



An
Bord
Pleanála

Inspector's Report

ABP-314372-22

Development	House, domestic garage/store and associated works
Location	Loughgunnen Little, Mayglass, Co. Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20220773
Applicant(s)	Greg and Caitriona Smith
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Richard and Maureen Kavanagh
Observer(s)	None
Date of Site Inspection	29 th December 2023
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The site (stated area 0.40ha) is located in the townland of Loughgunnen Little, Mayglass, Co. Wexford. The site is located in a rural area and is c. 5km west of the village of Killinick.
- 1.2. The land in the area is flat and mainly in agricultural use. There is a low density of dwellings in the area. The site is predominantly set back from the road save for the proposed access road. There are mature trees and hedgerow on the roadside boundary.

2.0 Proposed Development

- 2.1. Permission is sought for the following:
 - Part single storey/ part two storey dwelling with a stated area of 177m².
 - Domestic garage.
 - External finishes include nap plaster and/or stone cladding.
 - Water supply is proposed from a private well and a Tricel Nova treatment system is proposed.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission subject to 11 No. conditions. All the conditions are of a standard nature for a development of this type. Condition 2 was an occupancy condition and condition 3 required that the dwelling was used as a permanent dwelling only.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

- Planner considers that the applicant complies with the rural housing policy. The report also considered that drainage proposals, sightlines, visual impact, and design were acceptable.

3.2.2. Other Technical Reports

Environment Section: Recommend permission subject to conditions.

Roads Section: Recommend permission subject to conditions.

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 which reflects the grounds of 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

- 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.

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 Wexford Harbour and Slobbs SPA c. 6km to the east of the site and the Slaney River Valley SAC c. 8km to the north east of the site.

5.5. EIA Screening

- 5.5.1. Having regard to the nature and scale of the proposed development, comprising the construction of one residential dwelling and the provision of a new treatment unit, 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

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

- Concerns regarding access, roads and traffic safety.
- The Board has previously refused permission on adjacent sites.
- Concerns regarding design and layout.
- Concerns regarding environmental impact and flooding in the area.
- Concerns regarding hedgerow removal.

6.2. Applicant Response

6.2.1. The first party response can be summarised as follows:

- The proposed development will not have a significant adverse visual impact.
- Sightlines are adequate at the proposed entrance and the roads are typical of the area.
- The history cases referred to date to 2004 and 2005 and were refused for technical reasons unrelated to this case.
- The site is located in lands characterised as 'lowlands' and is not unduly sensitive.
- The appellant refers to a 'one-off flooding event' and no flood risk has been identified by the Council.

6.3. Planning Authority Response

- No response.

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
- Visual Impact
- Waste Water Treatment and Drainage
- 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 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.

- 7.2.4. 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 lived in the area from 1979 to 2000 and again from 2006-2008. He currently lived in a rented home 2km from the site. He is proposing to build on family owned land at this location in close proximity to immediate family members including his 80 year old mother and brother. A letter from his mother is on file which states that she owns c. 40 acres at this location and intends to transfer c. 13 acres to the applicant. A letter is attached from the local national school confirming attendance from 1985 to 1992 together with a number of letters confirming his address.
- 7.2.5. I am of the view however that the applicant complies with the policy for Category A in an area under Strong Urban Influence 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 25th of July 2022.
- 7.2.6. 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 demonstrable 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 areas under Strong Urban Influence.

7.3. **Traffic Safety**

- 7.3.1. Access to the site is proposed from a county road and sightlines at the proposed access are acceptable.

- 7.3.2. Concerns are raised in the appeal regarding the width and alignment of this road.
- 7.3.3. I note that the Executive Roads Technician has recommended a grant of permission in this case. I concur with this view.
- 7.3.4. I consider that the road is typical in terms of width, alignment and surface treatment of many local roads in the area. The density of housing in the area is low and traffic volumes appeared to be low on the day of inspection.
- 7.3.5. Having regard to the very low volume of existing traffic on the roadway, 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. Visual Impact

- 7.4.1. I note that the applicant expresses concerns in relation to the design and impact of the proposed development and in relation to the loss of hedgerow.
- 7.4.2. The proposed dwelling is located a significant distance from the public road and hedgerow removal would only be for a small section at the proposed access. I am of the view that the design proposed is of a high quality and the materials and finishes proposed are suitable for this rural area. The landscape characterisation of the site as set out in Map 7.1 of the Development Plan is 'Lowlands'. These areas typically are robust and have the capacity to absorb development.
- 7.4.3. As such, I consider that design and layout of the development is appropriate at this location and that the proposed development would not have a detrimental impact on the visual amenity of the area.

7.5. Waste Water Treatment and Drainage

- 7.5.1. Planning permission is sought for the installation of a waste water treatment system (WWTS) and sand polishing filter which is to be located 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.

7.5.2. 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 low vulnerability. The soil type is indicated to be Cambrian sandstone and shales. The Groundwater Protection Response is R2¹. The Site Characterisation Form notes that in relation to the percolation characteristics of the soil, a P Value of 30.28 min/25mm was achieved. The site is to be served by a well. The report concludes that the site is suitable for the installation of a wastewater treatment system and polishing filter.

7.5.3. Overall, I am generally satisfied that the applicant's proposals for the disposal and treatment of wastewater are acceptable. I note that the appeal raises concerns in relation to flooding in the area and refers to a flooding event in December 2021. There is no evidence available to me that there are flooding issues in the area other than this one off event. Flooding mapping for the area indicates that the site is located in Flood Map C where there is a low probability of flooding. I note that the neither the planner's report or the Roads Engineer raise concerns in relation to flooding. 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. **Appropriate Assessment**

7.6. 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, 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) 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.

Reason: In the interest of visual amenity.

4. (a) The proposed treatment plant and sand polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority, and 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, 2021.

(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. Prior to the commencement of development, the details of the proposed boundary treatment shall be submitted to the Planning Authority for their written agreement.

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

7. The site shall be landscaped, using only indigenous deciduous plants 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. All existing trees and hedgerow be retained except the extent that its removal is necessary to provide for the site entrance and sightlines. 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 screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

8. The proposed garage shall be used solely for purposes incidental to the enjoyment of the dwelling house and shall not be used for any commercial purpose or for human habitation.

Reason: In the interest of residential amenity and clarity.

9. 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.

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

26th January 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	314372		
Proposed Development Summary	Dwelling, garage, and associated work		
Development Address	Loughgunnen Little, Mayglass, 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)		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) and 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: _____