



An  
Bord  
Pleanála

## Inspector's Report

**ABP-317672-23**

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<b>Development</b>	Construction of a single storey dwelling, vehicular entrance, WWTP and all ancillary site works
<b>Location</b>	Rathmoylan, Dunmore East, Co. Waterford
<b>Planning Authority</b>	Waterford City & County Council
<b>Planning Authority Reg. Ref.</b>	23161
<b>Applicant(s)</b>	Ronan Collins
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Ciaran & Jane Bailey
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	22 <sup>nd</sup> December 2023
<b>Inspector</b>	Bernard Dee

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## 1.0 Site Location and Description

- 1.1. The appeal site is located to the west of the village of Dunmore East in the townland of Rathmoylan. The site is located to the south of the coast road (L4068) between two existing dwellings – in effect the site is an infill site – in an area primarily used for agricultural purposes and with a dispersed rural housing pattern.
- 1.2. The appeal site is enclosed by a hedge on all sides with a field gate located in the NE corner of the subject site which is to be retained but only for access to the adjacent agricultural fields. There are dwellings on either side of the site and across the road from the appeal site.

## 2.0 Proposed Development

- 2.1. It is proposed to construct a single storey dwelling with a footprint of 11.37m x 11.37m and a ridge height of 5.44m. Two bedrooms are proposed and a sensory room to cater for the health needs of the proposed occupant. The GFS of the proposed dwelling is stated to be 102m<sup>2</sup>. The architectural style of the proposed dwelling is contemporary.
- 2.2. A new vehicular entrance is proposed onto the public road on the northern boundary of the site and a WWTP and percolation are also proposed. Mains water supply is proposed for the dwelling. The appeal site area is 0.4ha.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission for the proposed development was granted subject to 10 no. conditions on 12<sup>th</sup> July 2023. Condition No. 3 requires that the dwelling be occupied by the applicant for the first seven years after the dwelling has been constructed and occupied.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The main points raised in the Planner's Report on file are as follows:

- The application site is located in an area that is zoned agriculture and to protect and improve local amenity. In addition, the site is located in an 'Area under Strong Urban Influence' as defined in the Development Plan and in a 'Most Sensitive' classification in the Landscape and Seascape Character Assessment in the Development Plan.
- The applicant currently lives with his parents approximately 1km from the appeal site and has a medical condition which requires that the dwelling be built within specific design parameters including the requirement for a sensory room.
- The siting and design of the proposed dwelling is acceptable design of the proposed dwelling is acceptable and notwithstanding the location of the site in an area designated as 'most sensitive' in landscape terms, there would be no significant negative impact on the visual amenity of the area.
- As the proposed dwelling is located between two existing houses, the issue of ribbon development does not arise in this instance.
- There are no problems with the proposed WWTP and percolation area or with the new vehicular access proposed in terms of traffic safety issues.

### 3.2.2. Other Technical Reports

- Water Services have no objection to the proposed dwelling subject to conditions.

### 3.2.3. Prescribed Bodies

- No responses on file.

### 3.2.4. Observations

- Two observations were made in relation to this application, one of which is the Third Party in this appeal, and they raised the same points as in the current appeal which are summarised in Section 6.0 below.

## 4.0 Planning History

### 4.1. On the Appeal Site

- No valid planning history on the appeal site.

### 4.2. In the Vicinity of the Appeal Site

- Ref. ABP-304134-19 (D5 2019/2) – Relates to a referral to the Board in relation to whether works concerning the creation of an access road and entrance are or are not development and/or are or are not exempted development. The Board decided on 28<sup>th</sup> November 2019 that the works were development and were not exempted development. On foot of this refusal a retention application was lodged for the access works.
- Ref. ABP-311247-21 (20510) - Retention permission refused on 29<sup>th</sup> June 2022 for the house access road as constructed and planning permission for the extension of the application site boundary of planning permission 16/21 to include the access road and modifications to the entrance road sightlines and all associated works. Traffic hazard was the reason cited for refusal of the retention permission.
- Ref. 16/21 – Permission granted subject to 12 no. conditions on 14<sup>th</sup> April 2016 for a dwelling house and garage with waste water treatment system and access road together with all ancillary site works.
- The Board should note that all the above cases relate to the same property which is located approximately 300m to the west and southwest of the current appeal site.

## 5.0 Policy and Context

### 5.1. Development Plan

The Waterford City & County Development Plan 2022-2028 is the statutory plan for the area within which the appeal site is situated and came into effect on 19th July 2022. Set down below are the policies and objectives contained in the Development Plan relevant to this appeal. National and Regional policies are primarily set down in Chapters 2 and 3 of the Development Plan to which I draw the Board's attention.

Volume 2, 11.1 - The appeal site is located outside Dunmore East settlement boundary. All land outside of the designated settlements and land zoning maps is regarded to be zoned as 'White Lands' and that all such lands outside of the designated settlements and land zoning maps is regarded to be zoned as Agriculture A. White lands/agriculturally zoned lands are not listed in Table 11.2 – Zoning Matrix.

#### 11.1.4 White Lands

These lands relate to all areas outside zoned and/or designated settlement. These lands are chiefly in agricultural use, and may contain some isolated development. Such lands are not currently zoned under any land use classification.

#### Appendix 8 - Table A8.2. Sensitivity Classifications and Map A8.3

The appeal site falls within an area designated as 'Most Sensitive' - Very distinctive features with a very low capacity to absorb new development without significant alterations of existing character over an extended area.

### 4. Landscape Sensitivity Guidelines

4.1(a) Most Sensitive Areas Landscape Character - Areas and features designated as 'Most Sensitive' represent the principal features which create and sustain the character and distinctiveness of the surrounding landscape. To be considered for permission, development in or in the environs of these areas must be shown not to impinge in any significant way upon its character, integrity or uniformity when viewed from the surroundings. Particular attention should be given to the preservation of the character and distinctiveness of these areas as viewed from scenic routes and the environs of archaeological and historic sites.

## L02 - Protecting our Landscape and Seascape

We will protect the landscape and natural assets of the County by ensuring that proposed developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of their area and ensuring that such proposals are not unduly visually obtrusive in the landscape, in particular, in or adjacent to the uplands, along river corridors, coastal or other distinctive landscape character units.

2.10.1 Rural Area under Strong Urban Influence - 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. Further revitalisation of these areas will be achieved by implementing other Development Plan policy objectives which will enhance development opportunities by stimulating the regeneration e.g., through the promotion and support of economic development initiatives like agri-tourism, cottage type industries and local enterprise, as referred in Chapter 4. Our primary objective and aim will be to ensure real and long-term community consolidation and growth of our smaller towns, rural settlements and settlement nodes. Therefore, we will have regard to the viability of our smaller towns and rural settlement nodes in the implementation of rural housing policy.

Rural Housing Policy Objectives – General H 24 - 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.

Rural Area under Strong Urban Influence 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 settlement nodes. The Council will manage sustainable growth in designated 'Rural Areas Under Strong Urban Influence' and facilitate the provision of single houses in the countryside based on the core consideration of demonstrable economic, social or local need to live in a rural area, siting and design criteria for rural housing and compliance with statutory guidelines<sup>3</sup> and plans, having regard to the viability of smaller towns and rural settlements.

New Homes in the Open Countryside - Policy Objectives H 28 - We will facilitate the provision of single housing in the countryside, in rural areas under urban influence, based on the core consideration of demonstrable economic, social or local need to live in a rural area, as well as general siting and design criteria<sup>4</sup> as set out in this plan and in relevant statutory planning guidelines, having regard to the viability of smaller towns and rural settlements.

#### Housing Need

Persons with an economic need to live in the particular rural area would include those whose employment is intrinsically linked to the rural area in which they wish to build (e.g. farming, horticulture, forestry, bloodstock, fishing or other similar rural employment) and who require a dwelling to meet their own housing needs close to their place of work.

Persons with a demonstrable social need to live a particular local rural area would include those that have lived a substantial period of their lives (7 years or more) in the local rural area and who require a dwelling to meet their own housing needs close to their families and to the communities of which they are part. A local area for the purpose of this policy is defined as an area generally within a 10km radius of the applicant's former place of residence. This rural housing policy will apply equally to those living in the local area, who require a new dwelling to meet their own housing need, as well as returning emigrants wishing to establish a permanent residence for themselves and their families in their local community.



## 5.2. Natural Heritage Designations

The following natural Heritage designations are located to the south of the appeal site:

- Seas off Wexford SPA - 004237.
- pNHA - Dunmore East Cliffs – 000664.

## 5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive 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. The grounds of appeal, in summary, are as follows:

- The applicant has not demonstrated that he satisfies the local housing need requirements in an area which is under strong urban influence.
- The proposed dwelling is located on agricultural land and is not designated for residential development and the development would compromise the use of said lands for agricultural use.
- The proposed development would constitute ribbon development and would contribute to the suburbanisation of rural land.

The majority of the appellants submission relates to the planning history of the lands to the west of the appeal site as outlined in Section 4.2 above and is therefore not of relevance to the current appeal. Similarly, the appellant's submission and documents appended thereto relate to issues and correspondence with the Waterford County Manger and Director of Services which are not relevant to this appeal.

## 6.2. Applicant's Response

The applicant has responded, and in summary, makes the following points:

- There is a genuine housing need for the proposed dwelling especially having regard to the medical condition of the applicant.
- The appellant's objection is not based on the proposed development per se but relates to a dispute with another family member and the appeal should therefore be dismissed as being vexatious.
- The Planning Authority robustly assessed the merits of the proposed development and has granted permission with appropriate conditions attached.
- The design of the house is appropriate to its context, does not constitute ribbon development and proposes a safe access onto the public road.

The Board should note that the First Party response has engaged in detail with items that were raised by the Third Party submission which I have deemed to be not of relevance to this appeal and hence these responses have not been summarised above.

## 6.3. Planning Authority Response

- The Planning Authority has responded that all relevant issues were addressed in the Planner's Report on file and urges the Board to uphold the decision of the Planning Authority.

## 6.4. Observations

- None received.

## 6.5. Further Responses

- Not applicable.

## 7.0 Assessment

Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that 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 main issues, therefore, are as follows:

- Principle of development.
- Other issues.
- AA Screening.

### 7.1. Principle of Development

7.1.1. Having regard to the white lands/agriculturally zoned land on which the appeal site is located, and to the non-listing of these zonings in Table 11.2 (Zoning Matrix) of the Development Plan, each proposal for residential development needs to be assessed in accordance with other criteria set down in the Development Plan – such as rural housing need, access, waste water treatment, visual impact, etc – Accordingly, there is no objection in principle to a residential proposal on the appeal lands.

7.1.2. With regard to the issue of ribbon development, the infill site where the proposed dwelling is to be located does not qualify as ribbon development which is defined as “defined as five or more houses existing on any one side of a given 250 metres of road frontage”. This situation does not occur along the road frontage of the appeal site so ribbon development is not an issue in this instance.

7.1.3. Having regard to the above, I conclude that the construction of a dwelling at this location is acceptable in principle.

### 7.2. Other Issues

7.2.1. The main issue aside from technical issues such as safe access and the proper treatment of waste water, which I concur with the Planning Authority are satisfactory in this case, is the issue of rural housing need being satisfied.

7.2.2. Regarding the issue of housing need, Chapter 7 of the Development Plan recognises that in assessing this issue, consideration will be given “to persons with a

*demonstrable social need to live a particular local rural area would include those that have lived a substantial period of their lives (7 years or more) in the local rural area and who require a dwelling to meet their own housing needs close to their families and to the communities of which they are part. A local area for the purpose of this policy is defined as an area generally within a 10km radius of the applicant's former place of residence".*

7.2.3. I note in this regard that the applicant has lived with his parents for the last 14 years whose house is located in Ballymacaw, approximately 1km to the west of the appeal site. Accordingly, I am of the opinion that the applicant satisfies the rural housing need criteria set down in the Development Plan. Additionally, regard must be had to the medical needs of the applicant which further strengthens the claim for local housing need.

7.2.4. Having regard to the above, I conclude that the applicant satisfies rural housing need criteria as set down in the Development Plan.

### 7.3. AA Screening

7.3.1. Having regard to the relatively minor development proposed and the distance from the nearest European site, no Appropriate Assessment issues arise and it is not considered 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

I recommend that planning permission be granted for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

Having regard to the infill location of the proposed development, together with its design, scale, bulk and massing, it is considered that the proposed development would not seriously injure the visual amenities of the area and would not militate against the preservation of the rural environment and would not set an undesirable precedent for other residential development in the vicinity. The proposed

development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 19<sup>th</sup> day of May 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.</p>
2.	<p>(a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.</p> <p>(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.</p> <p>This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale. Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area</p>

3.	Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800]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.
4.	Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Reason: In the interest of visual amenity.
5.	Water supply and drainage arrangements, including the attenuation and 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.
6.	Prior to commencement of development, the developer shall enter into a water connection agreement with Irish Water. Reason: In the interest of public health.
7.	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.
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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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**Bernard Dee**  
**Planning Inspector**

**15<sup>th</sup> January 2024**