



An
Bord
Pleanála

Inspector's Report ABP-311967-21

Development	Construction of a dwelling house, borewell, septic tank and percolation area and all associated works
Location	Ballyhennigan, Barntown, Co. Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20211456
Applicant(s)	Jenifer Roche.
Type of Application	Permission.
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Richard Carroll.
Observer(s)	None.
Date of Site Inspection	23 rd June 2022.
Inspector	Barry O'Donnell

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.565ha and is located in the townland of Ballyhennigan, approx. 12km west of Wexford Town, in a rural part of County Wexford.
- 1.2. The site is set back from the public road by in excess of 200m and is accessed via a stone track that currently provides access to two other detached houses. It consists of a section of a larger field of improved grassland and is located at a low point in its western corner. This corner of the field is bounded by mature hedging.
- 1.3. The local area displays pressure for rural housing; there are a number of houses in the vicinity of the site, clustered around the junction of two local roads. There are a mix of traditional and contemporary houses in the area, ranging from traditional designs to contemporary housing.

2.0 Proposed Development

- 2.1. The proposed development entailed within the public notices comprises the construction of a house, borewell, septic tank and percolation area and associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission on 5th November 2021, subject to 9 No. conditions.

3.2. Planning Authority Reports

- 3.2.1. A Planning Report dated 26th October 2021 has been provided, which reflects the Planning Authority's decision to grant permission. The report identifies that the site is in a stronger rural area and states that the applicant had demonstrated a need for a house in the area. The proposed design and layout of the house are also stated to be acceptable. The report recommends that permission be granted, subject to 9 No. recommended conditions.

3.2.2. Other Technical Reports

A **Roads** report dated 18th October 2021 has been provided, which recommends conditions as part of a grant of permission.

An **Environment** report dated 6th October 2021 has been provided, which recommends conditions as part of a grant of permission.

3.3. Prescribed Bodies

3.3.1. The planning report indicates no prescribed bodies were consulted.

3.4. Third Party Observations

3.4.1. A single third-party submission was received, the issues raised within which can be summarised as follows: -

- Farm animal welfare,
- Access and road safety,
- Loss of privacy,
- Unsuitable site,
- Impact on water supply,
- Risk of fire,
- Impact on wildlife,
- Risk to human health.

4.0 Planning History

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

Relevant nearby planning records

20180081 – *Lands to the north-east, along stone track*: Permission granted to Martina Roche and Conor Buttimer for the construction of a house, garage and associated site works.

20110550 - *Lands to the north-east, along stone track*: Permission granted to Daniel Murphy and Pauline Roche for the construction of a house and domestic garage/stone.

5.0 Policy Context

5.1. Wexford County Development Plan 2013-2019

- 5.1.1. The County Development Plan 2013-2019 remains the operative development plan for the area.
- 5.1.2. The site is in a rural, unzoned part of County Wexford. Map No. 5, the Core Strategy Map, identifies that it is in a Stronger Rural Area. Section 4.3.3.2 contains the development strategy for these areas and contains objectives RH03 and RH04, which state: -

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

- 5.1.3. Table 12 contains criteria for rural housing, outlining the categories of person that may be granted permission for a rural house.

5.2. National Planning Policy Framework

- 5.2.1. National Policy Objective 19 is of relevance to the proposed development. It requires the following:

'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’.*

5.3. Sustainable Rural Housing Guidelines for Planning Authorities

- 5.3.1. The Guidelines identify a number of rural area typologies and accompanying Map 1 provides an indicative outline of these area typologies. According to this indicative map, the subject site is in a ‘stronger rural area’. It is noted from the Guidelines that this map is an indicative guide to the rural area types only and that the development plan process should be used to identify different types of rural area.
- 5.3.2. For stronger rural areas, the Guidelines outline that the development plan should strike an appropriate balance between development activity in smaller towns and villages and wider rural areas. The development plan should aim to strike a reasonable balance between: (1) Accommodating proposals for individual houses in rural areas subject to good practice in relation to matters such as siting and design as outlined elsewhere in these guidelines, (2) Actively stimulating and facilitating new housing development in smaller towns and villages to provide for balanced urban and rural choices in the new housing market and (3) Carefully monitoring development trends to avoid areas becoming overdeveloped in terms of leading, for example, to extensive ribbon development.
- 5.3.3. The Guidelines require a distinction to be made between urban and rural generated housing needs, in the different rural area types. In relation to the identification of people with rural generated housing needs, the Guidelines refer to ‘Persons who are an intrinsic part of the rural community’ and ‘Persons working full-time or part-time in rural areas. Of relevance to this appeal, ‘Persons who are an intrinsic part of the rural community’ are identified as having “*spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include*

farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes.”

5.4. Natural Heritage Designations

- 5.4.1. The site is not located within or adjacent to any designated European site, the closest such site are Wexford Harbour and Slobbs SPA and Slaney River Valley SAC, which are both approx. 6.5km east of the site.

5.5. EIA Screening

- 5.5.1. An Environmental Impact Assessment Screening report was not submitted with the application.
- 5.5.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units,
 - Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.
- 5.5.3. The subject development comprises a proposed house, borewell, septic tank and percolation area and also includes associated works, on a site of 0.565ha. It falls well below both of the applicable thresholds for mandatory EIA, as set out above.
- 5.5.4. In respect of sub-threshold EIA, having regard to the limited nature and scale of the proposed development, which does not require specialist construction methods, it is considered that there is no real likelihood of significant effects on the environment. 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

6.1.1. The grounds of appeal can be summarised as follows: -

- (1)
- The appellant grazes a variety of animals on his land and it is not secured from domestic pets, which have direct access.
- The development will reduce privacy and increase noise levels at the appellant's home. Fencing and trees are required to reduce such intrusion.
- The subject site is not suitable for the proposed development. There are other lands in the family's ownership which are better suited.
- The construction of a house and human activity on the site presents a fire risk. The appellant owns adjacent lands that are at risk of fire, as are other lands in the area.
- Any wildfire event will wipe out wildlife and lead to pollution of the local river.
- The presence of vehicular traffic on the site presents a risk of collision for wildlife.
- Existing borewells have affected water supply to the appellant and a third is likely to further affect same. It is questioned why the applicant is not seeking to connect to the local group water scheme.
- The local road cannot accommodate increasing traffic volumes, including from the access to the subject site.

6.2. Applicant Response

6.2.1. A submission was received on 14th December 2021, the contents of which can be summarised as follows: -

- The proposed house is of a modest scale and will not affect the surrounding area.
- The house is proposed in an area where the applicant is surrounded by family and will be a permanent home.

- The points of objection raised could be argued as frivolous or vexatious.

6.3. Planning Authority Response

6.3.1. None received.

6.4. Observations

6.4.1. None received.

6.5. Further Responses

6.5.1. None received.

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:

- Compliance with the rural housing strategy,
- Residential amenity,
- Access,
- Drainage,
- Other issues, and
- Appropriate assessment.

7.2. Compliance with Rural Housing Strategy

7.2.1. The subject site is located approx. 12km west of Wexford Town, in an area identified by the development plan as a Stronger Rural Area. Objective RH03 of the Wexford County Development Plan 2013-2019 states that in stronger rural areas, rural housing proposals will be facilitated 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. Table 12 contains criteria for rural housing, outlining the categories of person that may be granted permission for a rural house.

- 7.2.2. The National Planning Framework was published in 2018, after adoption of the development plan. National Policy Objective (NPO) 19 of the National Planning Framework is also pertinent to the appeal and it states that in areas under 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.
- 7.2.3. The applicant has not indicated the category under development plan Table 12 which she considers herself to comply with, but I note that as part of the application letters from St. Fintan's National School and the Curate/Administrator of Taghmon Parish have been provided, as demonstration of her ties to the local area. Having considered this information in the context of Table 12, it appears to me that the applicant is applying on the basis of being a 'local rural person'. For completeness, I have assessed the appeal on this basis.
- 7.2.4. Table 12 identifies a local rural person as someone born or has lived in the local rural area for a minimum of 5 years and this includes people who previously lived in the area or returning emigrants. Also included are sons and daughters or successors of long-term rural landowners. From the information provided, I am satisfied that the applicant has demonstrated a connection to the area, in accordance with the development plan requirement.
- 7.2.5. Whilst compliance with development plan policy may have been demonstrated, I am concerned that compliance with NPO 19 has not been demonstrated. NPO19 clearly requires that a rural housing need should be demonstrated and it also includes the important proviso that in rural areas under urban influence, regard should be had to the viability of smaller towns and rural settlements. In this instance the applicant has indicated a social and family connection to the area but I do not consider this alone is sufficient to require a house in a rural area under strong urban influence.
- 7.2.6. Wexford Town is the lone 'hub' settlement type in the county, under the development plan Core Strategy, and is identified by the development plan as the centrepiece of the County's settlement strategy. It has an important role in the development of the county, providing important retail, residential, service and amenity functions for the town's urban population and rural hinterland. From my observations on site and

review of Planning Authority records, the area displays pressure for rural housing and, in my view, the development of further rural housing, without adequate justification, serves to undermine this role and may jeopardise its ability to act as a driver of population and economic growth.

- 7.2.7. In conclusion, I consider that no demonstrable economic or social need to live in the rural area has been outlined. To permit the development would therefore contravene national and regional policy in relation to rural housing and I consider permission should be refused on this basis.

7.3. **Residential Amenity**

Proposed house

- 7.3.1. The proposed house has a contemporary L-shaped bungalow design, with a ridge height of 4.28m. The house is located in the west corner of the field, at a low point within it. I am satisfied that the site can accommodate the proposed house and that no undue landscape or visual impacts arise.
- 7.3.2. The development plan does not specify any minimum size requirement for rural housing but I have nevertheless given consideration to the internal layout, in the context of *Quality Housing for Sustainable Communities* (2007) and I am satisfied that it is adequately sized internally, with a stated gross floor area of 119sqm.

Neighbouring houses

- 7.3.3. The subject site is accessed via a stone track that also provides access to two other houses, which are owned by members of the applicant's family. There is also a detached dormer bungalow to the north, which is accessed separately.
- 7.3.4. The appellant expresses concern regarding the impact of the development on residential amenity, with particular reference to loss of privacy and increased noise at his home.
- 7.3.5. Having visited the site, I do not share the appellant's concerns regarding loss of privacy or noise arising from the development. The proposed house is set away from the appellant's home by in excess of 100m and there is mature, dense vegetation along the east/south-east boundary of the field, which impedes any view in the direction of the appellant's home. Any potential view in this direction is at some distance and is not likely to have any impact on the appellant's amenity.

- 7.3.6. Whilst some noise will evidently arise during construction and there will be low-level noise associated with the occupation of the proposed house, this will not, in my view, have any material impact on the appellant's amenity.
- 7.3.7. Regarding other adjacent housing, I am satisfied that the proposed house is adequately set away from these houses and there is a tall, mature hedgerow along the north site boundary, which will screen potential views between adjacent gardens.
- 7.3.8. In conclusion, I am satisfied the proposal will not impact the residential amenity of nearby residential occupiers.

7.4. Access

- 7.4.1. Access is proposed to be taken from an existing stone track, which currently provides access to two other houses, which are owned by members of the applicant's family. The access would be extended by c.80m and would run parallel to the north field boundary.
- 7.4.2. There is good forward visibility along the stone track and I am satisfied that the limited volume of additional traffic associated with the proposed house will not present any safety risks to the other residential occupiers using the track.
- 7.4.3. Regarding visibility sightlines from the road access, the site layout drawing identifies that there are 65m sightlines available in both directions from the site access. These sightlines were previously required to be provided as part of the development of the other houses on the track.
- 7.4.4. I would question whether the southward sightline is currently available on the site, and I am unclear whether achievement of this sightline requires removal and relocation of the roadside hedge. The site layout identifies the hedge being maintained behind the sightline but it was evident at the time of my site visit that it currently impedes southward visibility. The applicant has not included the road access and sightline areas within the red line boundary, so there no ability to require improvements to the site access as part of a grant of permission. I note that a letter has been provided by Alma Roche, owner of the lands, consenting to the making of the application.

- 7.4.5. As the issue of available sightlines along the public road has not been raised by the Planning Authority, the Board may wish to give this further consideration, as a new issue.

7.5. **Drainage**

Foul drainage

- 7.5.1. The development includes the provision of a septic tank system and raised percolation area. The site layout drawing identifies that the nearest borewell to the site is over 100m from the location of the foul drainage system, in accordance with the requirements of the EPA Code of Practice Domestic Wastewater Treatment Systems.
- 7.5.2. The Site Suitability Assessment Report submitted with the application identifies the category of aquifer as 'poor', with a vulnerability classification of 'extreme'. Table E1 (Response Matrix for DWWTSs) of the EPA Code of Practice identifies an 'R2¹' response category i.e., acceptable subject to normal good practice.
- 7.5.3. The Report indicates that a trial hole with a depth of 1.1m recorded approx. 250mm of topsoil and approx. 350mm of subsoil and that bedrock was encountered at 600mm below ground level. In relation to the percolation characteristics of the soil, a sub-surface (T-test) result of 3.64 min/25mm was returned and a surface (P-test) result of 28.89 min/25mm was returned. The report concludes that the site is suitable for the installation of a primary/secondary/tertiary treatment system and proposes that a septic tank and raised percolation area be installed, with the invert of the percolation pipe located 0.9m above ground level.
- 7.5.4. Having regard to the site percolation test results, I consider it has been demonstrated that the site can accommodate a wastewater treatment system. Should the Bord decide to grant permission, I recommend a condition be attached requiring the detailed layout of the proposed system to be agreed with the Planning Authority, to ensure adequate separation from the nearby borewell is maintained.

Surface Water Drainage

- 7.5.5. Surface water drainage is indicated on the application form and site layout drawing as draining to a soakpit but further details of the system are not outlined. Should the Board decide to grant permission, I recommend a condition be attached requiring the

applicant to agree proposals for the drainage of surface water from the site, with the Planning Authority.

7.6. Other Issues

- 7.6.1. The appellant expresses concern regarding the major risk of fire that arises from human activity at the application site. I note the concerns raised but I do not agree that the mere construction of a house poses the risk of a major fire hazard. The Board will note that there is other housing in the immediate vicinity, including the appellant's home. In my view the proposal does not present any greater fire risk than other existing housing in the area. I do not consider that the risk of a fire hazard would represent a justifiable reason for refusal of the proposed development.
- 7.6.2. The appellant also expresses concern regarding the impact of the proposal on his private water supply. The applicant proposes to take water from a borewell at the east corner of the site, but no assessment of the capacity of this borewell or the overall capacity of the area to accommodate additional demand has been provided and the Planning Authority did not comment on the issue. As I am recommending that permission be refused on other substantive grounds, I have not considered this issue further. Should the Board be minded to grant permission, they may wish to consider it further, as a new issue.

7.7. Appropriate Assessment

Appropriate Assessment Screening

Compliance with Article 6(3) of the Habitats Directive

- 7.7.1. 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

- 7.7.2. 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

- 7.7.3. 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).
- 7.7.4. 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

- 7.7.5. The development is described at Section 2 of this Report. In summary, permission is sought for the construction of a house, borewell, septic tank and percolation area and associated site works, on a site with a stated area of 0.565ha. Foul drainage is proposed to drain to an on-site septic tank system and surface water is proposed to drain to a soakpit within the site.

European Sites

- 7.7.6. The site is not located within or adjacent to any European site, with the closest such sites being Wexford Harbour and Slobbs SPA (Site Code 004076) and Slaney River Valley SAC (Site Code 000781), which are both approx. 6.5km east. There are a number of other European sites within a 15km search zone, as follows: -
- Bannow Bay SAC (Site Code 000697), approx. 7.7km south-west,
 - Bannow Bay SPA (Site Code 004033), approx 11.5km south-west,
 - Ballyteige Burrow SAC (Site Code 000696), approx 12.5km south,
 - Ballyteige Burrow SPA (Site Code 004020), approx. 13km south.
- 7.7.7. There are no open watercourses within or bounding the site but there is an open watercourse that runs approx. 25m from the south-west site boundary and which available EPA water mapping indicates drains into the Corock River, to the south-west, and which in turn flows into the Irish Sea at Wellingtonbridge.
- 7.7.8. The route of the Corock River passes through Bannow Bay SAC and reaches Bannow Bay SPA in the area where it enters the Irish Sea. There is therefore an indirect hydrological connection between the subject site and the SAC and SPA.

7.7.9. Regarding Ballyteige SAC and SPA, these sites are shown to be in a different river catchment to the subject site and I am satisfied that there is no possibility of significant effects on either European site, arising from the proposed development. I have therefore not given further consideration to these sites in this screening assessment.

7.7.10. Summaries of Bannow Bay SAC and SPA are outlined in the table below.

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)
Bannow Bay SAC (Site Code 000697)	Estuaries, Mudflats and sandflats not covered by seawater at low tide, Annual vegetation of drift lines, Perennial vegetation of stony banks, Salicornia and other annuals colonising mud and sand, Atlantic salt meadows, Mediterranean salt meadows, Mediterranean and thermo-Atlantic halophilous scrubs, Embryonic shifting dunes, Shifting dunes along the shoreline with <i>Ammophila arenaria</i> and Fixed coastal dunes with herbaceous vegetation	c.7.7km south-west
Bannow Bay SPA (Site Code 004033)	Light-bellied Brent Goose, Shelduck, Pintail, Oystercatcher, Golden Plover, Grey Plover, Lapwing, Knot, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank and Wetland and Waterbirds	c. 11.5km south-west

7.7.11. Taking account of the project characteristics, I consider the following impact mechanisms require examination:

- Impact on water quality within the SAC and SPA sites arising from surface water discharges / discharge of pollutants during construction work.

Impact on water quality within the SAC and SPA sites arising from surface water discharges / discharge of pollutants during construction work

- 7.7.12. As I have outlined already, the subject site is within c.25m of a watercourse that runs adjacent to south-west site boundary and which available EPA water mapping indicates drains into the Corock River, to the south-west, and which flows into the Irish Sea at Wellingtonbridge.
- 7.7.13. The construction phase has the potential to result in the discharge of surface waters that contain suspended solids but, in this event, such discharges are over 11.5km from the SPA and over 7.5km from the SAC, measured in a direct line. There is also landcover and mature vegetation in the intervening area, which will act as a buffer against any such discharge.
- 7.7.14. The level of separation for both European site is substantial, in view of the scale of development proposed, and I am satisfied that it is adequate to ensure there is no real likelihood of significant effects on either European site. I am therefore satisfied that the possibility of impacts on water quality within a European site, arising from surface water discharges during the construction phase, can be excluded at this stage.

Screening Determination

- 7.7.15. 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 on European Site Nos. 000697 or 004033, or any other European site, in view of the sites' Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.
- 7.7.16. This determination is based on the following: -
- The separation distance between the subject site and the European sites

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to:

- The location of the site within a stronger rural area, as identified by the Wexford County Development Plan 2013-2019,
- The provisions of the Wexford County Development Plan 2013-2019, objective RH03 of which states that in stronger rural areas, rural housing proposals will be facilitated in accordance with the criteria laid down in Table No. 12 and subject to compliance with normal planning and environmental 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, in the absence of a demonstrated housing need at this location, the proposed development would result 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

1st July 2022