



An
Bord
Pleanála

Inspector's Report ABP-308721-20

Development

Outline Permission for the construction of a house with a stated floor area of 250 sq m, wastewater treatment system and all associated site works.

Location

Tullispark, Aughwilliam, Co. Wexford.

Planning Authority

Wexford County Council

Planning Authority Reg. Ref.

20201034

Applicant

Neil Murphy

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Date of Site Inspection

27th January 2021

Inspector

Paul O'Brien

1.0 Site Location and Description

1. The subject site comprises of a stated area of 0.554 hectares located to the south of the R733 regional road in Tullispark, Aghwilliam, Co. Wexford. The R733 connects the western side of Wexford town with Wellingtonbridge to the western side of the County, and the road continues on to New Ross. The site is approximately 12 km to the south west of Wexford town and 8.6 km to the north east of Wellingtonbridge.
2. The site comprises of part/ eastern side of an agricultural field. The public road (R733) is located to the north west and a laneway to the north eastern side provides access to a detached house and farmyard to the south of the site. This laneway is not surfaced and does not appear to be in public charge.
3. An agricultural type of gate provides access to the site from the laneway. The site is below the level of the public road and the site is generally flat, though this is not even throughout the site. A stream is located to the south eastern side. Site boundaries consist of a mix of hedgerows and trees. The site was wet on the day of the site visit with ponding evident at the entrance onto the laneway.

2.0 Proposed Development

1. The proposed development consists of:
 - Outline Permission for a house with a stated floor area of 250 sq m.
 - The provision of a wastewater treatment system.
 - All associated site works.

Submitted in support of the application were:

- Site Suitability Assessment for Wastewater Treatment prepared by WJG Consultants.
- Report on the Conductivity Survey at Waddington, Co. Wexford for WJG Consulting by Apex Geophysics
- Neil Murphy Flood Risk Assessment, Tullispark, Co. Wexford by Coyle Environmental
- Cover letter by Circa Design Limited sets out the history, need for house etc.

3.0 Planning Authority Decision

1. Decision

The Planning Authority decided to refuse permission subject three reasons as follows:

1. 'The application site is located on a Class 1 Regional Road (R722), where applicants are required to demonstrate an over-riding economic or social need to reside at such a location in accordance with Section 8.6.2 and Objective T27 of the Wexford County Development Plan 2013 – 2019 (as extended). Based on the information submitted, the Planning Authority is not satisfied that the applicant has demonstrated an exceptional over-riding economic or social need to reside at this location in accordance with Objective T27. The proposed development is therefore considered to be contrary to Section 8.6.2 and Objective T27 of the Wexford County Development Plan 2013 – 2019 (as extended), NPO19 of the Project Ireland 2040 – National Planning Framework, and to the proper planning and sustainable development of the area.
2. The site lies within a flood zone, and the mitigation measures proposed as part of the development, namely an earth berm, are considered insufficient to prevent saturation of soils which would in turn lead to a failure of the wastewater treatment and disposal system. The proposed development is likely to give rise to a public health hazard, and would therefore be contrary to the proper planning and sustainable development of the area.
3. The proposed development is located on a private laneway which is deficient in terms of width, drainage and surface treatment. It is considered that the traffic movements that would be generated by the proposed development would endanger public safety by reason of a traffic hazard. The proposed development is considered to be contrary to Section 18.29.4 of the Wexford County Development Plan 2013 – 2019 (as extended), and to the proper planning and sustainable development of the area'.

2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The Planning Report reflects the decision to refuse permission. The Planning Authority Case Officer reported that a previous application under PA Ref. 20200670 for two houses of 250 sq m was refused permission due to no need or local connection being demonstrated by the applicant. Outline permission is now sought and the applicant, who currently works in Dublin, will give up his work and move here to farm an area of 19 acres. The Planning Authority Case Officer reported that the applicant did not demonstrate an established functional economic or social need to live here. No information was provided as to what farming the applicant engages in at present or in the future. Concerns were also expressed in relation to additional traffic movements onto the regional road and also flooding was given as a reason for refusal as the site is located within a flood zone.

3.2.2. **Other Technical Reports**

Senior Executive Scientist (Environment): Refusal recommended as the site is located within a flood zone and the proposed berm is not adequate to address flooding and would lead to failure of the wastewater treatment system.

Roads Report – Further information requested in relation to details of surface water drainage to serve the existing laneway and details of the upgrade/ maintenance of this laneway.

3.2.3. **Prescribed Bodies Reports**

None.

3.2.4. **Objections/ Observations**

None

4.0 **Planning History**

P.A. Ref. 20200670/ ABP Ref. PL26.308143 refers to an application for outline permission for two dwellings of approximately 250 sq m each with separate wastewater treatment systems. The Planning Authority recommended refusal for this development and it was subsequently appealed, with no decision issued to date

(18th February 2021). This application/ appeal is for a larger area of land but includes the subject site.

5.0 Policy and Context

1. Wexford County Development Plan 2013 – 2019 - Extended

5.1.1. The following Sections of the Wexford County Development Plan 2013 – 2019 are relevant to this proposal:

- Chapter 4 Housing – 4.3 Sustainable Rural Housing
 - 4.3.3 Sustainable Rural Housing Strategy

The site is located on unzoned lands but within an area defined as a ‘Stronger Rural Area’. In such areas it is an objective of the Council to:

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.

Objective RH04

To facilitate individual houses, other than those referred to in ‘Stronger Rural Areas’ in Table No. 12, in the existing settlements including those settlements defined in the settlement hierarchy as Strong Villages, Smaller Villages and Rural Settlements, subject to compliance with normal planning and environmental criteria and the development management standards laid down in Chapter 18’.

- Chapter 8 Transportation

The following is relevant:

Objective T27

‘To prevent new or the significant intensification of existing, access/egress points from/to Class I Regional Roads. This objective will not apply in the following locations and circumstances but only in locations and for developments which will

not give rise to public safety hazards:

- Farmers and their sons or daughters proposing to build a dwelling house for their own use provided that a need for that dwelling has been clearly established and where there is no suitable alternative access possible from the family landholding onto a local road.
- The sub-division of dwelling house sites to provide a dwelling for the use of a son or daughter of the original site owner, where a need for that dwelling has been clearly established and where there is no suitable alternative access possible from the family landholding onto a local road. Proposals for granny flat type developments at such properties will be considered on their merits having regard to the characteristics of the site and the anticipated level of intensification of use of existing access point.
- The above criteria also apply where a shared access/egress from/to the Class 1 regional road is proposed (including with an existing access) and where access/egress from/to the Class 1 regional road is proposed via a private lane’.

- Chapter 14 Heritage – Landscape Character Assessment
- Chapter 17 Design – 17.7 Rural Design Guide
- Chapter 18 Development Management Standards
 - 18.8 Accessibility
 - 18.12 Rural Housing
 - 18.13 Other Residential Developments – 18.13.2 Domestic Garages/ Stores
 - 18.29 Transport and specifically 18.29.3 – Sightlines
 - 18.32 On-site Wastewater Treatment Facilities

2. National Guidance

- 5.2.1. **The Sustainable Rural Housing – Guidelines for Planning Authorities** (April 2005) is relevant to this proposal as they set out the need for rural housing in appropriate/ sustainable locations.

5.2.2. **National Planning Framework – Project Ireland 2040** recognises the importance of rural Ireland.

National Policy Objective 19 is relevant to this development:

‘Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements’.

3. **Natural Heritage Designations**

None.

6.0 **The Appeal**

1. **Grounds of Appeal**

Neil Murphy, the applicant, has appealed the decision of Wexford County Council to refuse outline permission for a house on this site in Tullispark, Aughwilliam, Co.

Wexford. The following grounds of appeal are made:

- The applicant/ appellant inherited approximately 20 acres of land from his late uncle in 2008. The applicant was only 15 years old at this time. He went to college in Dublin, served his apprenticeship there.
- It is his intention to finish his work in Dublin over the next three years and to move to this site to work his uncle’s land.
- Sets out the planning history of the site and surrounding lands.

- Accepts that he cannot comply with Objective T27 as it limits development of houses to only sons or daughters. The uncle had no children and left the land to his nephew, the applicant.
- Considers that the objective is in conflict with the rural housing criteria set out in the county development plan.
- Wishes to farm the land and will accept a full-time occupancy condition.
- Safe access to and from the site is possible from the regional road, another contradiction under T27. Roads report has no objection to the available sightlines.
- Outlines other family members who live in the area – a map (A) has been provided indicating their locations.
- NPO19 does not apply as this is a stronger rural area.
- In relation to flooding, a Flood Risk Assessment prepared by Coyle Environmental has found that a stream to the south of the site may in a 1:100-year flood break its banks to a maximum of 0.65 m. This is not in line with the OPW Flood Map Guidance.
- The proposed treatment system and percolation area are approximately 75 m away uphill from the stream, with an incline of approximately 0.75 m. An additional 1 m raised bed is proposed, and the percolation area would be 1.75 m above the stream embankment, which is 75 m away.
- OPW maps are not always accurate and suitable evidence is provided in this regard.
- Uncertain as to why the private laneway is now an issue of concern, however the applicant is willing to upgrade the laneway if conditioned to do so.

The appeal statement is similar to the cover letter submitted with the application and prepared by Circa Design Limited.

2. Planning Authority Response

- No comment to make.

7.0 **Assessment**

1. The main issues that arise for assessment in relation to this appeal can be addressed under the following headings:

- Nature of the Development
- Rural Housing Policy
- Wastewater Treatment and Water Supply
- Surface Water Drainage/ Flooding
- Impact on Residential Amenity
- Access and Transportation
- Appropriate Assessment Screening

2. **Nature of the Development**

7.2.1. The proposal is for outline permission for a house of 250 sq m, wastewater treatment system and all associated site works. The site is located on unzoned lands, but which are within a designated stronger rural area.

3. **Rural Housing Policy**

7.3.1. Section 18.12.1 of the Wexford County Development Plan 2013 – 2019 as extended, sets out the requirements for one-off rural housing in Co. Wexford. In summary the following shall be complied with:

- The applicant shall comply with the rural housing criteria as set out in the Sustainable Rural Housing Strategy – Chapter 4.
- Should be able to support a wastewater treatment system and a water supply.
- Should be safe to access for vehicles etc.
- Should not support or give rise to ribbon development.
- Should not impact on natural or important cultural heritage areas.
- Should not impact on adjoining residential amenity.
- The site should not be vulnerable to flooding.

- The development should blend into the landscape.
- Surface water drainage to be accommodated on site.

Map no. 6 – Rural Area Types indicates that the site is located within a ‘Stronger Rural Area’. Housing within this area has to demonstrate compliance with Table 12 of the county development plan. Table 12 requires demonstration that an applicant was born or has lived a minimum of five years within the local, the local area in this case is within 15 km radius.

7.3.2. Considering the history of this site and the application on the larger area of land for two houses for speculative development, the applicant has not clearly outlined their connection to this area. I accept that he inherited this land in 2008, but insufficient detail is provided as to where he is from and how long he lived in this area for. The only address provided is in Rathfarnham, Dublin and no supporting documentation has been provided as to his connection to the area.

7.3.3. National Policy Objective 19 clearly sets out that in rural areas, single housing is to be facilitated where:

- ‘In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements’.

7.3.4. The site is within an area designated as a stronger rural area. The development plan map indicates that the strong rural area is for a relatively small area and is adjoined to the east and west by areas under urban influence. Considering that the Wexford County Development Plan was adopted in 2013 and that the road network in Wexford has improved even along sections of the R733, the reality is that this site would now be within an area under urban influence. No information has been

provided in relation to the type of farming that the applicant proposed to engage in. The landholding at circa 20 acres appears to be very small for the development of a viable farm. From the available information, the applicant lives in Dublin and has no immediate need to live in this area. The applicant himself states that he intends moving here over a period of three years. The applicant has not demonstrated compliance with the Wexford County Development Plan 2013 – 2019 for the development of a rural house.

4. Wastewater Treatment and Water Supply

- 7.4.1. It is proposed to install a 'Eurotank BAF' wastewater treatment system with sand filter and infiltration area which has adequate capacity for 6 persons. The treatment system is located approx. Table 6.1 of the 'EPA Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses' sets out minimum separation distances and the proposed development is compliant.
- 7.4.2. The site is located in an area identified with an "High" vulnerability classification on the GSI Groundwater maps and is located within area defined "Poor" Aquifer category, representing a Groundwater Protection Response of R1 under the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009) (Annex B2). Ponding was visible on the day of the site visit.
- 7.4.3. The trial hole had a depth of 1.9 m and the assessment submitted by the applicant indicates that the water table was reached at 1.5 m. The submitted site characterisation records a T-test value (Standard Method) of 15.42 min indicating a good soakage and a P-test value of 20 min (Standard Method – rounded up). The submitted report indicates that three separated trial holes were provided. The report recommends a secondary wastewater treatment system with tertiary treatment with a 20 sq m sand polishing filter. The dimensions of the sand polishing filter are 4.5 m x 4.5 m x 0.9 m deep with a 64 sq m attenuation bed at ground level. These leaves 1.3 m of available on-site soils above the mottling level of 1.3 m and the water table of 1.5 m. The raised level ensures that potential issues with ground water are addressed in the design of the treatment system. All required separation distances to houses, structures and boundaries are/ can be complied with.
- 7.4.4. In conclusion, from the submitted details and having regard to the report of the Senior Executive Scientist (Environment), no concerns regarding the provision of a

wastewater treatment system have been raised and site is suitable for discharge to groundwater.

- 7.4.5. A private well is proposed to provide for a water supply to serve the proposed house/ development of this site.

5. **Surface Water Drainage/ Flooding**

- 7.5.1. The applicant has engaged the services of Coyle Environmental to prepare a flood risk assessment of this site. In conclusion, no records of flooding in the vicinity of the subject site were found on the OPW National Flood Hazard Mapping Web Site (www.floodmaps.ie) and the assessment of the site finds that site is not subject to flooding in low probability exceedance events from fluvial sources. Groundwater flooding is not expected in this location. Overflow from the nearby stream may occur in 1:100-year events (allowing for 20% climate change allowance) and it is recommended that earth bunds/ berms of 0.65 m in height be provided along the stream banks, this includes a 0.3 m freeboard. Details of these measures are provided in Appendix A of the flood risk assessment as submitted by the applicant/ appellant.
- 7.5.2. I note the contents and conclusions of this report, however the report of the Senior Executive Scientist indicates that the site is located within a flood zone and the provision of an earth berm will not be an adequate method of flood prevention as the in-situ soil can become saturated by encroaching floodwater. The Wexford County Development Plan indicates that the site is within a flood zone – ‘Title: OPW Flood Extents – Map No:2.
- 7.5.3. From the site visit it was apparent that the site was very wet with evidence of ponding visible. The submitted site plan indicates a laneway with a permeable surface is to be provided along the southern side of the site and which will reduce the potential impact from flooding. If permission were to be granted, it would be possible to revise the wastewater treatment system such that it is not impacted by potential flooding from the stream. The site layout indicates that the location of the house is more likely to be impacted by flooding than the wastewater treatment system. I accept the findings of the flood risk assessment, but I am concerned that the development of this site may be impacted by flooding in the future and the

proposed development may increase flooding on adjoining sites. The relatively high level of groundwater found on site would increase the level of concern in this regard.

6. Impact on Residential Amenity

- 7.6.1. As this is only an application for outline permission, no specific house details have been provided other than its indicative location on site and that the floor area will be circa 250 sq m, providing for a generous size of house.
- 7.6.2. I am also satisfied that the indicative location of the house is sufficiently separated from existing houses in the area as to ensure that overlooking leading to a loss of privacy and overshadowing leading to a loss of daylight/ sunlight will not occur.

7. Access and Transportation

- 7.7.1. Concern regarding access to the site was given as two of the reasons for refusal. Firstly, the applicant failed to demonstrate compliance with Objective T27 of the Wexford County Development Plan, exceptional over-riding economic or social need to live in this location, off a Class 1 Regional Road (R733) and secondly the private laneway is deficient in terms of width, drainage and surface treatment, the traffic movements would give rise to a traffic hazard.
- 7.7.2. The appeal refers to the existing laneway as justification for the development of a house here. I accept that adequate sightlines are available, however the poor quality of the existing laneway provided for a difficult entry onto the public road on the day of the site visit. Road speeds along this section of the R733 are fast and the poor surface quality and climb to reach the road, provides for a potential traffic hazard, especially for visitors to this site who may not be familiar with the junction. Other than saying that he wishes to farm these lands, insufficient detail has been provided to demonstrate the exceptional economic or social need to live here.
- 7.7.3. I would also be concerned that the indicated laneway/ path to the south of the site may further increase the volume of movements at this junction. At present the laneway serves a single house and a farmyard. The submitted plan indicates that an additional house and access to farmlands will also be facilitated by this junction. The applicant may be willing to upgrade the laneway / junction, but no specific details have been provided to demonstrate what can be achieved here. The applicant was aware of this concern as it was provided as a reason for refusal by the Planning Authority in their decision.

7.7.4. The appeal refers to discrimination in the wording of Objective T27 as it allows for sons or daughters to be considered for housing. I note this issue, however I consider that the appeal has become more concerned with this aspect of the refusal as issued by the Planning Authority than demonstrating the basics of how they comply with the rural housing policy for a house on this site.

8. Appropriate Assessment Screening – Stage 1

7.8.1. The subject site is approximately 7.9 km to the north of Ballyteige Burrow SAC (Site Code 000696) and Ballyteige Burrow SPA (Site Code 004020). The stream that crosses the southern side of the site provides a hydrological link between the subject lands and the designated sites. A wastewater treatment system with secondary and tertiary treatment is proposed and should be adequate to address all wastewater on site.

7.8.2. Having regard to the nature and scale of the proposed development and the provision of a wastewater treatment system combined with the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

1. I recommend that planning permission be refused for the following reasons and considerations as set out below.

9.0 Reasons and Considerations

1. Having regard to the location of the site within a 'Stronger Rural Area' as identified in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and in an area where housing is restricted to persons demonstrating local need in accordance with the current Wexford County Development Plan 2013 – 2019 as extended, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random

rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development is located along an unsurfaced minor laneway which is inadequate in width, alignment and structural conditions. Vehicular traffic exits/ enters the R733 regional road at an inadequate junction in terms of layout/ surface treatment and the proposed development would, therefore, endanger public safety by reason of traffic hazard.
3. The proposed development is in an area which is at risk of flooding as indicated in the current Wexford County Development Plan 2013 – 2019 as extended. The Board is not satisfied, on the basis of the information lodged with the planning application and in response to the appeal, that the proposed development would not give rise to a heightened risk of flooding either on the proposed development site itself, or on other lands. The proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

Paul O'Brien
Planning Inspector

18th February 2021