



An
Bord
Pleanála

Inspector's Report ABP-316026-23

Development	Retention permission for the subdivision of existing dwelling into two dwellings and permission for 2no wastewater treatment systems.
Location	Upper Curragh, Ardmore, Co. Waterford
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	221041
Applicant(s)	Tom Riordan & Niall O'Leary
Type of Application	Retention Permission.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Tom Riordan & Niall O'Leary
Observer(s)	None.
Date of Site Inspection	14 th March 2024.
Inspector	Peter Nelson

1.0 Site Location and Description

- 1.1. The site is located in Lower Curragh, approximately 2.5km from Ardmore Village, County Waterford. The site is accessed from a local road off the R673. The local road contains several one-off houses.
- 1.2. The stated overall site size is 0.37 hectares. The site is elevated, and the rear of the site falls away and faces east towards the sea. There is a bungalow on site, which has been subdivided into two units. The rear elevation contains two conservatories. The front of the site consists of a parking area with a shed to the side.

2.0 Proposed Development

- 2.1. Retention permission is sought for the subdivision of our existing dwelling into two dwellings, Dwelling "A" and Dwelling "B", planning permission for a single-storey side extension to Dwelling "A", planning permission for a change to the existing boundary to subdivide the existing site into two sites, Site "A" and Site "B" and new proposed wastewater secondary treatment systems and polishing filters to both sites "A" & "B" and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

Waterford City and County Council refused permission for the proposed development on the 13th February 2023, for the following two reasons:

1. It is the policy of the Planning Authority to encourage development on serviced lands in towns and villages and to restrict development in the rural areas to cases of genuine local housing need. The subject development is in an 'Area Under Strong Urban Influence' as designated in the Waterford City and County Development Plan 2022 - 2028. Based on the information submitted, the Planning Authority is satisfied that the retention of the subdivision of the existing dwelling into 2no. semi-detached dwellings for use as holiday homes does not

comply with the required Rural Housing Criteria. The applicants have failed to demonstrate a genuine local housing need and it is considered the subject development is contrary to Policies H24 and H28 of the current Development Plan. In the absence of a substantiated local housing need for a house at this location the development as proposed conflicts with the stated policies of the Planning Authority and will be contrary to the proper planning and sustainable development of the area.

2. The applicant has sought to retain a second residential use/unit relative to the single dwelling permitted originally and the required sightlines, to the nearside road edge, have not been provided/demonstrated in accordance with the Development Management Standards of the Waterford City and County Development Plan 2022-2028. Based on the information submitted, the proposed development and resultant traffic movements would represent a risk to both the existing residents of the dwelling as well as other road users. The ongoing use of the access, therefore would be contrary to 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 signed on the 10th February 2023 can be summarised as follows:

- The council were not aware of the subdivision of the dwelling when investigating potential unauthorised extensions.
- It is recognised that the existing dwelling was granted permission as a holiday home.
- At no time have 2no. holiday homes been granted on this site.
- While the development may be statute-barred, the development is not regularised.

- As the dwellings are within an 'Area Under Strong Urban Influence' compliance must be demonstrated with the applicable rural housing policies.
- The applicants have not demonstrated compliance with Rural Housing criteria.
- There are no policies in the Development Plan which would support the retention of holiday homes in this location.
- Subject to correct installation and maintenance of the proposed 2no. wastewater treatment systems would comply with EPA standards.
- The available sight lines in both directions have been incorrectly demonstrated.
- The sightlines to the south fail to comply with current standards.
- There may be a solution, but as there is a substantive issue, further information is not sought.

3.2.2. Other Technical Reports

None

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

One observation was received that expressed concerns regarding the boundaries as outlined in the application.

4.0 **Planning History**

P.A. Ref: 20/524 Planning application for a single-storey extension to existing dwelling house and all associated ancillary site works withdrawn.

P.A. Ref: 84/41 Permission granted for a bungalow on the 24th February 1984.

5.0 Policy Context

5.1. Development Plan

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

Policies

- H24** We will support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.
- H28** 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[4] as set out in this plan and in relevant statutory planning guidelines, having regard to the viability of smaller towns and rural settlements.
- 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.

ECON24 Tourism Accommodation

We will continue to support the development of a variety of accommodation types at appropriate locations throughout Waterford City and County (hotels, B&Bs, Guest Houses, self-catering, caravan & camping, glamping etc), which can improve the economic potential of increased visitor revenue, increase dwell time and meet visitor needs. Tourist accommodation should generally be located within towns and villages (unless otherwise justified to the satisfaction of the Planning Authority) and developed with the principles of universal design to ensure they are accessible for all.

5.2. Natural Heritage Designations

Helvick Head to Ballyquin: Special Protection Area - c.1.88km from the site.

Ardmore Head: Special Area of Conservation - c.1.95km from the site.

5.3. EIA Screening

Having regard to the nature and modest scale of the proposed development, which consists of the retention of the subdivision of an existing dwelling and the instillation of two wastewater secondary treatment systems and the likely emissions therefrom, it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

See forms 1 and 2 in the Appendix.

6.0 The Appeal

6.1. Grounds of Appeal

The main grounds of appeal can be summarised as follows:

- The original dwelling was first granted permission as a single holiday home but has been in use as two independent holiday homes since 1984.
- The site is not within a designated settlement nor zoned for tourism uses, but it is within a tourist area, and there are established caravan parks in close proximity.
- The property is beyond the statutory period for planning enforcement action to be taken.
- This permission now relates to the regulation of an unauthorised development that does not present a significant material change to the original permission.
- The regularisation seeks to resolve the outstanding matter of the combined wastewater treatment systems, which will benefit the site and immediate area.

- As this property has been used as a holiday home since it was approved in 1984, policies H24 & H28 do not apply.
- The required compliant sightlines, as per table 8.1 of the current Development Plan, are available on site.

6.2. Planning Authority Response

- None

6.3. Observations

- None

7.0 Assessment

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

- Subdivision of Dwelling
- Traffic Hazard

7.2. Subdivision of Dwelling.

- 7.2.1. The planning authority's first reason for refusal stated that based on the information submitted, the proposed retention of the sub-division of the existing dwelling into two units would not comply with the required rural housing criteria as the applicant has not given evidence of a local housing need for a house at this location.
- 7.2.2. The applicant states that the property has been in use as two independent holiday homes since 1984 and that the current application now relates to the regularisation of unauthorised development. The applicant argues that given the dwelling has been in use as 2no. holiday homes since 1984, Development Plan Policy H24 and H28, do not apply.
- 7.2.3. The site is located in a 'Rural Area under Strong Urban Influence'. Policy H28 of the Waterford City and County Development Plan 2022-2028 is to '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'. The Planning Authority's key objective, as stated in section 7.11.2 of the development plan, is to direct urban-generated development to areas zoned and designated for housing in the adjoining villages and settlement nodes.

- 7.2.4. While I note that the prevailing circumstances are different to a proposal for a new build on a greenfield site, permission is being sought to retain an additional residential unit on this site compared to that initially granted permission. It is also proposed that one of the units be extended and two new wastewater treatment systems be provided.
- 7.2.5. The applicant has not provided any demonstrable economic, social or local need to live in this rural area.
- 7.2.6. I note that while Policy ECON 24 of the Development Plan supports the development of a variety of accommodation types at appropriate locations throughout Waterford County, it requires that tourist accommodation should generally be located within towns and villages. This policy does allow for other locations only when justified to the satisfaction of the Planning Authority. Save for the fact that the units have been in existence since 1984, the applicant has not supplied any justification for additional tourist accommodation in this location. I do not consider the longevity of the unauthorised subdivision of a holiday home into 2no. holiday homes is justification for granting additional tourist accommodation in this location outside the village of Ardmore.

7.3. Traffic Hazard

- 7.4. The second reason for refusal states that it has not been demonstrated that the existing entrance sightlines are in accordance with the Development Management Standards of the Waterford City and County Development Plan 2022-2028. The Planning Authority states that the sightlines to the south are not unobstructed and fail to comply with the current standard. The planning report states that there may be a solution to this issue. In this response, the applicant states that the entrance provides the required compliant sightlines.
- 7.5. To the south, the adjoining boundary appears to be a low stone wall with vegetation above. It is considered that this vegetation may be a barrier to achieving the required sightlines. I consider that there is potential for a solution, which may require the

agreement of the adjoining landowner. However, given the substantive reason for refusal outlined below, I do not consider that this issue should be pursued in this current application.

8.0 AA Screening

- 8.1. Having regard to the subdivision of an existing dwelling and the development of two wastewater treatment systems and the proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

I recommend that permission be refused for the following reasons and considerations.

10.0 Reasons and Considerations

1. Having regard to the location of the site within an "Area Under Strong Urban Influence" as identified in Waterford City and County Development Plan 2022-2028 and to Policy H28 in an area where housing is restricted to persons demonstrating economic, social or local need, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Development Plan for the additional residential unit at this location. The subdivision of the existing unit mitigates against the efficient provision of public services and infrastructure. Therefore, the development to be retained is contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the site within an "Area Under Strong Urban Influence" as identified in Waterford City and County Development Plan 2022-2028 and to Policy ECON 24, which requires that tourist

accommodation should generally be located within towns and villages, the applicant has not justified the additional holiday unit in this location and not in a town or village. The subdivision of the existing unit mitigates against the efficient provision of public services and infrastructure. Therefore, the development to be retained is 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

9th April 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	316026-23		
Proposed Development Summary	Retention permission for the subdivision of existing dwelling into 2 dwellings and permission for 2no wastewater treatment systems.		
Development Address	Upper Curragh, Ardmore, 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	X
		No	
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			EIA Mandatory EIAR required
No		X	Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No		N/A	No EIAR or Preliminary Examination required
Yes		Class 10(b)(1), Part 2 Schedule 5.	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	316026 - 23	
Proposed Development Summary	Retention permission for the subdivision of existing dwelling into 2 dwellings and permission for 2no wastewater treatment systems.	
Development Address	Upper Curragh, Ardmore, Co. Waterford	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?	<p>The subdivision of the existing dwelling and the provision of two wastewater treatment systems are not exceptions in the context of the existing environment, which contains other one-off houses.</p> <p>The subdivision of the existing dwelling and the provision of two wastewater treatment systems will not result in the production of any significant waste, emissions or pollutants.</p>	
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment? Are there significant cumulative considerations having regard to other existing	<p>The subdivision of the existing dwelling and the provision of two wastewater treatment plants are not an exceptional size in the context of the existing environment.</p> <p>There are no significant cumulative considerations having regard to other existing plans or permitted projects.</p>	

and/or permitted projects?		
Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?	The appeal site is not located on, in, adjoining or does not have the potential to significantly impact on ecologically sensitive site or location. Given the minor nature of the development it does not have the potential to significantly affect other significant environmental sensitivities in the area.	
Conclusion		
There is no real likelihood of significant effects on the environment. EIA not required.	There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	There is a real likelihood of significant effects on the environment.

Inspector: _____

Date: _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)