



An
Bord
Pleanála

Inspector's Report

ABP-315640-23

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|-------------------------------------|---|
| Development | Renovate and extend the house with associated site works. |
| Location | Kilmacleague East, Dunmore East, Co. Waterford |
| Planning Authority | Waterford City and County Council |
| Planning Authority Reg. Ref. | 22935 |
| Applicant(s) | Steven Fowler |
| Type of Application | Permission |
| Planning Authority Decision | Refusal |
| Type of Appeal | First Party |
| Appellant | Steven Fowler. |
| Observer(s) | None. |
| Date of Site Inspection | 16 th January 2024. |
| Inspector | Peter Nelson |

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1.0 Site Location and Description

- 1.1. The site is located on the north side of the R685 Regional Road in Kilmeague East, Dunmore East, Co. Waterford. The site has a stated area of 0.2514 hectares and contains a derelict cottage with no roof or windows. The rest of the site is grassland with planted boundaries. There are two openings in the boundary. One of which appears to have been a vehicular entrance. The site is on the crest of a hill with the R685 road descending westward.
- 1.2. To the north and east of the site are farm buildings and a bungalow, both of which have separate entrances. On the opposite side of the road is a run of four detached dwellings, all with separate vehicular entrances. The site is c.2.1 km from Waterford Airport, c.6km from Dunmore East and c.10km from Waterford.

2.0 Proposed Development

- 2.1. Permission is sought to renovate and extend a single-storey dwelling to provide a 4no. bedroom single-storey dwelling with a kitchen, dining room, living room, sunroom, and an internal mezzanine balcony. Permission is also sought for a new site entrance, bored well, wastewater treatment system and a percolation area. Permission is also sought for all associated site works.

3.0 Planning Authority Decision

3.1. Decision

Waterford County Council refused permission on the 19th December 2022 for the following two reasons:

1. *The proposed development necessitates the creation of a new vehicular entrance onto a busy Regional Road (R-685), where the horizontal alignment on this section of road is poor, and the proposed entrance would be located at a section of the road where there is a solid white line close to a bend where both sightlines and stopping distance are severely restricted. Given the narrow nature of the road and the location of the proposed entrance on a bend the proposed development the traffic movements associated with same would endanger public*

safety by reason of a traffic hazard. The proposed development would therefore contravene Section 5.10 of the Waterford City & County Development Plan 2022-2028, which seeks to protect the carrying capacity and safety of Regional Roads by restricting access thereto and would thus be contrary to the proper planning and sustainable development of the area.

2. *The Planning Authority does not consider that the existing structure at the application site can be considered to be an existing dwelling capable of being renovated and extended. In this regard, as the application site is located in an area designated as an 'Area Under Strong Urban Influence' in the current rural housing policy of the Waterford City and County Development Plan 2022 – 2028, the applicant is required to demonstrate a local housing need the applicant failed to do so. The proposed development application has not demonstrated compliance with housing need requirements and thus would be contrary to Policy Objective H28 – New Homes in the Open Country Policy Objective. The proposed development would, therefore, be contrary to the policies of the Waterford City & County Development Plan 2022-2028 and thus, the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The main points of the Planning Report can be summarised as follows:

- While the cottage walls are currently standing, they are close to collapse.
- It considered the existing structure to be the ruins of a former dwelling, and the current proposal cannot be considered a proposal to re-develop, renovate, and extend the existing structure.
- The site is located in an area with a 'Most Sensitive' Scenic Classification in the Landscape and Seascape Character Assessment as per the Waterford City and County Development Plan 2022-2028.
- The proposed house is over four times the size of the original dwelling house and is considered to be overdevelopment.

- Concerns relating to the proposed development's height, size and scale in this rural location.
- Issues relating to the proposed finishes.
- The proposed development would give rise to ribbon development.
- The site is on a busy strategic regional road, and as such, no new development shall be permitted except in restricted circumstances.
- The entrance is located close to a bend where both sight lines and stopping distances are severely restricted.
- The entrance will cause access conflicts with other traffic and create a hazard to all road users.
- As the site is elevated above the road level, surface runoff would be difficult to control and cause drainage concerns.

3.2.2. Other Technical Reports

The main points of the Roads Report dated the 16th December 2022 can be summarised as follows:

- The site is located on a busy Regional Road and is a strategic route, and no new development shall be permitted except in restricted circumstances.
- The horizontal and vertical alignment on this section of road is poor and a solid, while line runs parallel to this site.
- This site's proposed new entrance/exit is closed to a bend, and sightlines and stopping distance are severely restricted.
- The site is slightly elevated above the road level, and runoff would be difficult to control and cause drainage concerns.
- Roads are not in favour of granting the proposed development.

3.3. Prescribed Bodies

The report from Transportation Infrastructure Ireland dated 11th November 2022 had no observations.

3.4. Third Party Observations

One third party submission was received. The main issues raised can be summarised as follows:

- The proximity of the development to the existing dairy farm may affect the cows' productivity due to the noise.
- The site will be subject to odours and noise from the dairy farm.
- The site can be wet with rushes, and the site survey was done in a prolonged heat wave.
- It has been 37 years since the cottage was lived in.
- The planning application sign was not visible when travelling up and down the road.

4.0 Planning History

P.A. Ref: 10205 Permission was deemed to be withdrawn on the 15th July, 2011, in accordance with the provisions of article 33(3) of the Planning and Development Regulations. Permission was sought for demolishing an existing derelict cottage, constructing a bungalow, a new treatment plant and percolation area and all associated site works.

P.A. Ref: 98722 Permission granted on the 18th September 1998 to upgrade existing cottage, construct new porch & extension, install a Velux roof light & provide associated works for a septic tank & percolation area.

5.0 Policy Context

5.1. Development Plan

The Waterford City and County Development Plan 2022-2028 is the operational development plan for the area. The plan came into effect on the 19th July, 2022.

As the site is located outside of the designated settlements and land zoning maps, it is regarded to be zoned as Agriculture A.

The site is in an area designated as 'Most Sensitive' in the Landscape & Seacape Character Assessment.

The site is situated within an 'Area Under Strong Urban Influence' in the rural housing policy of the Development Plan.

Relevant Policies

H 28: 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 criteria⁴ as set out in this plan and in relevant statutory planning guidelines, having regard to the viability of smaller towns and rural settlements

H29: We will avoid the creation of ribbon development (defined as five or more houses existing on any one side of a given 250 metres of road frontage) and will assess whether a given proposal will contribute to and/ or exacerbate such ribbon development, having regard to the following:

- I. The type of rural area and circumstances of the applicant.
- II. The degree to which the proposal might be considered infill development.
- III. The degree to which existing ribbon development would coalesce as a result of the proposed development.
- IV. Local circumstances, including the planning history of the area and development pressures.

Section.12 Refurbishment, Extension and Replacement of Existing Structure in Rural Areas

The Council encourages the reuse, refurbishment and upgrade of older vernacular rural dwellings 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.

Permission for demolition will only be considered where it is demonstrated that a vernacular dwelling is not reasonably capable of being made structurally sound or otherwise improved.

If a dwelling is not considered to be vernacular and does not make an important contribution to the heritage, appearance or character of the locality, or has been damaged beyond reasonable repair, planning permission will be considered for a new, replacement dwelling, subject to appropriate design, scale of building and normal planning considerations.

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.
- The size of any house extension takes account of the siting and size of the existing dwelling and that the character of the original structures is respected.
- The design of the proposal does not erode the siting and design qualities of the building and its setting, which makes it attractive in the first instance.
- Mature landscape features are retained and enhanced with landscape proposals.

H31: We encourage the retention and sympathetic refurbishment, with adaptation as necessary, of vernacular dwellings and structures in the countryside. In addition:

- There will be a presumption against demolition where restoration or adaptation is feasible.
- Proposals for the conversion to full-time residential use of a premises which has not been previously occupied as a dwelling must

demonstrate that they can be independently accessed and serviced independent of any third party.

H32: If a dwelling is not considered to be vernacular, does not make an important contribution to the heritage, appearance or character of the locality or is not reasonably capable of being made structurally sound or otherwise improved, planning permission may be granted for a replacement dwelling where it can be demonstrated that the layout, siting and design will not adversely impact on the rural character of the area and that the development is consistent with best practice design principles for housing in rural countryside locations.

H33: All proposals for refurbishment, extension or replacement of residential property in un-serviced areas will be required to demonstrate compliance with the EPA Code of Practice: Domestic Wastewater Treatment Systems (Population Equivalent ≤ 10) 2021 and any revisions thereof in addition to other policies and development management standards as set out in this plan.

Regional and Local Roads/Urban Streets

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 the following exceptional circumstances:

- Developments of a strategic, local, regional or national importance, where there is a significant gain to the county through employment creation or other economic benefit having regard to: the safety, capacity and efficient operation of the regional road; any 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(s) to demonstrate that there are no other accesses or suitable alternative sites within the overall landholding.

- Where it is proposed to replace an existing dwelling with a pre-existing entrance onto a regional road provided that the entrance can achieve the minimum sightline requirements or significantly enhance the safety of road users and does not constitute a hazard.
- Agricultural entrances required for farm access where there are no available alternatives from a local road and providing that the entrance can meet the minimum sightlines requirements or significantly enhance the safety of road users and does not constitute a hazard.
- Development which utilises existing farmyard/farmhouse access points to regional roads where the safety of all road users can be protected and enhanced, and which would not result in a significant traffic hazard.

In all circumstances proposed development should not cause drainage issues by allowing additional water onto the public road, or impact on the drainage of the location.

5.2. Natural Heritage Designations

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| Tramore Back Strand Special Protection Area | c.05km from the appeal site |
| Tramore Dunes and Backstrand Special Area or Conservation | c.0.5km from the appeal site |

5.3. EIA Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2, Schedule 5 of the Planning and Development Regulations and accordingly no EIAR or a screening determination is required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

Public Safety and Traffic Hazard

- Two existing established accesses into the site have been used continually over the years to access the property. These are existing and authorised accesses and the only means of accessing the site from the public road.
- It was decided to improve the sightlines into the site by relocating the entrance further west where there is in excess of c.160m sightlines to the west and c.90m to the east can be achieved.
- Transportation Infrastructure Ireland was consulted and advised they have no observations.
- There is no record of a response from the Council's Roads Section on the planning file.
- The site is not elevated as suggested in the planning report.
- The site is not on a bend, as suggested in the reason for the refusal.
- Overall, the proposed development will improve sightlines and road safety and therefore not be a traffic hazard.

Refurbishment, Extension and Replacement of Existing Structures in Rural Areas Policy.

- The Planning Authority does not consider the existing structure to be a dwelling capable of being renovated and extended, and therefore, the applicant must satisfy rural housing policy.
- The Planning Authority has not correctly applied the terms of Section 7.12 and supporting policy H31 of the Development Plan, in reaching its decision.

- Notwithstanding the existing dwelling being unoccupied or inhabitable, the planning history clearly demonstrates the applicant and his late father have never 'abandoned' the property or the residential use of the site and have endeavoured to secure permission for the reoccupation/reuse of the property over the years.
- Section 7.12 also refers to the need for the walls of the existing structure to be substantially intact, which they are. There is no reference to roofs.
- There is precedent for similar refurbishment and extensions of rural cottages in the county.
- Policy H31 encourages the retention and sympathetic refurbishment of vernacular dwellings and structures in the countryside. Demolition would be the likely long-term outcome of the building if permission is not granted for restoration.
- Section 7.12 and Policy H31 do not required the applicant to comply with local needs. Therefore, the application should not have been refused on the basis of not having demonstrated a local housing need.

Dwelling Design

- The scale and design of the house reflect similar cottage refurbishment and extension projects throughout the county.
- The scale of the proposed extension does not represent overdevelopment of the site.

Ribbon Development

- Ribbon development is defined in Policy H29 as 'five or more houses existing on any one side of a given 250 meters of road frontage.
- There are only three dwellings within a 250m stretch, with the applicant's dwelling within the 250m stretch.
- Ribbon development does not arise.

6.2. Planning Authority Response

- None

6.3. Observations

- None

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, carried out a site inspection, and having regard to the relevant local/regional/national policies and guidance, I consider that the key issues on this appeal are as follows:

- Traffic Hazard
- Refurbishment, Extension of Existing Structures in Rural Areas Policy
- Housing Need
- Ribbon Development
- Appropriate Assessment

7.2. Traffic Hazard

- 7.2.1. The first reason for refusal considered that the proposed new entrance would endanger public safety by reason of a traffic hazard as the entrance is located on a bed on a narrow Regional Road.
- 7.2.2. The applicant contends that two existing established access points into the site have been used continually over the years to access the property. They acknowledge that the main entrance has been used infrequently in recent years. The application cover letter states that the dwelling has not been lived in for over 30 years. While there is evidence of the existing main entrance, it currently only consists of a grassed opening in the hedgerow, and it is grassed. The applicant decided to improve the sightlines into the site by relocating the entrance further west where sightlines in excess of 160m to the west and 90m to the east can be achieved.

- 7.2.3. This site is located on a regional road, and it is the policy of Waterford City and County Council to resist the creation of new vehicular accesses where the maximum speed limit applies on the regional road. Entrances will be permitted in exceptional circumstances, including where it is proposed to replace an existing dwelling with a pre-existing entrance onto a regional road, provided that the entrance can achieve the minimum sightline requirements or significantly enhance the safety of road users and does not constitute a hazard.
- 7.2.4. The proposed entrance is located on a section of the regional road with a continuous white line and is adjacent to the brow of a hill and to a bend. This R685 regional road is not included as a Strategic Regional Road in Table 5.6 of the Waterford City and County Development Plan 2022-2028.
- 7.2.5. Table 8.1 of the plan requires a minimum sightline of 160m for roads where the speed limit is 80km. This regional road has a speed limit of 80km. The applicant has stated that the horizontal alignment to the east, at 90m, is less than the required 160m for new entrances but is a net improvement on the existing access arrangement.
- 7.2.6. Given that the existing entrance has not been used regularly for over 30 years and is overgrown, I consider that the proposed entrance should be dealt with not as an improvement to the entrance but as a new entrance. I, therefore, consider that the proposed entrance with inadequate sightlines at this section of the R685 Regional Road adjacent to a bend and the brow of a hill would endanger public safety by reason of a traffic hazard.

7.3. Refurbishment, Extension of Existing Structures in Rural Areas Policy

- 7.3.1. The applicant submits that the Planning Authority has not correctly applied the terms of Section 7.12 and supporting Policy H31. Section 7.12 states that the Council encourages the reuse, refurbishment and upgrade of older vernacular rural dwellings and that applicants will not be required to demonstrate a local housing need in this instance. This section also states that when assessing proposals to convert, re-use and/or adapt traditional buildings in rural areas, original walls must be substantially intact. The reason for refusal states that the Planning Authority does not consider that the existing structure at the applicant site can be viewed as an existing dwelling

capable of being renovated and extended. While I recognise that the structure does not have a roof, I consider that the walls are substantially intact and that there is the potential to refurbish and extend this structure. Therefore, in this regard, the proposal complies with the requirements of Section 7.12.

7.3.2. Section 7.12 also requires that the size of the house extension takes account of the existing dwellings' siting and size and that the original structure's character is respected. The size of the existing dwelling is a stated 49m², and the proposed extension is 204m². The existing gables of the dwelling are to be extended, and it is proposed to create a larger mono-pitched roof over the existing structure with an internal mezzanine floor. I consider that the size of the proposed extension, which is over four times the original floor area, has not taken account of the siting and size of the existing dwelling.

7.3.3. Section 7.12 also requires that the design of a proposal does not erode the siting and design qualities of the building, which makes it attractive in the first instance. Given the scale and design of the extension, with its mono-pitched roofs, floor-to-ceiling fenestration and glazed gables, I consider that the character of the original structure will be seriously eroded, and the vernacular qualities of the existing structure will be diminished to a level that will be unrecognisable. I also consider that the scale and design of the development would impinge significantly on the area's character, which has been classed as a Most Sensitive Landscape Area in the Waterford City and County Development Plan 2022-2028.

7.3.4. Regarding the above, I consider that the proposed development is not a sympathetic refurbishment and, therefore, does not meet the requirements of Section 7.12 of the Waterford City and County Development Plan. Therefore, Policy H 31 has not been complied with.

7.4. Housing Need

7.4.1. The applicant claims that the application should not have been refused on the grounds of not having demonstrated a local housing need. I note that the applicant has not demonstrated an economic or social need to live in the area both in the planning application and the appeal. Section 7.12 of the Development Plan states that for planning permission for refurbishment and extensions, applicants for

planning permission will not be required to demonstrate a local housing need in this instance. Notwithstanding the appropriateness of the proposed refurbishment and extension, I consider that if the Board is minded to refuse permission, I consider that a reason for refusal relating to housing need should not be attached.

7.5. Ribbon Development

- 7.5.1. The case planner raised the question of ribbon development in the planning report, and the applicant raised the issue in the appeal document. Under Waterford and City Development Plan 2022-2028 Policy H 29, such development is judged to occur "where five or more houses exist on any one side of a given 250m of road frontage."
- 7.5.2. The site lies on the northern side of the R685. At a short remove to the east lies a bungalow and, further to the west, a row of four bungalows; opposite the site to the south lies eight bungalows. If the site frontage is included within the 250m dimension, there are three houses on the northern side of the regional road. Accordingly, I conclude that it would not represent ribbon development.

7.6. Appropriate Assessment

Having regard to the minor nature and scale of the proposed development, the site location outside of any protected site, the nature of the receiving environment, and the proximity of the lands in question to the nearest European Site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

- 8.1. I recommend that permission be refused for the following reasons:

9.0 Reasons

1. It is considered that the proposed development, due to its scale and design, would erode the existing siting and design of the existing structure and is not

a sympathetic refurbishment and is therefore not in accordance with policy H31 of Waterford City and County Development Plan 2022-2028. The proposed development would be seriously harmful to the visual amenity of the area and would be contrary to the proper planning of sustainable development of the area.

2. The proposed development includes the creation of a new vehicular entrance onto a busy Regional Road (R685). It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements that the development would generate on a regional road at a point where sightlines are restricted, particularly in an easterly direction. 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.

Peter Nelson
Planning Inspector

29th January 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

| | | | |
|---|---|---------------------|---|
| An Bord Pleanála Case Reference | | | |
| Proposed Development Summary | Renovate and extend the existing house with associated site works | | |
| Development Address | Kilmacleague East, Dunmore East, Co. Waterford | | |
| 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 X | 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?

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| No | | Preliminary Examination required |
| Yes | | Screening Determination required |

Inspector: _____

Date: 29/1/2024