements were assessed by the planning authority and considered acceptable.
- The proposed garage is not susceptible to flooding and will not give rise to erosion.
- The site is part of Inch village and policy in relation to linear development does not apply.
- The site has adequate sightlines at the entrance to the public road.
- The proposed development will not give rise to overlooking of adjoining property in a manner to negatively impact on residential amenity.

6.3. Applicants Response

- There are 5 houses opposite the appellant's property which do not impact on the amenity of that property.
- The flood risk assessment submitted with the application demonstrates that there is no risk of flooding on the application site or adjoining lands from the Inch River.
- The photos of floods do not refer to the application site. The CFRAM maps are not accurate for individual sites.
- The levelling of the site is illustrated in the lodged drawings, was carried out as works to agricultural lands and is exempted development.
- The proposed house respects the building line established by the adjoining houses.

- The application site and adjoining sites are within the village settlement boundary and should not be considered rural areas.
- The proposed development can achieve 65m sightlines on the public road and will not give rise to traffic hazard.
- The proposed bored well will not impact on adjoining wells.

6.4. **Observations**

- None

7.0 **Assessment**

7.1. The principal planning issues in this case are; flooding and effluent disposal, traffic safety, impact on adjoining property, rural housing policy, natural heritage,

7.2. **Flooding**

7.3. The appeal makes the point that the site is subject to flooding. The applicant responded to the appeal to state that the FRA submitted with the application demonstrates that there is no risk of flooding to the application site or adjoining lands.

7.4. The applicant carried out a flood risk screening assessment which recommended that a site-specific flood risk assessment (FRA) was required. This FRA report was based on a walk-over survey of the application site, an assessment of the catchments of the two rivers in the area and mathematical modelling using 35 data points/sites around the country in the absence of specific data for the Inch River and 38 data points/sites for the Boleybaun river in the absence of specific data for that river. The FRA concluded that although the site is marked in the published CFRAMS maps and the Wexford Strategic Flood Risk Assessment as being within the flood plain of the Inch river that the modelling demonstrated that this was not the case and that the proposed development would not be impacted by 1:1000 year flood event subject to a finished floor level of 0.35cm above the existing site levels within the application site.

- 7.5. The application quotes the Flood Management Guidelines as making the point the OPW predictive flood extent maps should not be taken a definitive when considering individual applications on specific sites. The application is correct that the guidelines include this advice.
- 7.6. The Flood Risk Management Guidelines identify three zones (zones A, B and C) for vulnerability to flood risk. Zone A has a 1% chance (1 in 100 years) of river flooding or 0.5% chance of coastal flooding. Zones B and C are at lower risk of river or coastal flooding. The guidelines make the point that highly vulnerable developments (including housing development) should be avoided in zone A. Most of the application site is within Flood Zone A in the maps attached to the current County Development Plan which have been adopted from the CFRAMS mapping study published by the OPW. The draft Wexford County Development Plan 2021 to 2027 (Strategic Flood Risk Assessment in volume 11) also includes the site within the Zone A - the highest vulnerability rating. The planning authority comments in its response to the appeal that it is satisfied that the site-specific flood risk assessment submitted with the application is accurate and that the site is not prone to flooding.
- 7.7. The two site layout drawings submitted with the application (8th June 2020 and 27th August 2020) indicate that site has been subject to infilling with an unspecified material. This filling has been referenced in the grounds of appeal, in the planner's report on file (top page of 10), and in the site suitability assessment submitted with the application and in the applicant's ground of appeal. It appears that this altered site has been used as the basis for the FRA submitted with the application. There is therefore a conflict between the material submitted with the application and the current and new draft Strategic Flood Risk Assessment published by the planning authority. As part of my site visit, I conducted a walkover of the application site and noted extensive areas of surface water ponding in the site. From a flood risk assessment perspective, the objection to filling sites in river flood plains in order to make them less vulnerable to flooding is that that infilling increases the vulnerability to flooding of areas outside the site because the storage capacity of the flood plain is reduced. The application does not address this point. Furthermore, the application does not address the potential flushing of infill material from the site into the adjacent water courses in the event of a flood event occurring.

- 7.8. Therefore, I conclude that the application has not demonstrated that the proposed development is not vulnerable to flooding and that it would not be likely to exacerbate predicted flood risk mapped in the current Strategic Flood Risk Assessment carried out for the current Wexford County Development Plan and in the draft SFRA for the draft plan to areas outside the site due to the infilling of a mapped flood plain.
- 7.9. **Domestic Effluent Disposal.**
- 7.10. The site characterisation form submitted with the application to facilitate the assessment of the site for its suitability for domestic effluent disposal notes that the site has been raised and reseeded (section 5 of the form). The T test returned a value of T=38 which indicates that the site is suitable for effluent disposal from a septic tank and percolation area or from a secondary treatment system and polishing filter. The site therefore meets the T values required in table 6.3 of the EPA Code of Practice for Wastewater Treatment and Disposal Systems serving Single Houses.
- 7.11. The raised percolation area is illustrated on the site layout plan submitted with the application as laying outside the line of flood zone A as estimated by the Wexford County Council's SFRA documents (adopted and draft). However, that line is not consistent with the extent of the flood plain illustrated on the applicant's FRA or the SFRA maps published by the planning authority. The Wexford SFRA and OPW maps indicate that flood zone A includes the percolation area and comes south as far as the proposed house.
- 7.12. The five houses to the west of this application site are shown to rely on private effluent treatment systems and private wells. The proposed development also includes provision of potable water supply from a private well. The application does not offer any cumulative impact assessment of the proposed DWWTP with these existing developments on ground water resources including wells or surface water including the two adjoining rivers.
- 7.13. Having regard to the foregoing I conclude that the application has not demonstrated that the proposed development, including the proprietary effluent treatment system and raised percolation area, are not at serious risk of inundation during a flood event. The proposed development would, therefore, be likely to give rise to water pollution

of adjoining water courses and be prejudicial to public health through the release of untreated or partially treated domestic effluent into the water environment.

7.14. Traffic Safety

7.15. The application site is just outside the 60kms speed limit zone and in the 80kms speed limit zone. There are 5 domestic entrances to the west and a narrow bridge over the Boleybaun river immediately to the east of the site. The planning authority commented that sightlines are adequate. The applicant makes the point that the bridge over Boleybaun river acts as a traffic calming measure.

7.16. Having regard to the pattern of development in the area, the location of the site in an infill position between an existing house (west) and the river and public house (east) I agree with the planning authority's assessment and do not consider that the proposed development will give rise to traffic hazard.

7.17. Impact on Adjoining Property

7.18. The appeal makes the point that the proposed development will overlook adjoining property. The proposed development is separated by a front garden about 9m deep, roadside verge and public road from the B&B across the public road. I conclude that this distance is sufficient to protect the appellant's property from unreasonable overlooking or visual intrusion.

7.19. Rural Housing Policy.

7.20. The appeal references the one-off rural housing policy set out at paragraph 18.12 of the Development Plan. The County Development Plan states that proposed development in rural areas should not extend an existing pattern of one-off linear development which would result in five or more houses in a row over 250m of road frontage. The applicant in response to the appeal makes the point that the site is an infill site within an existing village envelope.

The site is an infill site on the village side of a line of 5 existing houses. While Inch village is not zoned for development the County Development Plan nor does it have a designated development boundary I conclude, having regard to its location and the pattern of development in the area, that the proposed development is not contrary to the County Development Plan policy to avoid linear development in rural areas.

7.21. **Natural Heritage.**

7.22. It is an objective of the County Development Plan (objective HT03) to ensure that development proposals do not have an unacceptable impact on heritage unless there is a reason of overriding public interest for such development. Any such development shall comply all other planning and environmental criteria.

7.23. The proposed development is within the catchment of the Inch River which is a tributary of the Kilgorman River which enters the sea about 6kms away to the southeast of the application site. The last circa 1.5kms of the Kilgorman river is the proposed Kilgorman River Marsh Natural Heritage Area mapped by the NPWS and listed in table 32 in the County Development Plan. I conclude that the application which illustrates landfill/ site contouring works in the submitted drawings has not demonstrated that the proposed development, including the proposed effluent treatment system which is located within the flood plain of the Inch river, has not demonstrated that it will not negatively impact on the water quality on the Kilgorman River March pNHA.

7.24. **Appropriate Assessment Screening.**

7.25. Having regard to the nature and scale of the proposed development, nature of the receiving environment and proximity to the nearest European site, I am satisfied that 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 refused.

9.0 Reasons and Considerations

1.	<p>It is a core objective of the Planning System and Flood Risk Management Guidelines for Planning Authorities (Department of Environment, Heritage and Local Government 2009) to avoid inappropriate development in areas at risk of flooding. It is a policy of the planning authority as set out in the Wexford County Development Plan 2013-2019 to ensure that all development proposals comply with the requirements of the Flood Risk Management Guidelines. The proposed development is located in the flood plain of the Inch River which is an area which is at risk of flooding and may give rise to risk of flooding outside the application site. The proposed development would therefore materially contravene an objective of the planning authority set out in the County Development Plan and be contrary to the proper planning and development of the area.</p>
2.	<p>It is an objective of the planning authority set out in the Wexford County Development Plan 2013-2019 to ensure that development permitted would not have an unacceptable impact on water quality and quantity, including surface water, ground water, designated source protection areas, river corridors and associated wetlands, estuarine waters, coastal and transitional waters. The proposed domestic wastewater treatment system is located within the flood plain of the Inch River. There is a serious risk of inundation of the proposed domestic wastewater treatment system in the event of flooding and the treatment system would release untreated or partially treated domestic effluent into the water environment. The proposed development would, therefore, be prejudicial to public health and surface water quality, would materially contravene an objective set out in the current County Development Plan and would be contrary to the proper planning and sustainable development of the area.</p>

Hugh Mannion
Senior Planning Inspector

17th November 2020.