



An
Bord
Pleanála

Inspector's Report

ABP-314230-22

Development	House and associated works.
Location	Newtownbarry, Bunclody, County Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20220635
Applicant(s)	Alice Connors
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Alice Connors
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 c. 0.5km to the south of the town of Bunclody, Co. Wexford on a road known as Hospital Hill.
- 1.2. The site is 'L' shaped with a stated area of 0.2 hectares. There is presently a mobile home located on the site. Surrounding lands directly adjacent the site are in agricultural use. There are a number of one off dwellings of varying designs in close proximity to the site. The road serving the site is narrow and poorly aligned.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Single storey dwelling with a stated floor area of 142m².
 - Shared entrance with adjacent site. (Site Layout indicates that this site may be developed in the future).
 - Waste water treatment plant.

3.0 Planning Authority Decision

3.1. Decision

Refusal recommended for one reason relating to rural housing policy.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Considered that the applicant did not comply with rural housing policy.

3.2.2. Other Technical Reports

Environment Section: No objection subject to conditions.

Roads: Recommend Further Information to resubmit a site layout showing single access only.

3.3. **Prescribed Bodies**

3.3.1. No reports.

3.4. **Third Party Observations**

3.4.1. One third party observation was submitted to the Planning Authority. The main issues raised related to rural housing need, wastewater treatment, traffic, and appropriate assessment.

4.0 **Planning History**

PA Reg. Ref. 20200549

Current applicant refused permission for dwelling on this site for one reason relating to rural housing policy.

PA Reg. Ref. 20140785

Current applicant refused permission for dwelling on this site for 2 reasons relating to rural housing policy and house design.

PA Reg. Ref. 20140125

Current applicant refused permission for dwelling on this site for 2 reasons relating to rural housing policy and house design.

PA Reg. Re. 20013060

Thomas Connors Jr refused permission for dwelling on this site.

Enforcement

Case No. 0255/2021- planner's report notes that the enforcement issue is 'possible unauthorised groundworks'.

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

- 5.3.1. 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.

Figure 3-1 Core Strategy Map and Map 1 Rural Area Types places the site in an area designated as an area under strong urban influence.

Bunclody Settlement Plan- Volume 3

- 5.3.2. Bunclody is designated as a Level 3(a) Service Settlement in the Core Strategy.

The development approach for these settlements, which is set out in the Core Strategy, is summarised as follows:

- Focus on moderate population growth.
- Apply the sequential approach to the development of land, requiring residential development to take place within the existing footprint of the settlements. The leap Settlement Plans and Specific Objectives Bunclody Town 19 frogging of infill/brownfield lands to undeveloped or greenfield lands will not be considered.
- Promote economic and enterprise development appropriate in scale to the settlements.
- Focus on the regeneration and renewal of these settlements.
- Ensure that new development contributes to the creation of attractive, liveable, well-designed, high quality settlements and the local communities enjoy a high quality of life and well-being.
- Support community organisations who are working to develop community facilities and promote and facilitate initiatives in the public realm.
- Protect and enhance amenities, heritage, green infrastructure and biodiversity in these settlements.

5.4. Natural Heritage Designations

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

- Slaney River Valley SAC (Site Code 000781) c. 0.6km to the northeast and northwest.
- Slaney River Valley pNHA (Site Code 000781) c. 0.6km to the northeast and northwest.
- Blackstairs Mountains SAC (Site Code 000700) c. 4.3km to the southwest.
- Blackstairs Mountains pNHA (Site Code 000700) c. 4.3km to the southwest.
- John's Hill pNHA (Site Code 000808) c. 1.1km to the northwest.
- Bunclody Slate Quarries (Site Code 000750) c. 3.5km to the southwest.

5.5. EIA Screening

- 5.5.1. 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:
- There are a number of inherent contradictions, inaccuracies and inconsistencies in the grounds cited for refusal.
 - On the one hand, the site proposed is deemed to be in a rural area.
 - On the other hand, the applicant is not considered to be a 'local rural person'. This is despite the fact that the applicant was 'born and reared' at a distance less than 250m from the proposed site for new development.
 - If the proposed site for development is considered as falling within the remit of the Sustainable Rural Housing Strategy, then the applicant must be considered as a local person.
 - Conversely, if the applicant is considered to be not 'a local person' then the proposed development site should not be appraised within the terms of the Sustainable Rural Housing Strategy.
 - The explanation of refusal notes that the applicant is 'from the town of Bunclody'. If this is verifiably the case, then the proposed planning application (250 metres from the applicant's family home) is also in the town of Bunclody.

In this case, the wrong policy and strategic context has been applied and the decision is flawed.

- The applicant falls within the definitions of 'local rural people' and the site is a in a 'local rural area'.
- If it is considered that the applicant does not fall within these criteria, then the town development policy should apply.

6.2. **Planning Authority Response**

- No response.

6.3. **Observations**

- None.

6.4. **Further Responses**

6.4.1. None.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including the submission received in relation to the appeal, and having inspected the site, and having regard to the relevant local/ regional/ national policies and guidance, I consider that the main issues in this appeal are as follows:

- Development Plan Policy
- Waste Water Treatment and Drainage
- Appropriate Assessment

7.2. **Development Plan Policy**

7.2.1. The planning authority refused permission for one reason only relating to the rural housing policy. The main focus of the appeal is that the Planning Authority has not applied the policy correctly. The applicant requests the Board to either:

- assess the application under the terms of the Council's Sustainable Rural Housing policy or should the application and the applicant be deemed to fall outside the parameters of this policy, to apply the criteria for 'District Town' development policy.

7.2.2. I note that the Development Plan referred to by the applicant and the Planning Authority in their reason for refusal has now expired. The current Development Plan is the Wexford County Development Plan 2022-2028. The core strategy identifies that Bunclody is designated as a Level 3(a) Service Settlement. Section 1 of Volume 3 contains the Bunclody Town Settlement Plan. A land use zoning plan indicates the boundary of the Bunclody Town Settlement Plan. The current site is located c. 430m to the south of the plan boundary. As such, I consider that the site is located in 'open countryside' as identified in section 3.6.8 of the plan.

7.2.3. In terms of the correct policy, having regard to the location of the site in 'open countryside' outside of the zoned land in Bunclody Town Settlement Plan, in my view, the applicable policy in this case is the rural housing policy as set out in Section 4.9 of the current plan.

7.2.4. National Policy Objective 19 in the National Planning Framework (NPF) states that the state will 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 in rural areas elsewhere to 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.

7.2.5. The Sustainable Rural Housing Guidelines for Planning Authorities make a similar point that planning authorities should, when considering applications for permission for rural housing, make a distinction between urban generated housing applications and urban generated housing applications.

7.2.6. The Wexford County Development Plan 2022-2028 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 an area under strong urban influence. 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 demonstrable social functional need to reside in a particular rural area (except for Structurally Weak Rural Areas) Or B. A person who has a demonstrable 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.

7.2.7. In terms of the information submitted with the application and appeal, I note that the applicant was born and raised in a housing estate within the town of Bunclody c. 250m from the site. She currently lives in New Ross but wishes to return to Bunclody to be near family and friends. There are a number of personal letters on file outlining the applicant's medical conditions and need to return home together with a letter from her GP, a teacher, and a priest. A land registry map is also attached which outlines that she has many relatives living within the settlement boundary of Bunclody in close proximity to the site.

7.2.8. I consider that the applicant has submitted sufficient information to demonstrate that she clearly is a local person being from the town of Bunclody in close proximity to the site. The appeal considers that the refusal reason is contradictory and queries the conclusion that the applicant is neither a 'local rural person' or 'from a rural area.'. However, I note that the current Development Plan outlines definitions for social functional rural housing need as follows: *A person with a social functional rural housing need is defined as a person who is an intrinsic member of a local rural community having lived for the specified period of time in their 'local rural area' and who has never owned a rural house. Furthermore, local rural area is defined 'as an area within the 'specified distance' in Table 4-6 above of where the applicant has lived or was living. Where the 'specified distance' for the Urban Influence and Stronger Rural area extends into the Coastal Zone or a Landscape and Heritage Area the lands within the Coastal Zone or Landscape and Heritage Area is excluded from being considered. However, where the specified distance for a person from the Coastal Zone or Landscape and Heritage Area extends into one of the other rural area types, this land will be considered. The 'local rural area' includes the open countryside, Large Villages, Small Villages and Rural Nodes but excludes the Key Towns, the Large Towns and Level 3a and 3b settlements.'*

- 7.2.9. The town of Bunclody is a designated as a Level 3(a) Service Settlement and as such, the applicant's family home is specifically excluded by the definition above. The applicant does not have a 'social functional rural housing need' as required by the Development Plan Policy. I have examined the location of the applicant's original family home on the zoning map for Bunclody and can confirm that it is within the town boundary and as such does not come within the definition of 'local rural area' as set out above.
- 7.2.10. In my view, the applicant has not demonstrated a social functional need to reside in this rural area nor is she from the local rural area as defined by the plan and set out above. The site has no public water supply or public sewerage – the application proposes a bored well and a domestic wastewater treatment system. The road serving site has no median line, footpaths or public lighting – in short this is an un-serviced rural area where additional houses unrelated to a demonstratable social or economic need to live will lead to further suburbanisation of a rural landscape, generate demands for the uneconomic provision of public services and facilities and generate additional unsustainable travel patterns. I conclude on this basis that the proposed development would comprise an unsustainable form of rural housing development unrelated to a rural generated housing need and would, therefore, be contrary the current Wexford County Development Plan.

7.3. Waste Water Treatment and Drainage

- 7.3.1. Planning permission is sought for the installation of a waste water treatment system and percolation area which is to be located to the front of the proposed dwelling. I note that the Planning Authority has raised no objection to the applicant's proposals for the disposal and treatment of wastewater on site.
- 7.3.2. Assessment of the wastewater treatment element of a rural one-off house is a standard consideration. The site is located in an area with a locally important aquifer. The bedrock type is ordovian metasediments. The National Hydrology Maps indicate that soils are well draining. The Site Characterisation Form notes that in relation to the percolation characteristics of the soil, a T-test result of 16.31 min/25mm was returned. The report concludes that the soil at this site has permeability and recommends a wastewater treatment system and polishing filter.

7.3.3. Overall, I am generally satisfied that the applicant's proposals for the disposal and treatment of wastewater area 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 waste water treatment system to comply with the EPA Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent ≤ 10 (2021).

7.4. **Appropriate Assessment**

Appropriate Assessment Screening

Compliance with Article 6(3) of the Habitats Directive

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

Background on the Application

7.4.2. A screening report for Appropriate Assessment was not submitted with this appeal case. 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

7.4.3. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

7.4.4. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

Brief description of the development

7.4.5. The development is described at Section 2 of this Report. In summary, permission is sought for 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.

European Sites

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

- Slaney River Valley SAC Site Code 000781 c. 0.6km to northeast and northwest of the site.
- Blackstairs Mountains SAC Site Code 000700 c. 4.3km to southwest of the site.

7.4.7. 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

7.4.8. 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.

7.4.9. 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 Strong Urban Influence according to the Wexford County Development Plan 2022-2028 (Figure 3-1 Core Strategy Map and Map 1 Rural Area Types), where in accordance with Policy Objective SH39, the provision of housing in the open countryside is in accordance with the categories and associated criteria set out in Table 4.6, it is considered that, based on the information on the file, the applicant has not demonstrated a housing need in compliance with the Policy SH39. 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.

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

19th January 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary	Dwelling and wastewater treatment plat		
Development Address	Newtownbarry, Bunclody, Wexford		
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)		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) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
	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)	Conclusion
No	N/A		No EIAR or Preliminary Examination required

4. Has Schedule 7A information been submitted? N/A

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____