



An  
Bord  
Pleanála

## Inspector's Report ABP-310025-21

<b>Development</b>	Store/office/tack room building, boundary treatment and all associated site works.
<b>Location</b>	Kilcop, Woodstown, Co. Waterford.
<b>Planning Authority</b>	Waterford City and County Council
<b>Planning Authority Reg. Ref.</b>	20926
<b>Applicant(s)</b>	Eamonn and Nora Doran.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	23 <sup>rd</sup> June 2022.
<b>Inspector</b>	Barry O'Donnell

## **1.0 Site Location and Description**

- 1.1. The subject site has a stated area of 0.37ha and is located at Kilcop, Woodstown, c.3.75km south-west of Passage East and c. 6km south-east of Waterford City. The site is located on the west side of the Woodstown/Waterford City road and forms part of a larger agricultural landholding that is stated to measure c.16ha.
- 1.2. The site is located c.200m from the public road and is accessed via an existing gated access and stone track that provides access to the landholding. It comprises a triangular plot that contains an agricultural shed, a chalet-style timber building (the subject of this appeal) and a defined curtilage which includes hard landscaping and ornamental planting.

## **2.0 Proposed Development**

- 2.1. The subject development entailed within the public notices comprises permission to retain a store/office/tack room building, boundary treatment and associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The Planning Authority refused permission on 31<sup>st</sup> March 2021, for 1 reason as follows: -

Having regard to the design and layout of the structure and the site, the size and scale of the agricultural holding and activities, it is the opinion of the Planning Authority that the development does not constitute agricultural use, the structure is more akin to residential use at this rural location not associated with any permitted dwelling. Having regard to the zoning objectives of the area, the development represents an inappropriate form of development at this rural location. The development would be out of character with the existing established pattern of development in the area and would negatively impact on the rural landscape. The development, if permitted, would set an undesirable precedent for similar types of

development in the area, and would therefore be contrary to the proper planning and sustainable development of the area.

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

3.2.1. Planning Reports dated 3<sup>rd</sup> February 2021 and 30<sup>th</sup> March 2021 have been provided. The first report expresses concern that the structure is in use for habitable purposes, with reference to its appearance and the presence of items that are consistent with an ongoing habitable use. The report recommends that additional information be sought, to clarify the nature of the use.

3.2.2. The second report followed the AI submission and followed a period of further public consultation, following the submission of significant additional information. Ongoing concerns are expressed regarding the use of the structure, which is stated to have a layout more akin to a garden room. Concerns are also expressed regarding the setting of a precedent for such development, where there is no house on the site. The report recommends that permission be refused for 1 reason, which is consistent with the Planning Authority's decision to refuse.

#### **3.2.3. Other Technical Reports**

The planning report indicates that the application was not referred to internal departments.

### **3.3. Prescribed Bodies**

3.3.1. None consulted.

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

3.4.1. None received.

## **4.0 Planning History**

4.1. I did not encounter any previous planning records pertaining to the site.

## 5.0 Policy Context

### 5.1. Waterford City and County Development Plan 2022-2028

- 5.1.1. The new City and County Development Plan was adopted on 7<sup>th</sup> June 2022 and took effect on 19<sup>th</sup> July 2022.
- 5.1.2. Section 2.10 'Rural Areas' states that the countryside will continue to be a living and lived in landscape, focussing on the requirements of rural communities and their economies, based primarily on agriculture, forestry tourism and rural enterprise, while at the same time avoiding an over-spill urban generated development and protecting environmental quality
- 5.1.3. In respect of rural housing, Section 2.10.1 states that the entire county is now identified as being under urban influence and that the provision of rural housing shall be based on considerations of economic, social or local housing need to live in a rural area, together with siting and design criteria.
- 5.1.4. With reference to agricultural development, Section 4.7 'Rural and Marine Economy' states that agriculture and farm-diversification projects will be facilitated.
- 5.1.5. The following policies are of relevance: -

**ECON13:** To facilitate farm or rural resource related enterprises and diversification, including food production and processing on farm/ agricultural holdings, mineral and aggregate extractive industry, aquaculture and marine, the circular economy, and proposals which support rural tourism initiatives which are developed upon rural enterprise, social enterprise, natural/ cultural heritage assets and outdoor recreational activities, subject to the capacity of the site and the location to facilitate the proposal. Subject to environmental policies and the development management standards of this Development Plan, the nature and scale of any proposed development will be assessed having regard to a number of factors, including nature and scale of the existing operation, building, or tourist attractions, source of material (where appropriate), traffic movements, water and wastewater requirements, capacity to reuse existing and redundant buildings, and likely impacts on amenity and the environment and the Natura 2000 Network.

**H28:** We will facilitate the provision of single housing in the countryside, in rural areas under urban influence, based on the core consideration of demonstrable economic, social or local need to live in a rural area, as well as general siting and design criteria as set out in this plan and in relevant statutory planning guidelines, having regard to the viability of smaller towns and rural settlements.

## **5.2. Natural Heritage Designations**

- 5.2.1. The subject site is not located within a designated European site, the closest such site being the River Barrow and River Nore SAC (Site Code 002162), which is approx. 2.8km east.

## **5.3. EIA Screening**

- 5.3.1. The subject development constitutes a smallscale detached structure, with a stated area of 22sqm, on a site of 0.37ha. This type of development does not constitute an EIA project and so the question as to whether or not it might be sub-threshold does not arise.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- The applicants' overall landholding consists of 40 acres, with 10 acres used for tillage and the rest used for haylage and grazing. The farm has been in the applicants' family's ownership for over 100 years and they are the third generation to farm the land. There are 2 structures on the site: an agricultural storage building and the chalet structure the subject of the application.
- The chalet structure is used as an office for the day-to-day running of the holding, a tack room and a store and as a lunch area, when the applicants are working.
- Refusal reason
  - The fire pit referenced in the planning report was built during covid and is used during breaks from farming. If needed, it will be taken down.

- The chimney flue is from a stove that was provided as part of the building. The chalet is used during meal times by the applicants and immediate family.
- The chalet has not been used for habitable purposes and will not be, in the future. This can be controlled by condition and the applicants are willing to enter a legal agreement to this effect. It is integral to daily activity on the farm and the applicants will find it hard to continue farming without it.
- The chalet cannot be seen from the public road.
- The Board is requested to grant permission.

## **6.2. Planning Authority Response**

6.2.1. None received.

## **6.3. Observations**

6.3.1. None.

## **7.0 Assessment**

7.1. Having inspected the site and considered the contents of the appeal in detail, I consider the main planning issues to be considered are:

- Principle of development;
- Location and layout;
- Appropriate assessment.

## **7.2. Principle of Development**

7.2.1. The new Waterford County Development Plan 2022-2028 was adopted following the Planning Authority's decision. It states that entire county of Waterford is designated as an area under urban influence.

7.2.2. There is disagreement between the parties regarding the nature and character of the subject building. The Planning Authority in its refusal reasons stated that the structure is more akin to residential use, whereas the applicant contends that it is

associated with farming activity on their landholding and is not used as habitable accommodation.

- 7.2.3. Having visited the site I am inclined to agree with the Planning Authority that the structure has the characteristics of a chalet-type house. I noted on my site inspection that it has a defined curtilage/garden area to the front and I also note that the application form indicates it is provided with a mains water supply. The floor plan layout indicates that there are a number of internal rooms and the main room is served by a stove and the photograph images provided as part of the AI response identify that the internal layout contains household items. It has the capability of being occupied as a house and I have therefore assessed it as such.
- 7.2.4. Section 2.10 'Rural Areas' of the new development plan states that the entire county is now identified as being under urban influence and Policy H28 is the applicable rural housing policy, stating that in these areas housing proposals will be facilitated based on the core consideration of demonstrable economic, social or local need to live in a rural area, as well as general siting and design criteria.
- 7.2.5. National Policy Objective (NPO) 19 of the National Planning Framework is also pertinent to the appeal and it states that in areas under strong urban influence the provision of single housing in the countryside should be facilitated based on the core consideration of demonstrable economic or social need to live in the 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.
- 7.2.6. From the information provided with the application and appeal, I do not consider the applicant has demonstrated compliance with policy H28 and NPO19 and in particular has failed to provide adequate information to substantiate an economic or social need to provide a house on this site. A refusal of permission is thus recommended.

### **7.3. Location and Layout**

- 7.3.1. The structure is in an isolated location, c.200m from the public road and at a local low point, in an area which is not visible other than in immediate, short-range views. It is accessed via an existing access that serves the applicant's lands.
- 7.3.2. In view of this, I am satisfied that the structure has no impact on the rural character or visual amenities of the area and has no impact on adjacent property.

## 7.4. Appropriate Assessment

### Appropriate Assessment Screening

#### *Compliance with Article 6(3) of the Habitats Directive*

- 7.4.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

#### *Background on the Application*

- 7.4.2. A screening report for Appropriate Assessment was not submitted with this appeal case. Therefore, this screening assessment has been carried de-novo.

#### *Screening for Appropriate Assessment- Test of likely significant effects*

- 7.4.3. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 7.4.4. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

#### *Brief description of the development*

- 7.4.5. The development is described at Section 2 of this Report. In summary, permission is sought for retention of a store/office/tack room building, boundary treatment and associated site works on a site with a stated area of 0.37ha. The structure is stated to be served by the public mains and is not provided with any toilet/foul drainage system.

### European Sites

- 7.4.6. The site is not located within or adjacent to any European site. There are a number of European sites 5km search zone, as follows: -
- River Barrow and River Nore SAC (Site Code 002162), approx. 2.8km east,
  - Lower River Suir SAC (Site Code 002137), approx. 3.6km north



7.4.7. There are other European sites within a 15km search zone, but in the context of the development I am satisfied that they are remote and there is no possibility of significant adverse effects arising from the proposed development.

7.4.8. There are no open watercourses or drains within the site or adjacent to its boundaries. In view of this, taken with the small-scale of development involved and the separation distance to any European site, I am satisfied that there is no possibility of significant adverse effects arising from the proposed development at either the River Barrow and River Nore SAC or the Lower River Suir SAC.

7.4.9. *Screening Determination*

7.4.10. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects for any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

7.4.11. This determination is based on the following:

- The absence of any hydrological connection to any European site,
- The separation distance between the subject site and European sites within the zone of potential influence.
- The smallscale nature of the development.

## 8.0 Recommendation

8.1. I recommend that permission for retention be refused for the following reasons and considerations set out hereunder.

## 9.0 Reasons and Considerations

Having regard to:

- The character of the structure and surrounding curtilage,

- The location of the site within an area under urban influence, as identified by the Waterford City and County Development Plan 2022-2028,
- The provisions of the Waterford City and County Development Plan 2022-2028, which facilitates rural housing proposals in areas under urban influence based on the core consideration of demonstrable economic, social or local need to live in a rural area, as well as general siting and design criteria,
- National Policy Objective 19 of the National Planning Framework which, for rural areas under urban influence seeks to facilitate rural housing proposals based on the core consideration of demonstrable economic or social need to live in the 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, and
- The documentation on file provided as part of the application and appeal

The Board considers that the subject structure displays the characteristics of a habitable house and curtilage garden and, in the absence of a demonstrated housing need at this location, the development results in a haphazard and unsustainable form of development, 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.

---

Barry O'Donnell  
Planning Inspector

6<sup>th</sup> September 2022.