



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312648-22

<b>Development</b>	House and domestic garage.
<b>Location</b>	Barmoney, Whitechurch, Co. Wexford.
<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20211566
<b>Applicant(s)</b>	Denis Ryan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Matthew Ryan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	2 <sup>nd</sup> March 2023
<b>Inspector</b>	Emer Doyle

## 1.0 Site Location and Description

The site (stated area 0.30ha) is located in the townland of Barmoney, Whitechurch, Co. Wexford. This is in the rural area and is c.5km east of the village of Adamstown and c.14km to the north west of Wexford Town. The site comprises part of a larger field area located at the end of a shared private laneway off a county road about 1.3km southwest of Galbally. The site rises gently to the south. There are mature hedgerows on the eastern site boundary. Access is to be provided via a shared private laneway from the county road. A total of 4 No. dwellings are located along the laneway including a farmyard to the north-northeast.

## 2.0 Proposed Development

2.1. Permission is sought for the following:

- Single storey dwelling with velux roof lighting to rear and domestic garage.
- External finishes include slated roof, nap plaster and stone cladding.
- Water supply is proposed from a private well and a Euro Tank Baf 2 treatment system is proposed.

## 3.0 Planning Authority Decision

### 3.1. Decision

On the 12<sup>th</sup> of January 2022 Wexford County Council granted permission for the proposed development subject to 13 no. conditions. These conditions are relatively standard and include that permission is granted subject to the plans and particulars submitted including at F.I stage, occupancy condition, access, development contributions, surface water drainage and disposal of effluent, water supply, landscaping and boundary treatment, sightlines, garage use ancillary to the house.

Condition no.4 is of note relative to the access:

*The access to the site shall be constructed in accordance with the submitted plans.  
The works to provide the required sightlines shall be carried out prior to works*

*commencing on the proposed dwelling house. The Planning Authority shall be notified in writing two weeks in advance of the access works commencing.*

*Reason: To ensure site access during construction with the provision of the required sight lines in the interest of traffic safety.*

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

#### 3.2.1. Planning Reports

- Planner's report noted the on-going civil/ legal issues regarding the lands at this location and considered that these issues were not within the remit of the Planning Authority. It was considered that traffic was not an issue having regard to the scale of development. It was considered that applicant complies with the Rural Housing Policy for this Stronger Rural Area.

#### 3.2.2. Other Technical Reports

**Environment Section:** Recommend a grant of permission subject to conditions.

**Roads Department:** Recommend a grant of permission subject to conditions.

### 3.3. **Prescribed Bodies**

#### 3.4. No reports.

### 3.5. **Third Party Observations**

- 3.5.1. One third party observation was submitted to the Planning Authority. The issues raised are similar to those raised in the appeal.

## 4.0 **Planning History**

#### 4.1.1. No relevant history.

## **5.0 Policy Context**

### **5.1. Sustainable Rural Housing Development Guidelines**

- 5.1.1. The guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those with proximity to the immediate environs or close commuting catchment of large cities and towns. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

### **5.2. National Planning Framework- Project Ireland 2040, DoEHLG 2018**

- 5.2.1. National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations.

### **5.3. Development Plan**

#### **Wexford County Council Development Plan 2022-2028**

The site is located in an area identified as 'Open Countryside'

Policy is set out in Section 4.9

Single rural housing will be considered in the open countryside in accordance with Table 4-6 Criteria for One-Off Rural Housing. The demonstration of a local rural housing need will not outweigh the need to comply with all other relevant planning and environmental criteria and standards.

### **5.4. Natural Heritage Designations**

- 5.4.1. The site is not located within any European site. The closest such European sites to the subject site is the Slaney River Valley SAC and Wexford Harbour and Slobs SPA c. 5.7km to the east of the site.

## **5.5. EIA Screening**

- 5.5.1. Having regard to the nature and scale of the proposed development, comprising the demolition of existing dwelling and outbuildings, the construction of one residential dwelling and the provision of a new treatment unit and percolation area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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**

EMK Design Limited Planning & Design Consultants have submitted a Third Party Appeal on behalf of Matthew Ryan. The grounds of appeal are as follows:

#### Issues with Access

- Appellant has no objection to anyone providing a home for their family on their original family land, but has issues with the access to the proposed house.
- The Site Layout Drawing submitted notes Matthew Ryan's residence as 'applicant's uncle's house and his shed as 'applicant's uncle's shed'.
- The existing neighbouring well is Matthew Ryan's well which supplies his potable water. This is located across the laneway and is established over 40 years.
- The proposed access laneway is directly in front of Matthew's house and his front door. This area of the laneway has not been used by the applicant or his family for several years as the steel gate at the end of the laneway is now locked.
- Matthew is concerned about the lack of parking/turning area for his house and traffic the impacts of traffic during construction and the traffic the new house will generate daily.

- At present the access to the farmyard is directly located to the back of this site with a laneway leading to agricultural fields on the other site.
- Mathew Ryan's site is completely surrounded by laneways/farmyard all at very close range to his house.
- It is submitted that there is scope for the Board to give the applicant the opportunity to re-route the access away from the front of his house. This would provide relief from congestion.

## 6.2. **Applicant Response**

Ennis Martin Architecture provides a response on behalf of the applicant to the Third Party Grounds of Appeal, which in summary includes the following:

- In relation to the proposed access laneway to Denis Ryan's proposed new dwelling, his father Tony Ryan is the registered owner of this laneway. His brother Matthew has a right of way over it.
- This laneway in front of Matthew Ryan's house has been used as an access to Tony Ryan's field for years.
- Land Registry and Folio Documents are enclosed.
- It is not possible to re-route access to the site as suggested as the only other way is through a working farm and would be too dangerous.
- Photographs enclosed showing Matthew Ryan's front boundary fence. This has been in place for years as the existing layout of the access lane.
- It is of the upmost importance that their client gets planning permission as he has a social and economic need to live in this location. Details provided of such noting that the applicant has a young family and has never owned his own home. He requires this proposed dwelling to rear his family in and be close to the farmyard for logistical purposes.

### 6.3. **Planning Authority Response**

- Planner's response states that due to increased work loads and high levels of staff vacancies we are not able to provide further comments and refer to the planner's recommendation report in this case.

### 6.4. **Observations**

- None.

## 7.0 **Assessment**

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider that the key planning issues relating to the assessment of the appeal can be considered under the following headings:

- Rural Housing Policy
- Traffic Safety
- Other Matters
- Appropriate Assessment

### 7.2. **Rural Housing Policy**

- 7.2.1. The National Planning Framework (NPO19) states that a distinction should be 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, single housing in the countryside may be facilitated where there is a demonstratable economic or social need to live in a rural area.
- 7.2.2. This site is located in a rural area under strong urban influence as designated in the Sustainable Rural Housing Guidelines 2005. These areas are described as exhibiting characteristics such as proximity to the immediate environs or close commuting catchment of large cities and towns, rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such urban areas, or major transport corridors with ready access to the urban area, and

pressures on infrastructure such as local road network. These guidelines require planning authorities to distinguish between rural generated housing need and urban generated housing need and frame policies accordingly to limit housing developments in rural areas not associated with a demonstratable need to live in the countryside.

- 7.2.3. The Wexford County Development Plan has had regard to the Sustainable Rural Housing Guidelines and Figure 3-1 Core Strategy Map and Map 1 Rural Area Types places the site in an area designated as a Stronger Rural Area. The policy set out in the Development Plan outlines that in order to be considered for a single dwelling in the open countryside, an applicant must meet one of the following categories: A: A person who has a demonstratable social functional need to reside in a particular rural area (except for Structurally Weak Rural Areas) **Or** B. A person who has a demonstratable economic functional need to reside in a particular rural area (except for Structurally Weak Rural Areas). The applicant must comply with the criteria for that category and the applicable rural area criteria as set out in Table 4.6 and the accompanying definition and notes.
- 7.2.4. In terms of the information submitted with the application, I note that the applicant states on the supplementary information form to be completed for all single rural housing applications that he has lived at this address all his life. It is stated that he is farming at the same address for the last 6 years and needs to live beside the farm. It is stated that he attended the local primary and secondary schools and his children are now enrolled in the local primary school. A letter is attached from the local national school which states that the applicant attended school from 1995 to 2004 and that he currently has two children enrolled at the school. Details submitted with the appeal include details of his training with Teagasc (December 2014), his herd numbers (February 2015), poultry number (September 2011) and pig herd number (September 2011).
- 7.2.5. A third party submission to the planning authority identifies that there is a legal dispute in relation to the landholding and the landholding is not in the applicant's name. It is also stated that the applicant is not working full time on the lands and that he lived at his partner's home place for a minimum of 5 years.



- 7.2.6. Table 4.6 requires that the applicant must be able to provide documentary evidence that the employment is full-time or pre-dominant application when part time if they are to be considered within Category B- functional need to reside permanently in a rural area close to their place of work. The applicant must be able to demonstrate that the landholding is such to support a viable enterprise. Based on the information before me, there is insufficient information to demonstrate that the applicant's occupation as a farmer or part-time farmer is the predominant source of income in accordance with the policy.
- 7.2.7. I am of the view however that the applicant complies with the policy for Category A in a Stronger Rural Area in that he has lived for more than 7 years of his life (not necessarily concurrently and at any time in his life in accordance with the policy) in this local rural and he has never owned a rural house. I note that the adopted Development Plan came into effect on the 25<sup>th</sup> of July 2022.
- 7.2.8. The documentation as submitted with the application is the only acceptable way to determine a person's compliance with National and Local Policy. National Policy Objective 19 clearly states that in rural areas, single housing is to be facilitated '...in the countryside based on the core consideration of demonstratable economic or social need to live in a rural area' subject to design considerations. I am satisfied that the applicant has provided evidence in relation to his social need to live at this location and that this complies with the criteria set in the current Development Plan for Stronger Rural Areas.

### **7.3. Traffic Safety**

- 7.3.1. Access to the proposed house is proposed via a laneway which is in private ownership and serves a total of 4 No. dwellings.
- 7.3.2. The Roads Department Report notes that sightlines of 65m at 3m are required but can be achieved at 2.5m setback. Permission is recommended subject to conditions.
- 7.3.3. The appellant is concerned about the lack of parking/turning area for his house and the impacts of additional traffic during construction and the traffic that the new house will generate daily.

- 7.3.4. The laneway serving the site is surfaced with tarmac and is in excellent condition save for a short distance in front of the appellant's dwelling and shed at the end of the laneway. Having regard to the very low volume of existing traffic on the laneway, and the limited level of traffic proposed from one additional dwelling, I am satisfied that the proposed development would not endanger public safety by reason of traffic hazard. I acknowledge that there would be additional traffic and disruption during the construction period, but this would be of a short term nature only and could be managed so that the impacts could be reduced.

#### **7.4. Other Matters**

##### Land Ownership

- 7.4.1. I note that an issue in relation to land ownership was raised in the appeal. I am satisfied that the applicant has provided adequate information to submit the planning application and that this is a civil matter. I would be satisfied that the provision of Section 34(13) of the Planning and Development Act, 2000 as amended, which states 'A person shall not be entitled solely by reason of a permission under this section to carry out any development' is sufficient to ensure that the civil issue is addressed prior to commencement of development on the site.

##### Option to re-route Access

- 7.4.2. The appellant suggests that there is scope for the Board to give the applicant the opportunity to re-route the access away from the front of his house. This would provide relief from congestion. The response from the applicant states that it is not possible to re-route access to the site as suggested as the only other way is through a working farm and would be too dangerous.
- 7.4.3. Whilst I acknowledge that the proposed development would impact to some extent on the privacy of the applicant in that he lives on one side of the laneway and owns a shed on the other side, having regard to the scale of development proposed of a one off dwelling, I do not consider that the impact of same would be to such a degree that would warrant re-routing of the access. As such, I do not consider that the proposed development would unduly impact on the residential amenities of the neighbouring property.

## **7.5. Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development and its location relative to European site, I consider it is reasonable to conclude, on the basis of information on file, which I consider adequate in order to issue a screening determination, that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on a European site.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission be granted for the proposed development based on the reasons and considerations set out below.

## **9.0 Reasons and Considerations**

Having regard to the provisions of the Wexford County Development Plan 2022-2028, to the nature and scale of the proposed dwelling house and to the pattern of development in the area, it is considered that subject to compliance with the following conditions, the proposed development would be acceptable in terms of the policy requirements of the development plan, would not seriously injure the visual amenities of the area and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 17<sup>th</sup> of December 2021 to the Planning Authority, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with

the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect. (b)

(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

**Reason:** To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area

3. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only unless otherwise

agreed in writing with the Planning Authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

4. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the requirements of the document entitled "Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. Details illustrating compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.

(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.

(d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.

(e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

**Reason:** In the interests of public safety and residential amenity.

5. Water supply and disposal of surface water shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

6. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) the establishment of a hedgerow along all side and rear boundaries of the site, and

(b) the planting of trees at metre intervals along the front boundary of the site.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In order to assimilate the proposed development into the surrounding rural landscape, in the interest of visual amenity.

7. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and

the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

---

Emer Doyle  
Planning Inspector

9<sup>th</sup> March 2023