



An
Bord
Pleanála

Inspector's Report

ABP-317618-23

Development	Demolition of an existing dwelling and the erection of a replacement single storey dwelling and all associated site works.
Location	Glen (Richards), Ardamine, County Wexford.
Planning Authority	Wexford County Council.
Planning Authority Reg. Ref.	20230471.
Applicant(s)	Walter and Niamh Kent.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party.
Appellant(s)	Walter and Niamh Kent.
Observer(s)	None.
Date of Site Inspection	16 September 2023.
Inspector	Stephen Rhys Thomas

Contents

1.0 Site Location and Description.....	4
2.0 Proposed Development.....	4
3.0 Planning Authority Decision.....	4
3.1. Decision.....	4
3.2. Planning Authority Reports.....	5
3.3. Prescribed Bodies.....	5
3.4. Third Party Observations.....	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations.....	7
5.3. EIA Screening.....	7
6.0 The Appeal.....	8
6.1. Grounds of Appeal.....	8
6.2. Planning Authority Response.....	8
7.0 Assessment.....	9
8.0 Recommendation.....	13
9.0 Reasons and Considerations.....	13
10.0 Conditions.....	13

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.17ha and is located at Ardamine approximately 2km south of Courtown in Co. Wexford. The area is characterised by holiday home or chalet development between the public road (the R742) and the sea. Vehicular access to the site is over a private road off the R742 which ends in a cul de sac, and pedestrian access is from a gateway onto the public road. The area slopes steeply down from the public road to the sea and the chalets are arranged in an ad hoc manner on large sites. The appeal site occupies a large site on a steep part of the hill and neighbouring chalets align north and south of the site.

2.0 Proposed Development

- 2.1. The development will consist of the following:

Permission for the demolition of an existing dwelling and the erection of a replacement single storey dwelling including the installation of a sewage pumping station and connection to the public foul sewer and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority issued a notification to refuse permission for two reasons, summarised as follows:

1. The replacement of a dwelling for year round occupation on lands zoned for Chalet Area 2 (CA2) in the Courtown and Riverchapel Local Area Plan 2015-2021 (as extended) would be contrary to the zoning objective and Objective TA07 of the plan.
2. The proposed replacement dwelling would be 78% larger in floor area than the original dwelling and be contrary to Objective TA07 (b) of the Courtown and Riverchapel Local Area Plan 2015-2021 (as extended), which stipulates a maximum 20% as allowable floor area to be replaced.

3.2. Planning Authority Reports

3.2.1. Planning Report

The basis of the planning authority decision includes:

- Planning history and planning policy are outlined.
- Continuous occupation of the proposed dwelling and cannot be considered a holiday home.
- The replacement dwelling represents a 79% increase in floor area, at odds with Objective TA07.

3.2.2. Other Technical Reports

Environment – further information required.

Roads – no objections.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

A single observation with regard to construction period, invasive species, fencing and retaining walls.

4.0 Planning History

4.1. Site:

None.

5.0 Policy Context

5.1. Development Plan

The **Wexford County Development Plan 2022 -2028** is the operative statutory plan for the area, and the site is located within the Coastal Zone. Relevant policies and objectives include:

Objective TM59

To strictly control the replacement and extension of existing holiday chalet structures. The Council will only consider such proposals where the following criteria are complied with:

- (a) It is demonstrated that the structure which it is proposed to replace has been on the subject site previous to 1st October 1964 when the Local Government (Planning and Development) Act, 1963 came into effect or has the benefit of planning permission and is in accordance with the planning conditions pertaining to same.
- (b) It is proposed to replace the existing structure with a new structure which is equal to or not more than 20% of the floor area of that being replaced, or to extend the structure with an extension which is equal to or not more than 20% the floor area of the structure to be extended. This is to ensure that the scale and form of this type of development is consistent.
- (c) The replacement structure is for use as holiday home accommodation.
- (d) Risk of coastal erosion will be considered in accordance with relevant objectives in Section 12.5 of Chapter 12 Coastal Zone Management and Marine Spatial Planning.
- (e) The risk of flooding to the structure and its associated waste water treatment infrastructure is minimal. This should be demonstrated by a site-specific flood risk assessment, if deemed necessary by the Planning Authority.
- (f) The structure can be connected to the public waste water system, or effluent from the structure can be treated on-site in accordance with the EPA's Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses (EPA, 2009).

- (g) Suitable water conservation measures form part of the development proposal.
- (h) Satisfactory access arrangements are in place, and
- (i) All other normal planning and environmental criteria are complied with.

Courtown & Riverchapel – Local Area Plan 2015 – 2021 (as extended)

Chalet Area 1 and 2 (CA1 and CA2) Zoning Objective: 'To control and co-ordinate the development of existing plots and habitable and non-habitable structures in the Burrow and Pollshone Area'.

The purpose of this zoning is to strictly control the future development of Chalet Area 1 and Chalet Area 2 in the Burrow and Pollshone and to ensure that future development and any proposals to replace existing habitable structures and ancillary developments are done so in a coherent and planned manner.

Section 6 – Tourism and Economic Activity

TA07 To consider the replacement of, or extension to, existing habitable structures within Chalet Area 2 in the Burrow and Pollshone Area identified on Map 5, relevant sections include:

- (b) It is proposed to replace the existing structure with a new structure which is equal to or not more than 20% of the floor area of that being replaced, or to extend the structure with an extension which is equal to or not more than 20% the floor area of the structure to be extended. This is to ensure that the scale and form of this type of development is consistent.
- (c) The replacement structure is for use as holiday home accommodation.

5.2. Natural Heritage Designations

5.2.1. The site is not located close to any designated site.

5.3. EIA Screening

5.3.1. Having regard to the nature and scale the development which comprises a single house to replace an existing house, in a serviced suburban location, 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 Appeal

The applicant has submitted a first party appeal, that can be summarised as follows:

- Applicant will accept to occupy the dwelling as a holiday home.
- The design principles to replace the dwelling are set out and include: provide the same number of bedspaces but up to modern standards, maximise views, similar design ratios.
- Other appeals in the area returned a grant of permission, a table shows four examples with their requisite percentage increases in floor area.
- As the only issue is about the percentage increase, the applicant sets out other examples where the increase is much more in terms of quantum and another case where a 20% increase was permitted in zone 1 that allows none. In order to provide a four bedroom house as before, 134.7sqm is moderate in comparison.

6.2. Planning Authority Response

None.

7.0 Assessment

7.1.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Full Time Occupation
- Design and Scale
- Other Matters
- Appropriate Assessment

7.2. Full Time Occupation

7.2.1. The Wexford County Development Plan 2022-2028 is the statutory plan for the county and includes Objective TM59 with reference to the replacement and extension of existing holiday chalet structures. The Courtown and Riverchapel Local Area Plan 2015 remains in force and is the operative statutory plan for the area. In this context the LAP sets out some very detailed criteria for the area around the appeal site with particular reference to the protection of historic chalet accommodation and the coastal landscape setting. The appeal site falls into Chalet Area 2 and is subject to Objective TA07 of the LAP, which is similar to criteria also set out in the Development Plan. There are two relevant criteria to Objective TA07 that form the basis for the refusal and they are to do with whether:

(b) It is proposed to replace the existing structure with a new structure which is equal to or not more than 20% of the floor area of that being replaced, or to extend the structure with an extension which is equal to or not more than 20% the floor area of the structure to be extended. This is to ensure that the scale and form of this type of development is consistent.

(c) The replacement structure is for use as holiday home accommodation.

7.2.2. I consider the design and scale of the proposed development in the subsequent section of my report. In relation to Objective TA07(c) and the first reason for refusal, the applicant is willing to accept the use of the proposed dwelling as holiday accommodation in order to comply with the objectives of the LAP. This is a reasonable compromise and given that the applicant is willing, a suitably worded

condition would ensure the dwelling is used for holiday home accommodation in accordance with the LAP objectives for the area.

7.3. Design and Scale

7.3.1. The second reason for refusal revolves around the increase in floor area over and above that of the original chalet and how this would be contrary to Objective TA07 (b) of the LAP. According to the information on file, the original dwelling on the site is 76 sqm and the replacement dwelling amounts to 135 sqm. Such an increase in floor area equates to a 78%, much more than the LAP maximum sought in the Objective TA07 (b).

7.3.2. The area in the vicinity is characterised by a sloped coastal zone, interspersed with numerous chalet style structures, used as holiday homes. The whole area is known in the LAP as the Burrow and Pollshone Area and is divided into chalet area 1 and 2. The chalets are arranged in an organic fashion and come in many shapes and sizes. Most of the chalets are of timber or galvanised steel construction with a variety of roofing materials and of all ages. Some chalets have been extended and are in good condition, a few are quite derelict. In a small number of cases, chalets have been replaced with modern structures that incorporate the chalet style and are quite large. The planning authority have no issues to raise in terms of the style and design of the replacement dwelling proposed and there are no difficulties in water service connections. It is the magnitude of increase that prevents the planning authority from granting permission, hence refusal reason two. Given, the variety of chalet designs in the wider area and the large sites upon which they sit, I am satisfied that the design and landscape setting of the proposed development would be acceptable and contribute to the visual amenities of the area. It is the matter of the 20% limitation on floor area that presents the main issue.

7.3.3. The applicant explains that the same number of bed spaces will remain and that the scale has been increased to meet modern building standards and comfort. The applicant has not offered to reduce the scale of the house proposed and is satisfied that the design and scale fits the site and landscaping proposed.

7.3.4. The LAP recognises the character of the area, its collection of chalets of all shapes and sizes, in general terms so too does Objective TM59 of the current

development plan. In this instance, Objective TA07 (b) of the LAP seeks to limit the scale of replacement dwellings and restrict increases in floor area. The LAP describes the ad hoc character of the area and how the Council will consider the replacement of, or extension to, existing habitable structures in this area for use as a holiday home accommodation. In my view the LAP does not specifically focus on the design of replacement dwellings other than to limit the scale of expansion. It seems to me that this is counterintuitive if the proposal for a replacement dwelling follows the design principles of chalet style design and materials but is simply larger. A 135 sqm dwelling is not excessively large in modern terms and I have observed other large single storey chalet style dwellings in this area. The applicant notes other large replacement chalets too, and has listed them out in their grounds of appeal, page 9 and Appendix C refers. Specifically, the table on page 9 shows a magnitude of growth far in excess of 20% in all cases. Each planning application is judged on its own merits, and I believe this should be the case in this instance. It is regrettable that the applicant's attractive chalet dwelling will be removed, it has some character and is in relatively good repair. But this and other chalets were not constructed to last great lengths of time and the rigours of a marine climate have taken their toll on this and other chalets. The applicant proposes to modernise, and this means removing the existing chalet and building a larger and similarly designed dwelling with careful use of materials. I am satisfied that the design and scale of the proposed replacement dwelling is acceptable and will be a visually attractive addition to the area.

7.3.5. However, the LAP stipulates a maximum percentage increase in floor area and this has been exceeded by the development as proposed. The underlying zoning at this location is set out in the LAP as, Chalet Area 1 and 2 (CA1 and CA2), where the objective is to control and co-ordinate the development of existing plots and habitable and non-habitable structures in the Burrow and Pollshone Area. The principle to replace the existing chalet with a new dwelling is supported by both the LAP and the current development plan. The planning authority highlight that it is the scale of replacement that is contrary to Objective TA07 (b) but will not be contrary to the plan in all other respects. In my mind the desired outcome of Objective TA07 (b) is to further reinforce the restriction on year round occupation by limiting the scale of residence to that of a holiday home. The applicant has

stated a willingness to use the dwelling as a holiday home and I have recommended that a condition should be attached to enforce this. That being the case, I am satisfied that though the scale of replacement would be contrary to the LAP, the overall development would not contravene the plan or be incompatible with the objectives contained therein. The Planning Authority's reason for refusal was on the basis that the proposal would be contrary to an objective of the LAP and not a material contravention of the plan. I am satisfied that the provisions of Section 37 (2) (b) of the Planning and Development Act 2000, as amended do not apply.

7.3.6. All other aspects of the proposal would meet the requirements of the statutory plan, subject to a condition controlling holiday use. The objectives listed in TA07 are met by the proposed development with the exception of the percentage scale of increase. In my view, the current proposal before the Board is not excessive in scale and is in keeping with the established pattern of development in the area which is predominantly characterised by extended and improved chalets.

7.4. Other Matters

7.4.1. In terms of technical requirements, I am satisfied that the proposal complies with the development management standards as set out in the Development Plan as they pertain to chalet development. No significant changes are proposed to the access and parking arrangements. There are no detailed specifications on file for the proposed retaining walls. I note that the Environment Section of the Council required the submission of detailed specifications for the pumping stations and details that concern Irish Water and the connections to the public sewer as further information. I am satisfied these outstanding issues can be dealt with by condition if the Board is of a mind to grant permission.

7.5. Appropriate Assessment

7.5.1. I note the existing dwelling and serviced nature of this edge of town location, the site will benefit from access to public mains sewerage and water. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and lack of proximity to the nearest European site, I am satisfied that no appropriate assessment issues arise and that the proposed development

would not be likely to have any significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend that permission be granted subject to condition as set out below.

9.0 Reasons and Considerations

Having regard to the pattern of development in the area and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable having regard to its design, would not seriously injure the visual or residential amenities of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and by the further particulars received by An Bord Pleanála on the 20th day of July, 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The house shall be used as holiday home accommodation and shall not be used as a permanent place of residence.

Reason: In the interest of clarity and to support the objectives of the Courtown and Riverchapel LAP 2015 (as extended).

3. Details including samples of the materials, colours and textures of all the external finishes to the proposed dwelling and garage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of protecting the character of the area.

4. Prior to the commencement of development, the applicant shall submit details and specifications for the retaining walls to be agreed in writing with Planning Authority. Reason: In the of interests of visual and residential amenities.

5. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

6. Prior to the commencement of development, the developer shall submit details and specification for the proposed pumping station on site to be agreed in writing with the Planning Authority.

Reason: In the interest of public health.

7. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. Prior to the commencement of development, the developer shall enter into a water and wastewater connection agreement with Irish Water.

Reason: In the interests of public health.

9. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 hours to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

11. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Development Contribution Scheme made under section 48 of the Act be applied to the permission.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Stephen Rhys Thomas
Senior Planning Inspector

17 September 2023