



An
Bord
Pleanála

Inspector's Report

ABP-313421-22

Development	Construction of a single storey bungalow and wastewater treatment system.
Location	Monvoy, Tramore, Co. Waterford.
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	22110
Applicant(s)	Kristin and Aidan Lyons
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Kristin and Aidan Lyons
Observer(s)	
Date of Site Inspection	19 th October 2023
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.244 ha and is located in the townland of Monvoy, approximately 3km to the north of the seaside town of Tramore, Co. Waterford.
- 1.2. The site is located on the R682 at a point where there is a single white line in the centre of the road. The site consists of agricultural land and is served by an existing entrance with block wing walls. It is stated that there was a cottage on the lands previously, which was demolished c. 2017. There is no evidence of this cottage on the lands other than the entrance. A large single storey dwelling is located to the north of the site.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Permission for the construction of a single storey dwelling with a stated area of 303m².
 - Wastewater treatment system and percolation area.
 - New entrance.
 - All associated site works.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for two reasons relating to traffic safety and restriction of entrances on designated regional roads and greenbelt policy.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report notes that the landholding does not comply with regional roads policy as the landholding is less than 15 acres. It is stated that sightlines are not accurately shown to the north of the entrance where they may be achievable, and they are accurately shown to the south of the entrance where they are not achievable without setting back a large section of the roadside boundary of an adjoining field not indicated in family ownership.

3.2.2. Other Technical Reports

- None on file however planner's report states that the proposal was discussed with the District Engineer and concerns were expressed in relation to the location of the entrance.

3.3. **Prescribed Bodies**

3.3.1. No reports.

3.4. **Third Party Observations**

3.4.1. None.

4.0 **Planning History**

4.1. None relevant.

5.0 **Policy Context**

5.1. **National Policy**

Project Ireland 2040 National Planning Framework (NPF) Local Policy

5.1.1. National Policy Objective (NPO) 19 states it is an objective to 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.

Sustainable Rural Housing Guidelines for Planning Authorities, 2005.

- 5.1.2. The overarching aim of the Guidelines is to ensure that people who are part of a rural community should be facilitated by the planning system in all rural areas, including those under strong urban based pressures. To ensure that the needs of rural communities are identified in the development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated. Circular Letter SP 5/08 was issued after the publication of the guidelines.

5.2. Development Plan

Waterford City and County Development Plan 2022-2028

- 5.2.1. Section 2.10 'Rural Areas' states that the entire county is now identified as being under urban influence and the provision of rural housing shall be based on considerations of economic, social or local housing need to live in a rural area.

Relevant policies include the following:

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.

In relation to the proposed access, Section 5.10 (Table 5.6) identifies 15 strategic routes in County Waterford linking the main County towns to the national routes and motorways including the R682 at this location – Tramore to Orchardstown Cross.

Trans 44 We will maintain and protect the carrying capacity and associated drainage systems of regional and local roads and associated junctions in the interest of road safety in accordance with the Spatial Planning and National Roads Guidelines (2012) or any update thereof.

Trans 45 Protect strategic regional roads listed in Table 5.6 against development where a maximum speed limit applies, except in exceptional circumstances, in order to protect the carrying capacity and safety of such roads.

On these and other regional roads we will resist the creation of new vehicular accesses where the maximum speed limit applies except in a number of exceptional circumstances including the following:

- Developments of a strategic, local, regional or national importance, where there is a significant gain to the country through employment creation or other economic benefit having regard to: the safety, capacity and efficient operation of the regional road; any future plans for future upgrades of the road; and the suitability of the location compared to alternative locations.
- Where applicants who establish a genuine rural housing need (Chapter 7), are proposing to build a home on their landholding and cannot provide access onto a nearby county (Local) road. In this instance, applicants will be required to maximise the potential of existing entrances. The onus will be on the applicant to demonstrate that there are no other accesses or suitable alternative sites within the overall landholding.

5.2.2. Development Management Standards - Volume 2

Section 8.4 relates to regional roads.

Section 8.6 outlines sightline requirements.

5.3. Natural Heritage Designations

5.3.1. There are no European designated sites within the immediate vicinity of the site. The closest designated site include the following:

- Tramore Dunes and Backstrand SPA (Site Code 004027) c. 3km to east.
- Tramore Dunes and Backstranc SAC (Site Code 000671) c. 3km to east.
- Mid Waterford Coast SPA (Site Code 004193) c. 4.6km to south.

5.4. EIA Screening

- 5.4.1. The proposal is for a new dwelling, to be served by an on-site wastewater treatment system. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. 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:

- The proposed entrance would not lead to a traffic hazard as it is proposed to replace the existing front boundary with a post and rail fence and vehicles can both enter and leave the site safely.
- The proposed dwelling is a replacement dwelling for a dwelling that was demolished in 2018. It has always been planned and had been made known to council officials that the demolished dwelling would be replaced in time by a dwelling to be inhabited by a family member.
- The applicants currently live with their five children in the family home of Kristen Lyons adjacent to the site. They have a genuine housing need and meet the criteria for rural development at this location.

6.2. Planning Authority Response

- None.

6.3. Observations

- None.

6.4. Further Responses

- None.

7.0 Assessment

7.1. Having inspected the site and associated documents, the main issues can be summarised as follows:

- Replacement Dwelling Policy
- Rural Housing Policy
- Traffic Safety
- Waste Water Treatment and Drainage
- Appropriate Assessment

7.2. Replacement Dwelling Policy

- 7.2.1. The appeal states that a substantial dwelling was located on the site until 2018, however this dwelling was demolished as it was unsafe and youths were using it as a hangout to consume alcohol. It is stated that it always planned that the demolished dwelling would be replaced in time by a dwelling to be inhabited by a family member.
- 7.2.2. There is no evidence of this dwelling on the site at present other than the access and pier walls which would be more typical of a dwelling rather than an agricultural access. However, I refer the Board to a google image of the previous dwelling submitted by the applicant. In addition, it is clear from mapping that there was historically a dwelling on this site.
- 7.2.3. I note that permission has not been sought for a replacement dwelling in the site or newspaper notices. However, the applicants have pointed out in the appeal that it was 'always known to council officials that the demolished dwelling would be replaced in time by a dwelling to be inhabited by a family member.'
- 7.2.4. Section 7.12 of the Waterford City and County Development Plan 2022-2028 sets out the policy for replacement dwellings. The policy sets out that the Council encourages the reuse, refurbishment and upgrade of older vernacular rural buildings

and structures which form an important part of our built heritage. Applicants for planning permission will not be required to demonstrate a local housing need in this instance. When assessing proposals to convert, re-use and or adapt traditional buildings in rural areas, it is a requirement that the original walls must be substantially intact.

- 7.2.5. In my view, in terms of the policy set out in the current plan, the application could not be considered to be the refurbishment or reuse of an older vernacular building under which applicants benefit from an exemption from the housing need policy. As such, I consider that the housing need policy set out in Section 7.11.2 is applicable in this instance.

7.3. Rural Housing Policy

- 7.3.1. The National Planning Framework (NPO 19) 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.
- 7.3.2. In this instance, the site is located in close proximity to the seaside town of Tramore, which is under considerable development pressure for one off dwellings for use as holiday homes. I am of the view that the area could be considered to have the characteristics of an area under strong urban influence.
- 7.3.3. 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.
- 7.3.4. Information submitted with the application and appeal indicates that the applicants have never owned a house in Waterford and they live with the applicant's parents in the family home on an adjacent site. Kristen Lyons works for her father (Thomas Farrell and Sons Garages Ltd.) full time and has done so since 2007. She wants to remain in the area as both her parents are elderly and frequently depend on her help.

7.3.5. From the information provided with the application and appeal, I consider that the applicant has demonstrated compliance with policy H28 and NPO19.

7.4. **Traffic Safety**

7.4.1. The main issue in this case relates to traffic safety in my view. I refer the Board to the planner's report which states that 'the submitted site layout does not show sightlines in accordance with development management standards. It is indicated that 215m sightlines are available in both directions, these are not accurately shown to the north of the entrance where they may be achievable, and they are accurately shown to the south of the entrance where they are not achievable without setting back a large section of the roadside boundary of an adjoining field not indicated in family ownership.'

7.4.2. The grounds of appeal stated that 'if this had been studied properly by the Local Authority surely, they would have come to the same conclusion as me and be satisfied that the sightlines proposed was more than adequate.' Furthermore it is stated that the proposed entrance would be much safer than the previous cottage on the site.

7.4.3. I note that there was a cottage on these lands which was demolished in 2018. I agree with the appeal that the proposed entrance would be much safer than the previous cottage which has severely restricted sightlines in both directions.

7.4.4. A new Development Plan has been adopted since the Planning Authority decision on this case. Section 5.10 of the Waterford City and Council Development Plan sets the policy for Regional and Local Roads. There are 15 Strategic Roads in County Waterford linking the main County towns to the national routes and motorways. Table 5.6 includes the R682- Tramore to Orcharstown Cross as one of these strategic routes and as such includes the current site. Policy Trans 44 is as follows: - We will maintain and protect the carrying capacity and associated drainage systems of regional and local roads and associated junctions in the interest of road safety in accordance with the Spatial Planning and National Roads Guidelines (2012) or any update thereof. Policy Trans 45 requires the protection of strategic regional roads listed in Table 5.6 against developments where a maximum speed limit applies, except in exceptional circumstances, in order to protect the carrying capacity and

safety of such roads. A number of exceptional circumstances are set out in the policy and I consider that the exceptional circumstance relevant to the current case is as follows:

'Where applicants who establish a genuine rural housing need (Chapter 7), are proposing to build a home on their landholding and cannot provide access onto a nearby county road. In this instance, applicants will be required to maximise the potential of existing entrances. The onus will be on the applicant to demonstrate that there are no other accesses or suitable alternative sites within the landholding.'

- 7.4.5. I am satisfied that the applicants in this case comply with the policy set out for rural housing. However, I am not satisfied that 215m sightlines can be achieved to the south of the proposed access as required by Section 8.6 of the Development Management Standards set out in Volume 2 of the Plan. Furthermore, I consider that it may be possible to maximise the potential of existing entrances in line with the policy for the regional road at this location as the applicant's parents live in an adjoining dwelling at this location.
- 7.4.6. This is the main road to the seaside town of Tramore and during my site inspection outside of the tourist season, I found that the road was extremely busy with cars travelling at high speeds. The road has a single white line and a number of bends at this location and the hedgerow is close to the road with no grass margin for long stretches. I found it difficult to find a place to pull in off the road safely and tried to limit the time taking photographs due to the speed of cars, the number of cars on the road, and the absence of a grass margin.
- 7.4.7. I concur with the reports of the Planner and consider that sightlines of 215m are not available to the south of the entrance. I note the change in the Development Plan Policy set out in Trans 45 and consider that the creation of a new entrance at this location would be contrary to this policy and would result in the premature obsolescence of this regional road contrary to national policy. As such, it is considered that the proposed development would endanger public safety by reason of traffic hazard due to the location of the entrance proposed at a point where sightlines are restricted.

7.5. Waste Water Treatment & Drainage

- 7.5.1. Planning permission is sought for the installation of a waste water treatment system (WWTS) and percolation area which is to be located within the southern portion of the site, to the front of the proposed dwelling. I note the Planning Authority has raised no objection to the applicant's proposals for the disposal and treatment of wastewater on site.
- 7.5.2. Assessment of the wastewater treatment element of a rural one-off house is a standard consideration. The site is in an area with a regionally important aquifer of high vulnerability. The Site Characterisation Form notes that groundwater was encountered at 2.9m in the 3.2m deep trial hole. In relation to the percolation characteristics of the soil, a T-test result of 23.42 min/25mm was returned. The report concludes that the site is suitable for the installation of a wastewater treatment system and polishing filter and proposes that same is installed by a competent person and certified by a site assessor in accordance with EPA Code of Practise 2021.
- 7.5.3. Overall, I am generally satisfied that the applicant's proposals for the disposal and treatment of wastewater are acceptable. Should the Board be minded to grant permission for the proposed development, I would recommend the inclusion of a condition which shall require the design and installation of the proposed WWTS to comply with the EPA Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent ≤ 10 (2021).
- 7.5.4. In terms of surface water drainage, the planning application form and drawings indicate that the surface water disposal shall be via a soakpit located to the rear of the proposed dwelling. I note the Planning Authority have raised no concerns in relation to surface water disposal on site and I am satisfied that proposals are generally acceptable subject to compliance with appropriate conditions. Should the Board be minded to grant permission for the proposed development, a condition should be included which shall require the Applicant to submit design and construction details to the Planning Authority for written agreement which comply with BRE Digest 365 "Soakaway Design".

7.6. **Appropriate Assessment**

Appropriate Assessment Screening

Compliance with Article 6(3) of the Habitats Directive

- 7.6.1. 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

- 7.6.2. A screening report for Appropriate Assessment was not submitted with this appeal case. The Planning Authority carried out a screening assessment which concluded that no appropriate assessment issues arise in this case and the proposed development either individually or in combination with other plans or projects, would not be likely to have a significant impact on a Natura 2000 site.

Screening for Appropriate Assessment- Test of likely significant effects

- 7.6.3. 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).
- 7.6.4. 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

- 7.6.5. The development is described at Section 2 of this Report. In summary, permission is sought for the construction of a single storey dwelling and associated site works, including new entrance and waste water treatment system. Foul drainage is proposed to drain to an on-site waste water treatment system and surface water is proposed to drain to a soakpit within the site.

European Sites

- 7.6.6. The site is not located within or adjacent to any European site. There are a number of European sites in close proximity as follows:
- Tramore Dunes and Backstrand SPA (Site Code 004027) c. 3km to east.

- Tramore Dunes and Backstranc SAC (Site Code 000671) c. 3km to east.
- Mid Waterford Coast SPA (Site Code 004193) c. 4.6km to south.

7.6.7. There are no open watercourses or drains within the site or adjacent to its boundaries and the Site Suitability Assessment Report submitted with the application identifies that the closest drainage ditch is Monvoy Stream c. 0.3km to the east.

7.6.8. The construction phase of the development may give rise to the presence of surface waters with suspended solid content, but in view of the distance to the nearest drainage channel, it is unlikely that any suspended solids would be transferred to this drain. Taken together with the smallscale nature of the development, I am satisfied that there is no possibility of significant effects on any European site, arising from the proposed development can be excluded at this stage.

Screening Determination

7.6.9. 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.

7.6.10. This determination is based on the following:

- The separation distance between the subject site and European sites within the zone of potential influence.
- The smallscale nature of the development, which does not require specialist construction methods.

8.0 Recommendation

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

8.2. Reasons and Considerations

1. It is the policy of the Waterford City and County Development Plan 2022-2028 (Trans 45) to protect strategic regional roads listed in Table 5.6 against development where a maximum speed limit applies except in exceptional circumstances. Where applicants who establish a genuine rural housing need are proposing to build a house on their own land, the onus is on the applicants to maximise the potential of existing entrances within the overall landholding. The applicant has not demonstrated compliance with same and the proposed development would therefore endanger public safety by reason of a traffic hazard.
2. It is the policy of Waterford City and County Development Plan 2022-2028 (Trans 44) to maintain and protect the carrying capacity and associated drainage systems of regional and local roads and associated junctions in the interest of road safety in accordance with the Spatial Planning and National Roads Guidelines 2012. It is considered that the proposed development to open a new entrance on a designated regional road of strategic importance would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a road at a point where sightlines are restricted to the south. Furthermore, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that the applicant has demonstrated sufficient legal interest to ensure that the required sightlines can be provided and maintained.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has

influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Emer Doyle
Planning Inspector

27th October 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary			
Development Address			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No			Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
		N/A	Conclusion
No			No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____