



An
Bord
Pleanála

Inspector's Report ABP309978-21

Development	House, DWWTS, new access and associated works
Location	Tinnock Upper, Ballynestragh, County Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20201466
Applicant(s)	Rachel May
Type of Application	Permission.
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	Don Swords/Katrina Mulhall
Observer(s)	None
Date of Site Inspection	1 st October 2021.
Inspector	Hugh Mannion

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1.0 Site Location and Description

- 1.1. The application site has a stated area of 0.3ha and comprises part of an agricultural field at Tinnock Upper, Ballynestragh, County Wexford. The dominant land use in the area is agriculture. The local road fronting the site links with the R772 to the east which in turn links to the M11 about 1.5kms from the application site. Killinerin village is about 1.5kms to the west and has a church, school, retail outlet with service station. The site is on the brow of a hill on the public road fronting the site. The road is single carriageway, has no footpath, public lighting, cycle paths, pedestrian crossings or median line.
- 1.2. The application site is on the southern side of the road. To the west are three houses with separate accesses to the public road, to the east the closest house is the appellant's property and, on the opposite (northern), side of the road there are 6 houses with individual accesses to the public road.

2.0 Proposed Development

- 2.1. The proposed development comprises construction of a bungalow, installation of a domestic wastewater treatment system (DWWTS), connection to a public mains water supply and associated site development works at Tinnock Upper, Ballynestragh, County Wexford.

3.0 Planning Authority Decision

3.1. Decision

- 3.2. Grant permission with conditions.

3.3. Planning Authority Reports

3.3.1. Planning Reports

Initially the planner's report recommended further information in relation to the location of private wells in the area. The applicant submitted showing the location of wells associated with nearby houses on 3rd March 2021.

3.4. A second planner's report recommended a grant of permission subject to conditions as set out in the manager's order.

3.4.1. Other Technical Reports

The **Environment Section** recommended requesting further information in relation to the location of private wells within 150m west of the application site.

Following receipt of the further information the Environment Section noted that the polishing filter was 71m from the closest well to the west and recommended a grant of planning permission.

4.0 Planning History

No planning history on this site.

5.0 Policy and Context

5.1. National Planning Framework

5.2. The NPF in relation to rural housing includes objective 19-

5.3. 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.

5.4. Sustainable Rural Housing Guidelines.

5.5. The Sustainable Rural Housing Guidelines require planning authorities to differentiate between rural housing demand arising from rural housing need and housing demand arising from proximity to cities and towns. Additionally, development plans should distinguish rural areas under strong urban influence, stronger rural areas, structurally weak rural areas and areas with clustered settlement patterns. Development management policy should be tailored to manage housing demand appropriately within these areas.

5.6. Wexford County Development Plan 2013-2019 (lifetime extended).

5.7. Development Plan

5.8. The site is not zoned in the current Wexford County Development Plan.

5.9. Section 4.3.3.1 of the County Development Plan characterises rural areas as ‘Areas under Strong Urban Influence’, ‘Stronger Rural Areas’ and ‘Structurally Weak Areas’ and maps these on a ‘rural area types’ map in Chapter 4. The application site is located in an area designated as ‘Under strong Urban Influence’ objective RH01 states that the planning authority will “facilitate the development of individual houses in the open countryside in ‘Areas under Strong Urban Influence’ in accordance with the criteria laid down in Table No. 12 subject to compliance with normal planning and environmental criteria and the development management standards laid down in Chapter 18. Table 12 states that housing for ‘local rural people’ building permanent residences for their own use who have a definable ‘housing need’ building in their ‘local rural area’ is permitted.

5.10. ‘Local rural people’ are defined as people who were born or have lived for a minimum period of five years in that ‘local rural area’. This includes people who have lived there in the past/returning emigrants. It also includes persons who were born or reared in such a ‘local rural area’ but that area is now within a settlement boundary/zoned land. A local rural person also includes a person who has links by virtue of being a long term rural landowner or the son or daughter or successor of such a person. ‘Local rural area’ is defined as within a 7km radius of where the applicant has lived or was living. Where the site is of a greater distance but the applicant can demonstrate significant ties with the area for example immediate family or

landownership then these applications will be considered on their merits. The 'local rural area' includes the countryside, Strong Villages, Smaller Villages and Rural settlements but excludes District towns, Larger Town, and The Hub.

5.11. Section 17.7 of the county development plan sets out policy in relation to rural housing design. The Plan states that "the fundamental message for design is that the house must be suitable to its rural area", the proposed house should be of an appropriate scale and form for its rural setting, and appropriate design in a rural context can be either traditional or a modern interpretation of the same or a bolder modern or contemporary design if properly executed. Hedgerows should be left intact.

5.12. **The Plan at 18.12.1 One-off Rural Housing**

5.13. A range of criteria will be used to assess if a site is acceptable in principle for a dwelling house. These criteria should be considered before moving on to detailed house and site design and include:

- The applicant(s) should satisfy the Rural Housing criteria set out in the Sustainable Rural Housing Strategy in respect of the location of the site (Chapter 4).
- The site should be capable of accommodating a private wastewater system where required which meets current regulations and there should be a satisfactory and safe supply of drinking water to the site.
- The site should be capable of being safely accessed in perpetuity with the necessary sightlines being achievable without excessive loss of landscaping. If access is proposed from a private lane, the necessary legal consents should be in place and the lane should be in satisfactory condition to accommodate the development.
- 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.

- Development of the site should not have adverse impacts on Protected Structures, designated sites of nature conservation value (cSACs, pNHAs and SPAs) and/or sites of archaeological interest.
- The site should be capable of accommodating a dwelling which has regard to and avoids potential adverse impacts on existing properties adjoining the site.
- The site should not be vulnerable to flood risk.
- The site should be capable of accommodating a dwelling house which blends into and is not visually intrusive in the landscape.
- The site should be capable of accommodating proposals to manage surface water drainage without significant discharges affecting the public road drainage.
- The siting of a dwelling house should:
 - Blend into the landscape and not be visually prominent, having regard to the scale of the proposed dwelling.
 - Meet minimum separation distances from wastewater treatment and surface water drainage systems
 - Reflect the position of adjoining developments (developments which are positioned significantly in front of or behind a general building line are likely to be more visually prominent)
 - Avoid adverse impacts on neighbouring properties from overlooking and undue overshadowing and visual impacts
 - Avoid adverse impacts on historic sites, nature conservation and archaeology
 - Minimise adverse impacts on existing site specific landscaping, for example, trees and hedges with medium and long term landscaping/ screening value

5.14. **Natural Heritage Designations**

Not relevant.

5.15. **EIA Screening**

5.16. Having regard to the nature and scale of the proposed development I am satisfied that no likely significant impacts on the environment arise from the proposed development and that the submission of an EIAR and carrying out of an EIA is not required in this case.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- The polishing filter associated with the wastewater treatment system (DWWTS) is too close to the appellant's well (and a second well serving development permitted under 20190162) which may give rise to contamination of the well.
- There is multiple DWWTSs in the area where the soil is generally unsuitable for the disposal of domestic effluent.
- The application drawings are inaccurate in that they do not show the bend on the public road at the site frontage. The provision of sightlines would require the removal of roadside hedgerow which contravenes the development management advice set out in the Wexford County Development Plan.
- The road network in the area is inadequate for the levels of traffic using it, Chapter 8 of the development plan seeks to restrict development onto local roads that are deficient in terms of capacity, width, alignment or structural condition.
- The layout of the application site creates potential infill sites which in contrary to the Development Plan policy in relation to ribbon development.

6.2. Applicant's Response

- The appellant's well is 71m from the proposed polishing filter which complies with the EPA code of practice. Additionally, the appellant in a previous application for permission for the appellant's own house indicated that connection to a group water scheme would be available.
- The submitted drawings accurately show the site and road layout fronting the site. The boundary is a clay embankment which, if it is necessary to replace, will not require the loss of any hedge.
- The application refers to one site only and other potential sites are outside the control of the present applicant.
- There are no houses 90m to the west along the road or 125m east. Therefore, liner development does not arise. The site is being gifted to the applicant by her mother.
- The proposed ridge height (6.1m) and the screening proposed in the application ensures that visual impact on the landscape will be minimised.

6.3. Planning Authority Response

- None

6.4. Observations

- None

6.5. Further Responses

- None

7.0 Assessment

7.1. Rural Housing Policy

- 7.2. The NPF requires (National Planning Objective 19) that in rural areas under urban influence, planning authorities 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.
- 7.3. The site is in an area under strong urban influence in the NSS rural area types map referred to in the Sustainable Rural Housing guidelines and the guidelines describe such areas as close to the immediate environs or close commuting catchment of larger cities and towns, having rising populations, exhibiting evidence of considerable pressure for housing development due to proximity to urban centres or major transport corridors. Having regard to the proximity of the application site to a motorway interchange and the pattern of recent housing development in the area I consider that this area is under pressure for one off rural housing unrelated to the agriculture land use in the area.
- 7.4. The County Development Plan (3.4.1) outlines a settlement hierarchy with Wexford town as the main focus of development followed by three larger towns (new Ross, Enniscorthy, Gorey), district towns, strong villages and then smaller villages and rural settlements. Killinerin village, 1.5kms to the west, is a typical small village/rural settlement and the settlement strategy in the County Development Plan states that it will “focus on protecting and consolidating these existing villages”. Objective SS30 seeks to “to conserve, protect and enhance the character of rural settlements” and (objective SS31) seeks to encourage cluster developments in rural settlements where there is a basic nucleus of community facilities and services, which include all or at least two of the following-school, post office, local shop, church and public house subject to compliance with normal planning and environmental criteria.
- 7.5. The site is centrally located in an agricultural field which was used for tillage in 2021. The application drawings show that the field and lands on the opposite side of the road are in the ownership of the applicant’s family. The application includes statements that the applicant went to secondary school in Arklow, primary school in

Riverchapel, Gorey and that the current landowner/parent lives in Courtown. I conclude that this material submitted in support of the application does not meet the criteria of demonstrable economic or social need to live in a rural area set out in the NPF, a rural generated housing need that meets the test sets by the Sustainable Rural Housing Guidelines, or a housing need to build in their local rural area as required by the Wexford County Development Plan. Having regard to the pattern of development in the area I additionally conclude that the proposed development would materially contravene the settlement strategy set out in the plan to, inter alia, support protection and consolidation of rural villages.

7.6. Road Safety

7.7. The appeal makes the point that the submitted drawings are not accurate in showing the public road in the vicinity of the application site. The applicant responded that the drawings accurately reflect the survey findings. I consider that the submitted drawings are sufficiently accurate.

7.8. The Development Plan (18.29.3) requires that sightlines for new entrances to local/county level roads should be 65m. The application site is centrally located in a larger agricultural field which has an existing entrance to the east. The new entrance requires the removal of the existing roadside boundary. The Sustainable Rural Housing guidelines make the point that “roadside boundaries, whether hedgerows, sod and stone bank, stone wall or other boundaries, provide important features that are elements of both the landscape and ecology of rural areas” and that such roadside boundaries should be removed only where required for traffic safety purposes. There is a bend on the public road fronting the site which combined with the position of the application site on the brow of a hill limits visibility on the road in the vicinity of the site. The road is narrow, has no median line, cycle paths or footpaths and has limited pedestrian refuge for walkers in the vicinity of the proposed new site entrance. There is a multiplicity of domestic and agricultural entrances in the vicinity of the proposed application site entrance.

7.9. Having regard to these factors I conclude that the proposed development would generate additional traffic movements on an inadequate road network and additional traffic turning movements at an unsuitable location on the public road in a manner to give rise to traffic hazard.

7.10. **Ground Water.**

- 7.11. The appeal makes the point that the raised polishing filter which part of the domestic wastewater system (DWWTS) proposed as part of the application is upgradient and too close to the appellant's private well and therefore has the capacity to contaminate drinking water and endanger public health. The applicant points out that there is a group water scheme connection available and that the proposed polishing filter meets the EPA code of practice separation distances from a well.
- 7.12. The planning authority sought additional information in relation to the separation distance between the proposed DWWTS and the domestic wells to the west of the application site. The submitted drawing showed that the separation distance is 71m. The planning authority's environment section reviewed this drawing and recommended a grant of permission.
- 7.13. The Development Plan (section 18.32) requires that where rural houses are to be served by DWWTS that they demonstrate compliance with the EPA code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses (2009).
- 7.14. The current guidance is the EPA Code of Practice 2009 (on this issue there is no difference with the 2021 edition)¹ and the maximum recommended distance between a domestic well (receptor) and the DWWTS (source) is 60m in areas where soil is characterised as sand/gravel/silty sand and has a fast T value <10. The recorded T value on site is 1.58 and the soil is recorded as clay and gravel with a shallow bedrock. I conclude therefore that the proposed DWWTS is sufficiently distant from the closest down gradient well to meet the EPA code of practice standards on this point.
- 7.15. Aside from the particular point raised in the grounds of appeal it may be noted that ground water is afforded protection in its own right under the EU Environmental Objectives (Groundwater) Regulations 2010. The Sustainable Rural Housing guidelines make the point that "wastewater treatment facilities in rural areas should therefore be located, constructed and maintained to the highest standards to ensure minimal impacts on water quality and particularly groundwater quality". In the present

¹ The new Code applies to site assessments and installations carried out after 7th June 2021 (see preface to the Code).

case the site suitability assessment submitted with the application characterises subsoil on site as sandy/gravelly and this was confirmed by my site inspection where the soil had been disturbed and was observed to be sandy/gravelly. The T test showed a very fast percolation rate (1.58) which is outside the parameters set out in table 6.3 of the EPA code of practice and means the site is not suitable for the safe disposal of domestic effluent. Additionally, there is a high bedrock on site and the application seeks to address these deficiencies by removal of natural soil on site, filling percolation area with imported material and an additional mounded polishing filter as part of a proprietary DWWTS.

7.16. There are approximately 10 houses in very close proximity to the application site which I assume in the absence of a public sewer also discharge to groundwater. The application provides no element of assessment of the cumulative impact on groundwater of this collection of houses.

7.17. I conclude based on the material submitted with the application that the application site is unsuitable for the safe disposal of domestic effluent and, notwithstanding the mitigation measures – installation of a proprietary wastewater treatment system - included in the application, that the proposed development creates a serious risk of ground water pollution.

7.18. **Appropriate Assessment Screening**

7.19. Having regard to the nature and scale of the proposed development, the foreseeable emissions therefrom and the separation distances to the nearest European site (the Slaney River Valley SAC) 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 refusal.

9.0 **Reasons and Considerations**

1.	Having regard to the location of the site within an Area Under Strong Urban Influence as identified in Sustainable Rural Housing Guidelines for
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	<p>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, 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 and undermine the settlement strategy set out in the Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.</p>
2.	<p>The application site is not suitable for the safe disposal of domestic foul effluent. Having regard to the poor soil conditions and the shallow bedrock on site, the multiplicity of domestic wastewater treatment systems in the area and, notwithstanding the proposed proprietary domestic wastewater treatment system, the application has not demonstrated that the proposed on-site wastewater treatment system can safely and adequately dispose of effluent in accordance with the Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses, Environmental Protection Agency (2009). Therefore, the proposed development would give rise to a risk of groundwater pollution, would materially contravene the County Development Plan and would be contrary to the proper planning and sustainable development of the area.</p>
3.	<p>The proposed development would be accessed from a narrow county road which is without a median line, footpaths, cycleways, pedestrian crossings and which is inadequate in width and alignment. The proposed development would give to additional traffic turning movements on this inadequate public road and would, therefore, endanger public safety by reason of traffic hazard.</p>

Hugh Mannion
Senior Planning Inspector

19th November 2021