



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315833-23

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<b>Development</b>	House, car-port, detached store and associated site works
<b>Location</b>	Milltown, (ED Kilsoran),Kilsoran, Co. Wexford.
<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20221520
<b>Applicant(s)</b>	Aaron & Gillian Devereux
<b>Type of Application</b>	Aaron & Gillian Devereux
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Aaron & Gillian Devereux
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	9 <sup>th</sup> May 2023
<b>Inspector</b>	Mary Crowley

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## 1.0 Site Location and Description

1.1. The appeal site with a stated area of 6.83ha comprising a series of agricultural fields, is located just outside the rural village of Tagoat, which is south of Wexford town and proximate to Rosslare and Rosslare Harbour. The site is accessed by way of a private lane off the N25 that also serves a GP Surgery and associated house together with a further house adjoining the appeal site currently being renovated. A set of photographs of the site and its environs taken during the course of my site inspection is attached. These serve to describe the site and location in further detail.

## 2.0 Proposed Development

2.1. Permission is sought for the erection of a fully serviced two storey dwelling house (312sqm) incorporating carport (54sqm), detached store (61.8sqm) and associated site works. The application was accompanied by the following:

- Letter from the applicants setting out their connection to the area, personal family circumstances that necessitate the proposed development and details pertaining to the development and future proposal for the larger site area.
- Vehicular Access Review
- Site Characterisation Form
- Provisional BER and Part L Compliance Report
- Details of proposed wastewater treatment system
- Report on Drip Dispersal System of Wastewater for on-site system
- SUDs Drainage Report
- Solicitors letter confirming that the applicants are the legal owners of the site
- Letter of consent from Dr FJ Hogan (adjoining property owner) to maintain the hedge as one turns left onto the N25
- Letter of support from Mark Chataway and Christopher Nial who are developing the property adjacent to the appeal site.
- Letter from applicants car insurance company confirming their address at Killinick, copy of applicants marriage certificate confirming their address at

Kilscoran Glen, Killinick, applicants Tax Credit Certificate 2022 (x2) confirming the applicants address at Kilscoran Glen, Killinick, applicants birth and baptismal certificate, letter from the applicants respective employers Anthony Neville Homes and Aviva confirming employment and their address and utility bill confirming address at Kilscoran Glen, Killinick.

2.2. I note from the Case Planners report that the applicant submitted the cover letter and Vehicular Access Review Report as an observation and that as this was unsolicited information it could not be assessed as part of the application.

2.3. **NOTE** - This cover letter and Vehicular Access Review Report were submitted as part of the first party appeal and were therefore considered as part of this appeal.

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. Wexford County Council issued a notification of decision to refuse permission for the following reason:

*The proposed development would result in the material intensification of the use of an existing direct private access point to/from the national road N25. Additional turning movements at this location would give rise to significant public safety hazards and would compromise the free flow of traffic, carrying capacity and efficiency and function of the national road. As such the proposed development would be contrary to Objective TS66 and Section 8.7.1.2 of the Wexford County Development Plan 2022-2028 and therefore to the proper planning and sustainable development of the area*

#### 3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Case Planner** stated that following the previous refusal (access to the N25) the proposal was discussed and agreed with Area Engineer and Senior Executive Technician of Roads Department where it was recommended that permission be

granted. The application was therefore considered to be acceptable and it was recommended that permission be granted subject to conditions.

- In a Supplementary Report, the **Senior Executive Planner** states as follows:

*I note the case officers recommendation to Grant this permission notwithstanding that the proposed access is from a private laneway which directly accesses the National Road (N25) at a point where the maximum speed (100kph) limit applies. It is policy of the CDP that in order to protect the safety, carrying capacity and efficiency of the national route network, access onto national roads where the speed limit exceeds 60 km will be restricted, (certain categories of development maybe considered for access onto the National Road network, this application does not fall within these categories - Objective TS66. I have discussed this application with the Senior Planner and the DOS (Roads) who are in agreement that the proposed development contravenes development plan policy.*

Recommended that permission be refused. The notification of decision to refuse permission issued by Wexford County Council reflects this recommendation.

### 3.2.2. Other Technical Reports

- **Area Engineer** – Recommend grant with conditions as follows:
  - Sightlines must be maintained at all times and should be available in perpetuity.
  - Any proposed landscaping along roads must not interfere with sightlines.
  - All surface water generated within the boundaries shall be collected and disposed of within the curtilage of the site.
  - The access way shall be piped with suitable sized pipes or ducts where necessary to ensure that no interference will be caused to existing roadside drainage.
  - Any damage or interference with the roadside drainage shall be made good at the developer's expense, to the satisfaction of the local authority.
  - The carriage of the public road shall not be raised, lowered, or otherwise altered where the access way meets it.
  - The gradient of the access drives shall not exceed 3% for the first 7m (23ft) adjacent to the carriageway

### 3.3. Prescribed Bodies

- **TII** – The Authority has examined the above application and considers that it is at variance with official policy in relation to control of development on/affecting national roads, as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), as the proposed development by itself, or by the precedent which a grant of permission for it would set, would adversely affect the operation and safety of the national road network.

### 3.4. Third Party Observations

3.4.1. None

## 4.0 Planning History

4.1. There is no evidence of any previous appeal at this location. The following planning history has been made available with the appeal file:

**Reg Ref 20220679** – Wexford County Council refused planning permission to Araon and Gillian Devereux for the erection of a fully serviced dwelling house incorporating car port, detached store and all associated site works for a single reason relating to the material intensification of use of an existing direct private access to / from the national road N25.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The operative plan for the area is the **Wexford County Development Plan 2022 – 2028**.

5.1.2. **Volume 1 Chapter 3 Core Strategy** sets out the Core Strategy Settlement Hierarchy for the County. The appeal site is in area designated as **Level 7 Open Countryside** Section 3.6.8 Open Countryside states that *the open countryside is at the lowest level of the Settlement Hierarchy and comprises those parts of the county outside of settlements in Level 1 to 6. One off rural housing in the open countryside will be*

considered where a social or functional economic need is demonstrated in accordance with Section 4.9 Housing in the Open Countryside in Chapter 4 Sustainable Housing.

**Volume 1 Chapter 4 Sustainable Housing** sets out the criteria for **Housing in the Open Countryside** in Section 4.9. I refer to Volume 1 Map 1 – Rural Area Types. The appeal site is located within an area identified as **Strong Urban Influence**.

5.1.3. Table 4.6 Criteria for One-Off Rural Housing and the accompanying definition and notes as follows:

Rural Area Type	Category A (Social Need)	Category B (Economic Need)
<b>Strong Urban Influence</b>	A person who has lived full-time in a principal residence for a minimum of 7 years (not necessarily concurrently and at any time in their life) in that local rural area and the site is within 7km radius of where the applicant has lived or is living and who has never owned a rural house. (See Point 4 in Definitions and Notes regarding owning a rural house). The dwelling must be the person's permanent place of residence. The person can work from home or commute to work daily.	Persons who by the nature of their work have a functional need to reside permanently in the rural area close to their place of work. Functional economic need must be related to a rural resource based activity such as full-time agriculture or horticulture and the nature of the activity or business must require the person to live at on or in close proximity to the business. Similar part-time occupations can also be considered where it can be demonstrated that it is the predominant occupation. The applicant must be able to provide documentary evidence that the employment is fulltime or predominant employment when part-time. The applicant must be able to demonstrate that the landholding is such to support a viable enterprise.

5.1.4. Relevant Section of **Table 4-6 Definition and Notes:**

- 1) 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. It includes persons who were reared in the local rural area but that local rural area is now within a settlement boundary/zoned land. It also includes a person who has links



by virtue of being a long term rural landowner or the son or daughter or successor of such a person. A long term rural landowner is defined as a landholding owned by that person before the 30th April 2007.

- 2) In accordance with Objective TS66 in Chapter 8 Transportation Strategy and regardless of compliance with Category A or B, no individual rural housing proposing either (a) a new direct access to the national road network or (b) the generation of increased traffic from an existing access onto the national road network in a zone where the speed limit is greater than 60kph will be permitted-see Section 8.7.1 National Roads (Chapter 8 Transportation Strategy).
- 3) All permissions for individual rural housing will include an occupancy condition and a permanent residence condition (see Objectives SH41 and SH42).

5.1.5. Objectives relevant to this appeal are as follows:

- **Objective SH41** - *All planning permissions granted for individual rural dwellings in the open countryside will be a subject to a condition which will require the applicant to enter an occupancy agreement for a period of 10 years from the date of first occupation of the dwelling house.*
- **Objective SH42** - *All planning permissions granted for individual rural dwellings in the open countryside will be subject to a condition that the dwelling house be used as a permanent residence only.*

5.1.6. **Volume 1 Chapter 8 Transportation Strategy** states that *the M/N11 and N25 are important roads for the country and region as a whole and are part of the Pan-European comprehensive TEN-T network and that the improvement of road linkages to Rosslare Europort is supported in the NPF, the National Development Plan 2018-2027, the National Marine Planning Framework and the RSES for the Southern Region.* Objectives relevant to the proposed scheme are as follows:

- **Objective TS66** - *To avoid the creation of any new direct access points to development or the generation of increased traffic from existing direct access points to the national road network to which speed limits of greater than 60 kmh apply. The Council may apply a less restrictive approach, for access onto non-motorway sections of national roads, for development in three categories relating to (1) developments of national and regional importance, (2) developments relating to the existing established large enterprise/employer on the national road network*

*at Slaney Meats (N80) and (3) developments on lands zoned under the Clonroche Local Area Plan 2009*

- 5.1.7. **Volume 2 – Development Management Manual** sets out the criteria for **Single Dwellings in Rural Areas** in Section 3.1. Table 3-1 sets out the Principles for Siting a house in a rural area and Table 3-2 sets out the Principles for Rural Architecture. Section 3.1.2 lists the Standards for Single Dwellings in Rural Areas. A planning application for the development of a single dwelling in a rural area will be required to demonstrate compliance these development management standards.
- 5.1.8. **Volume 7 – Landscape Character Assessment** designates the site as **Lowlands** (Map No 7.1 Landscape Character Unit refers). Lands immediately to the north (across the road), east and south are designated as Coastal. Lowlands have a low sensitivity rating whereby they are *more robust landscapes which are tolerant to change and have the ability to accommodate development without significant adverse impacts on the character of the landscape.*
- **Objective L04** - *All developments to be appropriately be sited, designed and landscaped having regard to their setting in the landscape, ensure that any potential adverse visual impacts are minimised and that natural features and characteristics of the site are retained.*
- 5.2. **Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009** – Sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses.
- 5.3. **Natural Heritage Designations**
- 5.3.1. The appeal site is not located in or immediately adjacent to a European Site
- 5.4. **EIA Screening**
- 5.4.1. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment. 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 first party appeal has been prepared and submitted by Terry O'Leary Engineers and may be summarised as follows:

- The dwelling complies with the relevant development plan objectives and policies as set out in the Wexford County Development Plan 2022 – 2028. A refusal is unwarranted.
- The Vehicle Access Report submitted with the application concluded that the proposed development will result in a marginal increase in traffic movement with imperceptible impact on the functionality of the existing junction. The report also states that appropriate sightlines are available.
- The personal circumstances of the applicants daughter as set out in the application and the future care she will require are highlighted and that the site provides a sensory environment for her to grow up in. Reference is made to Objective 36 where it is an objective to support independent living for people with disabilities.
- Reference is made to a number of previous planning permissions on the opposite side of the N25 and that same set a precedent for the development of this site; Reg Ref 20170740, Reg Ref 20211649 and Reg Ref 20211040 / ABP-311405-21 refer.
- The planning applicants own a significant tract of land at the subject location which incorporates an established forestry plantation. For the management, maintenance and upkeep of the lands and forestry the applicants will need to regularly attend at the subject site. The construction of a dwelling house on the lands may in fact lead to no more vehicular movements at the junction with the N11/N25 than will arise anyway in the day to day management of their lands.
- Adequate and acceptable sightlines are achieved at the junction with the N11/N25 and no safety concerns have been expressed by Wexford County Council's own retained Road Engineer for the proposed development. Moreover the Councils Road Engineer has recommended a grant of planning permission subject to conditions.

6.1.2. The appeal was accompanied by (1) copy of the planning decision to refuse, (2) Planning Report, (3) Vehicular Access review Report, (4) Traffic Report, (5) ABP Decision 311405 and personal letter from the applicants to the Planning Authority.

## 6.2. **Planning Authority Response**

6.2.1. None

## 6.3. **Observations**

6.3.1. None

## 6.4. **Further Responses**

6.4.1. 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 the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Traffic Impact
- Other Issues
- Appropriate Assessment

## 7.2. **Principle**

7.2.1. Planning permission is sought a house, car-port, detached store and associated site works. While not explicitly stated in the public notices the development is to be served by a wastewater treatment plant and soil polishing filter. Details provided together with a site characterisation form. This is a standalone development that is self-contained.

7.2.2. The rural settlement policy for Wexford County is set out in Chapter 4 of the Wexford County Development Plan 2022 – 2028. Map 1 – Rural Area Types identifies the

appeal site as within an area of Strong Urban Influence. I refer to Section 4.9.1 - Single (One-Off) Rural Housing Policy Context where it states that in order to be considered for a single dwelling in the open countryside, an applicant must meet either an economic or social need (subject to other planning criteria). Applicants will also need to demonstrate compliance with the qualifying criteria for that category and the applicable rural area criteria as set out in Table 4.6 and the accompanying definition and notes. Relevant section of the Development Plan is set out in Section 5.1 above.

7.2.3. Having regard to information on file together with the criteria set out in Table 4.6 I consider that the applicant should be assessed under the following Category A (social need) criteria:

- **Lived for 7 years within 7km of the appeal site** - Aaron Devereux states that he is from Rootstown, Tacumshane which appears to be a coastal area to the south, where his family has lived since the 1970s. This may well be within 7km of the appeal site but without a site location map it is difficult to determine how far this is from the appeal site. Gillian Devereux is from the parish of Tagoat and her family have lived in Ratholm for multiple generations. This appears to be within 7km of the appeal site. Further the applicants have lived at Kilsoran Glen, Kilinick, for the last 13 years, an area to the south of Tagoat which appears to be well within the 7km radius of the appeal site. It is stated that the applicants both went to the local national school, played GAA and have formed lifelong connection in the community. Together with the information submitted on file I am satisfied that the applicants have demonstrated that they have lived full-time within 7km of the appeal site for in excess of 7 years and therefore satisfy this criteria.
- **Never owned a rural house** - The applicant states that they are renting the house where they currently live and have done so for the last 13 years. I refer to the planning application form where it states that the applicants have never owned a rural dwelling. I am satisfied that the applicants satisfy these criteria.
- **Permanent Place of Residence** - I refer to planning application form where it states that the proposed dwelling will be occupied as a permanent place of residence and that the applicants are agreeable to a occupancy condition. I am satisfied that the applicants satisfy this criterion. Objective SH41 of the Development Plan requires that all permission granted for rural housing will be subject to an occupancy condition restricting the use of the dwelling to the

applicant or members of his/her immediate family as a place of permanent residence for a period of ten years from the date of first occupancy. It is recommended that should the Board be minded to grant permission that such a condition be attached

- **Working Arrangements** - I refer to the information submitted on file and note that the applicants can work from home and that Aaron Devereux works locally. I am satisfied that the applicants satisfy this criterion.

7.2.4. Notwithstanding the foregoing I would draw the Boards attention to *Table 4-6 Definition and Notes* where it is stated that in accordance with Objective TS66 in Chapter 8 Transportation Strategy and regardless of compliance with Category A or B, no individual rural housing proposing either (a) a new direct access to the national road network or (b) the generation of increased traffic from an existing access onto the national road network in a zone where the speed limit is greater than 60kph will be permitted-see Section 8.7.1 National Roads (Chapter 8 Transportation Strategy). This criteria is discussed further below.

7.2.5. In terms of design and layout I refer to Table 3-1 of the Development Plan that sets out the Principles for Siting a house in a rural area, Table 3-2 sets out the Principles for Rural Architecture and Section 3.1.2 that lists the Standards for Single Dwellings in Rural Areas. Having regard to the scheme before the Board I am satisfied that the site is be capable of accommodating a suitably designed private wastewater treatment system which meets required current regulations, avoids potential adverse impacts on existing properties adjoining the site, that the site is capable of accommodating the dwelling house proposed which blends into, and is not visually intrusive in the landscape and that the site is be capable of accommodating proposals to manage surface water drainage within its boundaries and without significant discharges affecting public road drainage.

### 7.3. **Traffic Impact**

7.3.1. Wexford County Council issued a notification of decision to refuse permission as the proposed development would result in the material intensification of the use of an existing direct private access point to/from the national road N25 and to permit same

would be contrary to Objective TS66 and Section 8.7.1.2 of the Wexford County Development Plan 2022-2028.

- 7.3.2. The appeal site is located on the southwest side of the N25 National Primary Road. The site is accessed directly off the Old Road which runs parallel to the N25 for c400m. The Old Road in turn forms an existing at grade priority junction with the N25 National road approx. 90m to the northwest of the appeal site. There are two existing dwellings on this section of the Old Road, one of which operates as a General Practise Doctors surgery and of itself would generate significant traffic at this junction.
- 7.3.3. I refer to the Vehicular Access Review Report submitted with the appeal where it concludes that the development will result in a marginal increase in traffic movements at the junction of the Old Road and the N25. It is further stated that it has been demonstrated that the appropriate sightlines are available at the junction and any marginal increase in related traffic movement will have an imperceptible impact on the functionality of the existing junction.
- 7.3.4. Notwithstanding these conclusions, I refer to Objective TS66 where it states the necessity to avoid the generation of increased traffic from existing direct access points to the national road network to which speed limits of greater than 60 km/h apply together with Section 8.7.1.2 of the Development Plan. Documented categories relating to a less restrictive approach do not apply in this case. These objectives align with the requirements of TII and DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012).
- 7.3.5. As documented the proposed access is from a private laneway which directly accesses the National Road (N25) at a point where the maximum speed (100kph) limit applies. Objective TS66 is clear and reasonable whereby in order to protect the safety, carrying capacity and efficiency of the national route network, access onto national roads where the speed limit exceeds 60 km will be restricted. Refusal is recommended.

#### 7.4. Other Issues

- 7.4.1. **Development Contributions** – I refer to the Wexford County Council Development Contribution Scheme. The development is not exempt from the requirement to pay a development contribution. It is therefore recommended that should the Board be

mindful to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000

## 7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development, the nature of the receiving area (the proposed development has demonstrated that a wastewater treatment plant and surface water soakaway can both be safely accommodated at the site), the physical separation distances to European Sites, and the absence of ecological and/ or hydrological connections, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

## 8.0 **Recommendation**

- 8.1. Having considered the contents of the application the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **REFUSED** for the following reason.

## 9.0 **Reasons and Considerations**

- 1) The proposed development would result in the material intensification of the use of an existing direct private access point to / from the national road N25 at a point where the maximum speed (100kph) limit applies. Additional turning movements at this location would give rise to significant public safety hazard and would compromise the free flow of traffic, carrying capacity and efficiency and function of the national road which is part of the Pan-European Comprehensive TEN-T network. As such the proposed development would be contrary to Objective TS66 and Section 8.7.1.2 of the Wexford County Development Plan 2022-2028 and therefore 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.

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**Mary Crowley**

**Senior Planning Inspector**

**24<sup>th</sup> May 2023**