



An
Bord
Pleanála

Inspector's Report ABP-313785-22

Development	Construction of detached bungalow and wastewater treatment system.
Location	Islanikane, Fennor, Co. Waterford.
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	PD22/243
Applicant(s)	Marguritte Phelan
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Marguritte Phelan
Observer(s)	None
Date of Site Inspection	29 th December 2023
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The subject site is located in the coastal rural area of Islandikane East in Co. Waterford c. 3km to the south of Fennor and c. 3km to the west of Tramore.
- 1.2. The site is located on a local road c. 700m from the coast and has a stated site area of 0.64 hectares. The local road at this location is designated as a coastal route in the current discovery series mapping for the area.
- 1.3. The site is presently in agricultural use and is part of a family farm at this location. An adjoining dwelling to the east is in the ownership of the applicant.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Single storey dwelling with stated floor area of 162.5m²
 - Garage with stated floor area of 58.4m²
 - Shared entrance with adjacent dwelling to east
 - Waste water treatment plant

3.0 Planning Authority Decision

3.1. Decision

Permission refused for one reason relating to rural housing need and Development Plan policy.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planner notes that the same application was previously granted on this site to a different applicant under PD19/154.
- Planner considers that no genuine rural need for a house has been established under the current application as downsizing does not come within the scope of the housing need criteria as set out in the Development Plan.

3.2.2. Other Technical Reports

- None.

3.3. Prescribed Bodies

3.3.1. No reports.

3.4. Third Party Observations

3.4.1. None.

4.0 Planning History

PA 19/154

Permission granted to applicant's sister-in-law (Betty Griffin) for dwelling on this site.

PA 18/654

Outline planning permission granted for dwelling on this site.

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 demonstratable 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,

Housing Need - Persons with a demonstrable social need to live a particular local rural area would include those that have lived a substantial period of their lives (7 years or more) in the local rural area and who require a dwelling to meet their own housing needs close to their families and to the communities of which they are part.

A local area for the purpose of this policy is defined as an area generally within a 10km radius of the applicant's former place of residence. This rural housing policy will apply equally to those living in the local area, who require a new dwelling to meet their own housing need, as well as returning emigrants wishing to establish a permanent residence for themselves and their families in their local community. having regard to the viability of smaller towns and rural settlements.

Policy L 02 Protecting our Landscape and Seascape - We will protect the landscape and natural assets of the County by ensuring that proposed developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of their area and ensuring that such proposals are not unduly visually obtrusive in the landscape, in particular, in or adjacent to the uplands, along river corridors, coastal or other distinctive landscape character units.

Policy C&M 05 Scenic Coastal Area - To protect the scenic value of Waterford's Coastal Zone including landward and seaward views and continuous views along the coastline and manage development so it will not materially detract from the visual amenity of the coast.

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:

- Mid Waterford Coast SPA (Site Code 004193) c. 400m to south.
- Ballyvoyle Head to Tramore pNHA (Site Code 001693) c. 700m to the south
- Tramore Dunes and Backstrand SPA (Site Code 004027) c. 6.5km to east.
- Tramore Dunes and Backstrand SAC (Site Code 000671) c. 6.5km to east.
- Tramore Dunes and Backstrand pNHA (Site Code 000671) c. 6.5km to east.

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:

- Applicant was previously granted permission for a dwelling on an adjacent site.
- The dwelling was built by the applicant and her husband on an adjacent site but since her husband's death, she lives in a very large house alone and is not able to maintain the house.
- She needs to downsize to something more suitable for her needs.
- A letter outlining a number of medical conditions from a doctor is attached.
- The existing property could transfer to a suitably qualified person with rural housing needs. A letter is attached from a local man expressing interest in buying the applicant's dwelling.
- Applicant needs to live in this rural area as she has a farm, part of which is adjacent to the site.
- Permission was previously granted on the site to the applicant's sister-in-law under 19/154 and 18/654. It can be confirmed that she will not be building this house.

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:

- Rural Housing Policy
- Visual Impact
- Waste Water Treatment and Drainage
- Appropriate Assessment

7.2. Rural Housing Policy

7.2.1. The proposed dwelling is located in a rural area close to Fennor, Co. Waterford.

7.2.2. The PA assessed the proposal against the rural housing policies of the previous plan and considered that the applicant had not established a 'genuine rural need for a house.' The report notes that the applicant lives in a rural house adjoining the site and downsizing does not come within the scope of the housing need criteria of the development plan.

7.2.3. The applicant's case as set out in the application and appeal documentation is that she lives in an adjacent dwelling, but needs to downsize following the death of her husband. She has a number of medical conditions and a letter from a GP has been included in the appeal in this regard. It is noted that the applicant has a family farm part of which is at this location. It is stated that her current house is 'not viable for comfortable or practical living for a single person.'

7.2.4. I acknowledge the difficult circumstances of the applicant as contained in the application and appeal documentation.

7.2.5. Nevertheless, I concur with the views of the Planning Authority on this matter. 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. In terms of the housing policy as set out in the current Development

Plan, I consider that the applicant's housing need in a rural area has already been met.

7.2.6. The critical issue in this case is that the applicant already has a house on an adjacent site and does not have a definable housing need in my view.

7.2.7. Whilst I do not refute that the applicant has a need to downsize, this does not establish the need for a second house in a sensitive coastal area. To grant permission for all people facing this situation would be unsustainable in my view.

7.3. Visual Impact

7.3.1. The site is located in a visually sensitive location c. 800m from the coast. Under Appendix 8 of the current Development Plan, the site is considered as being in a 'most sensitive area' under the Sensitivity Zoning Key as set out in Table A8.2. These areas demonstrate very distinctive features with a very low capacity to absorb new development without significant alterations of existing character over an extended area.

7.3.2. I note that the site is not located within a designated scenic route between Fennor and Tramore (Scenic Route 14), as this route relates to the regional road between these locations. Nevertheless, the site is located on a scenic coastal route with sea views and this coastal route is delineated on the discovery series map for the area.

7.3.3. I consider that the site is located at a remote distinctive visually sensitive location close to the coast. I consider that another dwelling at this location would materially detract from the visual qualities of this area and contribute further to the pattern of scattered and sporadic development in the area. It is a policy objective under Policy L04 and Policy C&M05 to ensure that proposed developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of an area and to protect the scenic value of Waterford's Coastal Zone.

7.3.4. In my view this development would be contrary to the policies set out above and would contribute to a higher density of development in a rural coastal location which would detract from the visual amenities of the area.

7.4. Waste Water Treatment & Drainage

- 7.4.1. Planning permission is sought for the installation of a waste water treatment system (WWTS) and percolation area which is to be located within the northern portion of the site, to the rear 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.
- 7.4.2. 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 extreme vulnerability. The soil type is indicated to be felsic volcanics. The Groundwater Protection Response is R2². The Site Characterisation Form notes that in relation to the percolation characteristics of the soil, a T-test result of 14.67 min/25mm was returned together with a P Value of 51.61 min/25mm. The site is to be served by a mains water supply. 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.
- 7.4.3. 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).
- 7.4.4. In terms of surface water drainage, the planning application form and drawings indicate that the surface water disposal shall be via a number of soakpits. 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".

7.5. **Appropriate Assessment**

Appropriate Assessment Screening

Compliance with Article 6(3) of the Habitats Directive

- 7.5.1. 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

- 7.5.2. 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

- 7.5.3. 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).
- 7.5.4. 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

- 7.5.5. 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 shared entrance with an adjoining dwelling 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 number of soakpits within the site.

European Sites

- 7.5.6. The site is not located within or adjacent to any European site. There are a number of European sites in close proximity as follows:

- Mid Waterford Coast SPA (Site Code 004193) c. 400m to south.
- Tramore Dunes and Backstrand SPA (Site Code 004027) c. 6.5km to east.
- Tramore Dunes and Backstrand SAC (Site Code 000671) c. 6.5km to east.

7.5.7. 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

7.5.8. 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.

7.5.9. 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.

1. Having regard to the location of the proposed development in a Rural Area under Urban Influence according to the Waterford City and County Development Plan 2022-2028 (Map 6: Miscellaneous Map, The Rural Housing Classification), where in accordance with Policy Objective H28, the provision of housing is based on the core consideration of demonstrable economic, social or local need, it is considered that, based on the information on the file, the applicant has not demonstrated a housing need in compliance with the Policy H28 as the applicant owns and occupies a housing on an adjacent site in this rural coastal area of high sensitivity. The proposed development would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment. The proposed development would, therefore, be contrary to the Development Plan provisions relating to sustainable rural housing and would, thus, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the coastal location of the site in an area designated as being a most sensitive area by the Waterford City and County Development Plan 2022-2028 and in relation to which it is a particular objective of the planning authority under Policy L04 and Policy C&M05 to ensure that proposed developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of an area and to protect the scenic value of Waterford's Coastal Zone. It is considered that the proposed development, would seriously injure the visual amenities of the area, would adversely affect the amenity of this coastal zone and would contravene the policies of the said development plan, which policies are considered reasonable. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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

12th January 2024

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)
No		N/A	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:** _____