



An
Bord
Pleanála

Inspector's Report

ABP-315942-23

Development	Re-develop, renovate and extend the existing walled remains of a cottage.
Location	Kilmacomb, Dunmore East, Co. Waterford
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	22494
Applicant(s)	Declan Coffey
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Declan Coffey
Observer(s)	Michael and Denise Fitzgerald
Date of Site Inspection	22 nd July 2023
Inspector	Sarah Moran

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1.0 Site Location and Description

1.1. The site is located in a rural area, on the L4077 local road, c. 1.74 km north of Dunmore East in Co. Waterford. The total stated site area is 0.101 ha. It comprises the remains of a single storey cottage, located close to the road frontage, and lands to the rear of the cottage, sloping upwards from the road. The structure has no roof and only the front and side walls remain intact as the rear wall as collapsed. The grounds are very overgrown such that it is impossible to access the site. There is no apparent vehicular access to the site. There is a laneway from the public road, which runs along the southern site boundary, leading to another residential property to the rear of the site, which is situated at a higher level.

2.0 Proposed Development

2.1. The proposed development seeks to renovate and extend the existing structure on the site as a dwelling house and to install a wastewater treatment system, polishing filter, entrance and ancillary site works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Waterford City and County Council (WCCC) requested further information on 28th July 2022 in relation to the following matters:

- The planning authority does not consider that the structure at the development site is an existing dwelling capable of being renovated and extended. Applicant to submit documentation to indicate compliance with development plan rural housing need requirements in accordance with Policy Objective H28.
- The planning authority has serious concerns regarding the height, size and scale of the proposed development at the application site given its relatively elevated position at this rural location, and the potential for negative impact on the surrounding landscape by way of being obtrusive in the rural landscape. Applicant to submit revised plans including reduced height, size and scale of

development, single storey with maximum roof height of 6m considered appropriate.

- Revised plans to indicate neighbouring houses, levels, cross sections.
- Irish Water pre-connection agreement.
- Details of water sources of adjacent residential properties.
- Concerns regarding the proximity of the existing wastewater treatment system to the east. Applicant to indicate full compliance with EPA Code of Practice standards for domestic wastewater treatment systems.

3.1.2. WCCC issued a notification of a decision to refuse permission on 2nd February 2023, for the following stated reasons:

1. The development is located in a rural area of County Waterford in an area designated as an '*Area Under Strong Urban Influence*' in the Waterford City & County Development Plan 2022-2028. Within these areas it is the policy of the Planning Authority to provide for persons with a genuine housing need as defined in the development plan and subject to the site meeting all technical requirements. Based on the submitted information the Planning Authority is not satisfied that the development complies with the housing need requirements of *Policy Objective H28- New Homes in the Open Countryside Policy Objective*, Waterford City & County Development Plan 2022-2028. It is considered that, in the absence of a substantiated local housing need for a residential unit at this location, the development would be contrary to the policy of the Waterford City & County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.
2. Based on the information submitted and particularly in the absence of details regarding the existing water sources associated with the neighbouring properties in the vicinity of the application site, the applicant has failed to demonstrate that the proposed development would not result in contamination of existing water sources. Furthermore, it has not been demonstrated that the proposed development would comply with the EPA Code of Practice regarding wastewater treatment systems. Therefore, the proposed development would create a definite risk of contamination of ground waters and would be prejudicial to public health.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- Report of Executive Planner, 27th July 2022, recommends request for further information (RFI). Second report of Executive Planer, 2nd February 2023, recommends refusal.

3.2.2. Other Technical Reports

- AA Screening Assessment, 27th July 2022, concludes that AA issues do not arise.

3.3. **Prescribed Bodies**

3.3.1. None on file.

3.4. **Third Party Observations**

3.4.1. There are four no. submissions on file from local residents, which object to the development, along with a subsequent submission made on foot of the applicant's RFI response. The following points of same are noted:

- The existing building at the site has not been occupied as a dwelling house since 2004. It is now in a ruinous condition and is in danger of collapse. It is only fit for demolition and does not comply with development plan policy on renovation of existing dwellings in rural areas.
- Permission was granted to the previous site owner to upgrade the property in 2004 under reg. ref. 04/515. The house was in a very poor state of repair at that time, was not served by a functional wastewater treatment system and had no formal vehicular access. The upgrade permitted under reg. ref. 04/515 was never carried out. The son of the original owner sought permission for a replacement dwelling at the site in 2006 under reg. ref. 06/4756, which clearly states that the house was derelict, uninhabited and in a state of ruin. The remains of the cottage therefore have been abandoned and uninhabited since at least 2005.
- The current applicant acquired the subject site in 2009, has never lived at the property and is understood to have no connections with the local area. He

therefore does not meet local housing need criteria. No evidence of local housing need has been submitted.

- The submitted site sections do not indicate adjacent residential properties. The revised design submitted as further information is closer to the adjacent dwelling to the rear of the site than that proposed with the application and will have adverse impacts on residential amenities due to overlooking and car headlights.
- The site entrance is located on a steep and dangerous bend within the 80 kph speed limit. Traffic has increased on this road due to developments in Dunmore East. The development would result in a traffic hazard due to limited sight distances at the proposed access. The applicant does not have control over adjoining lands and cannot increase sight distances.
- The development would result in ribbon development as there are five dwellings already entering onto this road within 250m of the subject site, three of which are on the same side as the proposed development.
- Concerns that the proposed wastewater treatment system, located at a higher level than the house and on dense bedrock, would result in water seepage to the road below. Also concerns about the suitability of this restricted site for wastewater treatment and achievement of separation distances in accordance with the EPA Code of Practice. The applicant has not submitted details of water supplies to neighbouring properties, concerns about potential adverse impacts on same.
- Refer to the previous refusal for a replacement house at the site under reg. ref. 06/4756.

4.0 Planning History

4.1. Reg. Ref. 22/19

- 4.1.1. Permission sought by the current applicant / appellant to renovate and extend a cottage and upgrade septic tank system in compliance with EPA code of practice and ancillary site works. This application was withdrawn.

4.2. **Reg. Ref. 06/1765**

4.2.1. Permission sought by a different applicant (John Whelan) to construct a new dormer dwelling, "Enviropak" domestic sewage unit, percolation bed, recessed entrance, all associated site works and to demolish existing cottage ruins. The application was refused for the following stated reasons:

1. *The proposed site is less than the required size to accommodate a private wastewater treatment system in respect of a new build dwelling and given the absence of a public sewer to serve the site the proposed development would be prejudicial to public health and contrary to Section 9.2 of the County Development Plan.*
2. *Having regard to the elevated nature of the site and pattern of development in the vicinity it is considered that the proposed dormer dwelling would detract from the visual and rural amenities of the area, contrary to the proper planning and sustainable development of the area.*

4.3. **Reg. Ref. 04/515**

4.3.1. Permission granted to Barbara Whelan for conversion of existing cottage to dormer and to construct new dormer extension, installing new Enviropak domestic sewage unit, irrigation bed and all associated site works.

5.0 **Policy Context**

5.1. **National Planning Policy**

5.1.1. The following national planning policy documents are noted:

- Section 28 Sustainable Rural Housing Guidelines 2005
- National Planning Framework, noting in particular National Policy Objective 19

5.2. **Waterford County Development Plan 2022-2028**

5.2.1. The site has the zoning objective 'A' Agriculture, 'To provide for the development of agriculture and to protected and improve rural amenity'.

5.2.2. The site is located outside of any designated settlement and is within an 'Area Under Strong Urban Influence'. Development Plan section 2.10.1 states in relation to such areas:

The key Development Plan objectives in this area are, on the one hand, to facilitate the housing requirements of the local rural community, subject to satisfying site suitability and technical considerations, whilst on the other hand directing urban generated development to areas zoned and designated for housing in the adjoining villages and rural settlement nodes. We will manage sustainable growth in 'Rural Areas under Urban Influence' and facilitate the provision of single houses in the countryside based on the core considerations of economic, social or local need to live in a rural area, siting and design criteria for rural housing, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements in a manner consistent with NPO 19 of the NPF.

5.2.3. The following housing policy objectives are noted:

H 28 New Homes in the Open Countryside

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 criteria as set out in this plan and in relevant statutory planning guidelines, having regard to the viability of smaller towns and rural settlements.

H 29 Ribbon Development

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.*

5.2.4. Development plan section 7.12 relates to the refurbishment, extension and replacement of existing structures in rural areas. It states that applicants for such developments will not be required to demonstrate a local housing need and also states:

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.*

The following policy objectives relate to refurbishment and extensions of existing structures:

H 31

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.*

H 32

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.

H 33

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.

- 5.2.5. Development plan Volume Two sets out development management standards. The following are noted in particular:

4.8 Non-Habitable Dwellings/ Unused Cottages

Sensitive restoration of non-habitable vernacular stock will be considered where an unused cottage or dwelling is considered of architectural, visual or historical merit. Where a sensitive renovation proposal is presented and respects and maintains the integrity and scale of the original building, a genuine rural housing need will not be required. Please also refer to Volume 1: Section 7.12 of the Development Plan and associated Policy Objectives H31-H33.

Development Management DM 11

Extensions should:

- Respect and follow the pattern of the existing building as much as possible.*
- Where contemporary designs are proposed, proposals should not detract from the visual amenities of the main dwelling or neighbouring properties.*
- Extension works should not encroach, overhang or otherwise physically impinge third party properties.*

- *Proposals should be designed in such a way as to eliminate overshadowing or overlooking of adjoining property.*
- *Avoid additional surface water runoff arising from the site.*

Section 9.4 Wastewater Treatment Infrastructure Rural Countryside/ Un-serviced Areas

Where the development of a single house is proposed outside of a designated settlement the Planning Authority will require that the applicant provides an on-site wastewater treatment system in accordance with the EPA Code of Practice (Wastewater Treatment Systems for Single Houses) in force at the time of making the application.

5.3. Natural Heritage Designations

- 5.3.1. The site is 1.98 km southwest of the River Barrow and River Nore SAC (site code 002162) and 4.06 km east of the Tramore Back Strand SPA (site code 004027).

5.4. EIA Screening

- 5.4.1. Having regard to the limited nature and scale of the proposed development and to the nature of the receiving environment, 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 First Party Appeal

- 6.1.1. The following points are noted from the first party appeal:
- It is submitted that the subject property is previously developed 'brownfield lands'. The existing dwelling was in use in 2006 as per the permission for conversion of an existing cottage granted under ref. ref. 06/1765. The development involves the restoration and adaption of the existing cottage in accordance with development plan policies H31, H32 and H33 and section 4.8 on non-habitable dwellings. The

applicant intends to renovate the cottage as part of the overall housing stock of the area. Policy H28 does not apply.

- There is Irish Water mains supply to houses in this area. Irish Water have responded to a pre-connection enquiry that water supply is feasible, relevant correspondence is submitted.
- The proposed wastewater treatment system will comply with the EPA Code of Practice.
- The development will upgrade the existing site access in accordance with current development plan provisions.

6.2. Planning Authority Response

6.2.1. The following points are noted from the response of the planning authority:

- The substantive points made in the first party appeal are addressed in the planning reports and RFI on file.
- The planning authority considers that the structure at the site cannot be considered to be an existing dwelling due to its extremely poor condition. Refers to development plan policy on Areas Under Strong Urban Influence. The planning authority is not satisfied that the applicant complies with the housing need requirements of policy H28 and the development would therefore conflict with development plan policy.
- The applicant has not submitted additional details of existing wastewater treatment systems in the area as necessary to comply with the EPA Code of Practice and does not demonstrate that the development will not result in contamination of existing water sources. It is therefore considered that the development would result in a definite risk of contamination of ground waters and would be prejudicial to public health.
- The planning authority remains unfavourably disposed to the development and strongly urges ABP to uphold its decision to refuse permission.

6.3. **Observations**

- 6.3.1. There is one observation submitted by the residents of the property to the rear of the development site. This repeats points made as summarised above in relation to non compliance with development plan section 7.12 and policy H31, due to the derelict and uninhabitable nature of the existing house at the site. It also submits that refusal reason no. 2 is warranted as the applicant has failed to identify whether all dwellings in the area are connected to Irish Water and do not have private water supplies.

6.4. **Further Responses**

- 6.4.1. None on file.

7.0 **Assessment**

- 7.1. I have read through the file documentation and the relevant provisions of the current Waterford City and County Development Plan 2022-2028. I have also had regard to other relevant local/regional/national policies and guidance and have carried out a site inspection. The main issues are those raised in the planning reports on file and in the grounds of appeal. I note in this regard that the technical reports on file do not raise any other issues and that the site is outside of any flood zone. I therefore consider that the main issues on this appeal are as follows:

- Principle of Development with Regard to Rural Housing Policy
- Impacts on Visual and Residential Amenities
- Site Services
- Vehicular Access
- Appropriate Assessment.

Each of these issues is addressed in turn below.

7.2. **Principle of Development with Regard to Rural Housing Policy**

- 7.2.1. The development is located on agriculturally zoned lands outside of any designated settlement, within an 'Area Under Strong Urban Pressure' where there is a stated development plan policy to facilitate single housing based on demonstrable

economic, social or local need to live in the area as per policy objective H28. The applicant has not submitted any details of local housing need.

Development plan section 7.12 and related policy H31 set out criteria for consideration of proposals to convert, re-use or adapt existing dwellings, where applicants for such developments will not need to demonstrate a local housing need. Section 7.12 refers to dwellings that have been damaged beyond repair but requires that the original walls are substantially intact. The roof and rear wall of the existing structure at the site are absent and the side gable facing the laneway appears to be in imminent danger of collapse as it is leaning away from the front wall, towards the laneway. The entire site is overgrown such that it is currently impossible to access. There is no established vehicular access. The documentation on file indicates that the dwelling was last inhabited in the mid 2000s. Having regard to the existing state of the building, I do not consider that it meets the criteria set out in section 7.12 and policy H31 and that standard development plan policy on rural housing at Areas Under Strong Urban Pressure applies. Given that the applicant has not submitted any details of local housing need, the development is considered to contravene development plan policy objective H28.

Section 4.8 of development plan Volume Two states that a genuine rural housing need is not required where it is proposed to sensitively renovate an unused cottage or dwelling which is considered to be of architectural, visual or historical merit. The applicant has not made any case in this regard in the application or in the grounds of appeal. Given the basic and ruinous state of the existing cottage at the site, I do not consider that section 4.8 applies in this instance given the basic and ruinous state of the structure at the development site.

Refusal is recommended on this basis.

7.3. Impacts on Visual and Residential Amenities

- 7.3.1. Both the planning authority and third party submissions state concerns about visual impacts associated with the height and scale of the proposed development at an elevated location. Development plan section 7.12 requires that 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. It also requires that 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, and that landscape proposals retain and enhance mature landscape features.

- 7.3.2. The proposed development as originally lodged with the planning authority involved a two storey dormer extension to the rear of the existing structure. A revised proposal for a single storey structure was submitted in response to the RFI request. The revised proposal is more modest in scale and the ridge height does not exceed that of the existing house. However, the extension would involve extensive ground works given that the site slopes steeply up from the public road. The drawings on file only include one cross section and do not provide any details of such works or landscaping proposals which might help to integrate the proposed extension. The proposed design and layout are therefore considered to contravene the guidance provided in development plan section 7.12.
- 7.3.3. The residents of the house to the rear of the site state concerns about adverse impacts on their residential amenities due to overlooking from the development and from vehicular movements associated with the site. I consider that such impacts are unlikely given that the development is at a lower ground level than the neighbouring property, and that they could be adequately be mitigated by landscaping in any case.

7.4. Site Services

- 7.4.1. The applicant has submitted details of a proposed wastewater treatment system, including a Site Characterisation Report, also correspondence from Irish Water, dated 3rd March 2022, which confirms that a connection to the IW water network can be facilitated.
- 7.4.2. The planning authority and third parties have stated concerns about ground conditions at the site, risk of seepage, and potential contamination of adjacent private water supplies. The 2021 EPA Code of Practice for Domestic Wastewater Treatment Systems (DWWTS) applies. Table 6.2 of the Code of Practice specifies minimum separation distances for DWWTS, including to adjacent domestic wells and wastewater treatment systems. Given that no information has been submitted in relation to same, I consider that the applicant has not satisfactorily demonstrated compliance with the 2021 EPA Code of Practice. The development would therefore contravene development plan policy objective H 33. Refusal is also recommended on this basis.

7.5. Vehicular Access

- 7.5.1. Third party submissions state concerns about potential traffic hazard associated with inadequate sight distances at the proposed vehicular entrance located in the 80 kph zone. Sections 8.6 and 8.7 of the development management standards set out in development plan Volume Two require sight distances of 160m in both directions from an 'X' distance (setback) of 2.4 m for single dwellings, in accordance with TII guidance. The submitted site layout indicates 55m sight distances in both directions and therefore does not achieve the required sight distances. Given the presence of the existing building at the site and that the applicant does not have access to adjoining lands, there does not appear to be any possibility of achieving the required distances in this case. Refusal is also recommended on this basis.
- 7.5.2. Third parties submit that the proposal will result in ribbon development. Development plan policy objective H29 defines ribbon development as five or more houses existing on any one side of a given 250m of road frontage. The subject site is not considered to come within the scope of this definition having regard to available aerial photography and to the site inspection.

7.6. Appropriate Assessment

- 7.6.1. The proposed development is not located within a European site and does not relate to the management of any European site and direct effects can therefore be ruled out. The development site is 1.98 km southwest of the River Barrow and River Nore SAC (site code 002162) and 4.06 km east of the Tramore Back Strand SPA (site code 004027). Having regard to the nature and scale of the proposed development, impact pathways would be restricted to hydrological pathways. Having regard to the physical distance it is considered that any impact from the hazard source will be diminished along the pathways in question by the time it reaches the receptor. Having regard to the nature of the proposed development and/or nature of the receiving environment and/or proximity to the nearest European sites, potential for significant effects, including direct indirect and in-combination effects on the integrity of the European sites in view of their conservation objectives can be ruled out. The AA Screening Assessment on file by WCCC is also noted in this regard. In conclusion, I do not consider that the proposed development would be likely to have

a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that the decision of Waterford City and County Council to refuse permission for the development as set out be upheld for the reasons stated in the attached schedule.

9.0 Reasons and Considerations

1.	Having regard to the location of the site within an 'Area Under Strong Urban Influence' as identified in the Waterford City and County Development Plan 2022-2028, where housing is restricted to persons who can demonstrate rural-generated housing need requirements in accordance with Policy Objective H28 New Homes in Open Countryside, and given that the development site is not considered to come within the scope of an existing dwelling as defined under section 7.1 of the development plan and related Policy Objective H31, and with regard to National Policy Objective 19 of the National Planning Framework issued by the Department of Housing, Planning and Local Government in February, 2018 which, for rural areas under urban influence, seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area, the Board is not satisfied that the applicant has sufficiently demonstrated that they have a rural-generated housing need. As a result, the Board considers that the proposed development would contribute to the further encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2.	Given the lack of information regarding existing domestic water supplies and wastewater treatment systems adjacent to the site, the Board is not

	satisfied that the site is capable of treating foul effluent arising from the dwelling in accordance with the standards set out in the Code of Practice for Wastewater Treatment and Disposal Systems serving Single Houses (Environmental Protection Agency 2021) and considers that the method of foul water disposal will render the treatment of the effluent unacceptable and could increase the risk of serious water pollution. Accordingly, the proposed development would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
3.	It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a local road at a point where sightlines are restricted in both directions.

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.

Sarah Moran
Senior Planning Inspector

26th July 2023