



An
Bord
Pleanála

Inspector's Report ABP-319258-24

Development	Retention of two mobile homes, wastewater treatment system, driveway and ancillary development and permission for widening of existing driveway and ancillary works		
Location	Ballymacaw, Dunmore East, Co Waterford.		
Planning Authority Ref.	2360620		
Applicant(s)	Bill Stacey		
Type of Application	Retention Permission and permission	PA Decision	To refuse
Type of Appeal	First party	Appellant	Bill Stacey
Observers	Shane Statham; Mark and Ben Clery; Jane Dwyer; Evelyn McNamara; and Pat Dwyer and others		
Date of Site Inspection		Inspector	Ann Bogan

1.0 Context

1. Site Location/ and Description.

The 0.3ha site is located in a rural location close to the coast at Rathmoylan Cove. The site is on the western side of the Rathmoylan Cove road (L8046), which is a

cul de sac. There are 5-6 houses on the cul de sac road and at the cove, and one existing mobile home on the west side of the cove and a group of 2-3 older 'chalets' adjacent to the cove.

There are two mobile homes on the subject site, one in the north west corner of the site and a second close to the southern boundary. A wastewater treatment system has been installed and a polishing filter appears to be in place. There is an existing well on the western boundary. Piers have been erected at the entrance, which appears to have been already widened to some extent and a roughly surfaced driveway leads into the site.

2. Description of development.

Retention planning permission is sought for:

- Two mobile homes
- A wastewater treatment system
- Driveway and ancillary development

Planning permission is sought for:

- Widening of existing access
- Ancillary site development works.

3. Planning History

99/837 William Stacey: refusal of permission for removal of two temporary dwellinghouses and septic tank and replace with a dwelling and septic tank, as it would be obtrusive in the landscape; seriously injure visual amenities; be contrary to Development Plan scenic area policies; narrow carriageway and inadequate sightlines resulting in increased traffic hazard; design of percolation area likely to lead to ponding of effluent and public health hazard

79/846 William Stacey: refusal of permission for bungalow

4. National/Regional/Local Planning Policy (see Appendix 1))

Waterford City and County Development Plan 2022-2028

- Site designated as: 'white lands' (01)

- Site situated in 'Most Scenic' scenic classification in Landscape and Seascape Character Assessment
- Recreational Route: Portally to Ballymacaw

Written Statement Volume 1

- ECON 24: Tourist accommodation
- ECON 25: Camping/Caravan Sites
- Landscape Policy Objective L02 Protecting our landscape and seascape

Development Management Standards (Volume 2)

- Development Management DM13
- Section 8.6 and Table 8.1 Minimum sightline requirements

5. Natural Heritage Designations

- The site is 1.03km North West of the Seas off Wexford SPA Special Protection Area (Site Code: 004237 Version: 3)
- The site is 2.71km South East of the Tramore Dunes and Backstrand SAC Special Area of Conservation (Site Code: 000671 Version: 3.0299999713897705)

2.0 Development, Decision and Grounds of Appeal

6. PA Decision: Refuse retention permission and permission

Four reasons for refusal in summary

1. Location of the development would be contrary to Tourism Policy ECON 24 and Econ 25 which seek to locate tourist accommodation within existing towns and villages or adjacent to same.
2. Site is in an exposed coastal location in an area designated 'most sensitive landscape' in the Scenic Classification in the Landscape and Seascape Character Assessment of the Waterford City & County Development Plan 2022-2028, detracts from the visual amenities of the area, would set an undesirable precedent for other such development and be contrary to Landscape Policy Objective L 02 of the Waterford City & County Development Plan 2022-2028 which seeks to protect the landscape and natural assets of the County.

3. Traffic movements arising from the development would endanger public safety by reason of traffic hazard given the narrow substandard nature of the road accessing the proposed development and as the required sightlines have not been demonstrated on the plans submitted with the planning application
4. Planning Authority not satisfied that the minimum separation distance between the onsite wastewater treatment system and neighbouring water supplies are in accordance with the “Code of Practice for Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)” – Environmental Protection Agency, 2021. Therefore, the development would be prejudicial to public health.

6A. Third party submission to planning authority

Six submissions were received on the planning application. The issues raised are similar to those raised in observations to the appeal, as outlined below.

7. First Party Appeal. Grounds:

- Principle of development: Dispute that development contrary to Tourism Policy objectives ECON 24 and ECON 25. Consider the development can be considered under ECON 24:
 - Long established historic use of site by client's family for holiday accommodation
 - The mobile homes do not have discernible negative visual impact on landscape given their established use and natural screening
 - Services are available on the site re wastewater treatment and potable water
 - Small scale tourism accommodation, contributes to local economy
- ECON 25 provides objectives for camping/caravan sites. Use of two mobile homes is not same category as camping/ caravan sites, as does not attract large number of tourists so ECON 25 not appropriate in this case
- Planner's report notes site is zoned 'whitelands' and Section 11.1.5 of the Development Plan notes these may contain some isolated development. Argues principle of the development namely occasional use by client's family is in line with 'whitelands' designation.

- Visual Impact: the two mobile homes sit innocuously in the landscape and their visual impact is no more significant than many of homes in the area, site is screened along adjacent road, limiting visibility of mobile homes, which are also not visible from L4068 road. The mobile homes have been a feature for 50 years and this should be considered in assessing impact on landscape.

8. PA Response

- None

9. Third Part Observations on appeal

Shane and Lee Stratham

Road is the only access to Rathmoylan Cove and newly developed coastal path. Very busy with traffic during tourist season and no designated parking. Huge increase in traffic since Covid and opening of coastal path.

Debris from mobile home had blown about before and after storm Ophelia and site is not suitable for a mobile home due to wind and storm exposure.

Mark and Ben Cleary

- Reiterate observations submitted on planning application
- Referring to sketch ground plan in Part two of Engineering report: shows their water well. Concern that ground water flow direction is in the general direction of their house and well, and newly instated waste water treatment system on the site has not been through Waterford Co Council inspection, including that of proximity.

Jane Dwyer

- In mid to late 2023, applicant put in new percolation system, removed hedgerow, widened entrance without planning and put in two mobile homes on site, which had previously been cleared of debris from derelict caravans which were uninhabitable since late 1980s.
- Disregard for safety during unauthorised development of site, documented by Enforcement Officer
- Applicant did not engage with observer, his nearest neighbour until works had commenced

- The mobile homes are contravening the County Development Plan in which the area is classified as 'most sensitive landscape'. Visual impact of the mobile homes is not in keeping with the beauty of the area or the existing houses.
- History of refusal of permission on the site due to narrowness of road and absence of sightlines resulting in increased traffic hazard
- Queries how ESB connected to one of mobile homes as it is unauthorised development.
- Applicant destroyed hedgerow to widen entrance without planning permission, and contrary to Wildlife Act 1976 restrictions.

Evelyn McNamara

- Appeal document states in section 3.1 that mobile homes sit innocuously in the landscape. Observer includes photos at locations along the Ballymacaw to Rathmoylan to Portally cliff walk; and photo from L4068, where the caravans are visible
- Section 1.4 referring to site sketch of wells: the well and natural spring on her land or her parents land are not shown and are within 250m radius.
- Section 1.6 Fig 2 and 3: questions that photos submitted were taken in 2017, contends they are likely from 1970s or 1980s.
- Reiterates that as per all submissions from her neighbours, there has been no tourist use of the field since late 1980s. The historic 1970s caravans have been uninhabitable shells since late 1980s, broken down over time by the elements into debris.

Pat O'Dwyer on behalf of Rathmoylan and surrounds Residents association

Restates the reasons for refusal from the Planner's report with the following additions:

- Location is away from towns and villages contrary to Development Plan policy. Creates precedent for others to install mobile homes in this area of natural beauty

- Concern re impact on 'most sensitive' landscape, detracts from visual amenities and contrary to landscape policy of Development Plan. The mobile homes are a significant blight on the character of the landscape
- Traffic from the development would endanger public safety by reason of traffic hazard, due to narrowness of road and inadequate sightlines
- Minimum separation distances between wastewater treatment system and neighbouring water supplies is not in accordance with EPA code of practice. There are three additional water supplies not shown on applicant's submission that are within 50m of applicant's wastewater treatment system.

3.0 Environmental Screening

9. EIA Screening – Use standard wording with site specific focus

Having regard to the nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.

10. AA Screening - Use standard wording with site specific focus

Having regard to the nature and scale of development, and absence of connectivity to European sites, 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.

4.0 Assessment

- 4.1. Having reviewed the documentation submitted with the application and the appeal and the observations submitted and taking account of relevant policies and guidance and having inspected the site, I consider the main issues to be considered in this appeal are as follows:

- Historic use

- Zoning
- Landscape
- Tourism locational policies
- Traffic safety
- Wastewater treatment

4.2. **Historic Use**

- 4.2.1. The application and appeal documents state that the site was purchased in the 1970s with a caravan in place and this was replaced and another caravan added for family use in the late 1970s. The caravans were replaced by new units in 2023 and a wastewater treatment system installed. No planning permission is on record for the historic or recent caravans/mobile homes. Planning permission was refused on two occasions for a dwelling house on the site in 1979, and in 1999, for reasons of visual amenity, traffic safety and public health. I note that there are a number of observations on the planning application and appeal from residents in the area which dispute the details of when the older caravans were in use and stating that they were not in use or in a usable condition since the late 1980s/early 1990s. Regardless of any historic use, the current application which is for retention of two new mobile homes and associated development, must be assessed based on current Development Plan policy and standards.

4.3. **Zoning**

- 4.3.1. The site is un-zoned and is designated as 'white lands' in the Waterford City and County Development Plan 2022-2028 (the Development Plan), which refers to lands outside of zoned or settlement areas. They are mainly 'in agricultural use and may contain isolated development'. The appellant argues that the two mobile homes are for family use and can be considered as an example of isolated development and are an acceptable use in the context of the wider area, given the minor scale and historic use. However, this does not take account of the fact that although 'white lands' are not zoned for a particular land use classification, they are covered by a range of other policies in the Development Plan, such as economic development and tourism policies and landscape protection policies, which must be considered when assessing the development.

4.4. Landscape

- 4.4.1. The site and the nearby Rathmoylan Cove are designated as 'Most Sensitive' landscape in the scenic classification in the Landscape and Seaside Character Assessment contained in the Development Plan. These are areas which have 'Very distinctive features with a very low capacity to absorb new development without significant alterations of existing character over an extended area' (Table A8.2 of the Landscape and Seascape Character Assessment of the Development Plan). The Development Plan contains a strategic objective to protect sensitive landscapes and seascapes and this is expanded on in Landscape Policy Objective L02 which states: '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'.
- 4.4.2. The subject site is in a prominent coastal location overlooking Rathmoylan Cove and the coastal walk which passes through the cove. The southern mobile home is visible from the beach and the approach road and both mobile homes are visible on the skyline from the coastal walk to east and west, and from countryside views from the east. This is a sensitive coastal location of high scenic value and in my opinion the two new mobile homes detract from the visual amenity and character of the area, and are contrary to the landscape policy objectives outlined above. Permitting the development could create an undesirable precedent for other similar development in the area and in other coastal locations of high scenic value.

4.5. Tourism Location Policies

- 4.5.1. Tourism Policy Objectives ECON 24 states that 'Tourist accommodation should generally be located within towns and villages....' Tourism Policy Objectives ECON 25, which addresses camping and caravan sites, states 'We will ensure that all camping sites are of a standard which do not adversely impact on environmental and landscape quality and amenity' and that 'Camping sites should be located at appropriate locations within or adjacent to existing settlements.' The site is located outside any settlement so would not comply with these objectives regarding location. ECON 25 further states 'We may facilitate proposals for camping sites which support

rural tourism initiatives developed upon rural enterprise, natural heritage assets and outdoor recreational activities and which are located at a rural location removed from any settlement or high potential tourism attractor, subject to the capacity of the site and the location to facilitate the proposal’.

- 4.5.2. The appellant argues that the subject mobile homes are appropriate to consider under ECON 24 due to the historic use, the absence of visual impact, the availability of wastewater treatment and potable water services on site and the mobile homes provide small scale tourism related accommodation which contributes to the local economy. He contends that the development should not be considered under ECON 25 as it is just for 2 mobile homes and is not a camping /caravan site.
- 4.5.3. The development is for two new mobile homes in an area of high scenic value and where the policy is not to allow development that would impact negatively on the landscape and in my view the location does not have the capacity to facilitate this development, one of the criteria referenced in ECON 25. I do not support the view that the historic use or presence of services on this site or the small-scale potential local economic gain, override policy objective ECON 24 which seeks to locate tourism developments in settlements, and where there is likely to be easier access to services and facilities and greater opportunities to benefit the local economy, and also where potential for negative impact on sensitive landscape is reduced.

4.6. Traffic safety

- 4.6.1. The cul de sac road that serves the site and the cove is very narrow, most of it being under 2.5m in width. It serves the existing houses on the road and also additional traffic from people visiting the beach and accessing the coastal walk. I noted a fair amount of additional traffic and associated roadside parking during the site inspection, much of it related to use of the coastal path. The drawings submitted with the application show sightlines of 55m to the south of the entrance and 31m to the north. The appellant argues that traffic is very light for most of the year and as this is a cul de sac with not more than 3 dwellings served between the site and the end of the cul de sac to the south is complies with Section 8.6 of the development plan which requires ‘sightlines of 30m for dwellings accessed onto a cul de sac (serving not more than three dwellings).’

4.6.2. I note there are circa 6 houses on the road, with 3 to 4 of these south of the site, as well as a mobile home and number of chalets. I accept that due to the nature of the road, speeds are likely to be lower than the 80km speed limit and the sightlines which can be achieved by widening the entrance as proposed may be sufficient. However, taking the narrowness of the road and the traffic being generated by people accessing the cove and coastal path into account, I would be concerned that traffic movements associated with the development (which is likely to be used mainly during the busy summer period) would endanger public safety by reason of traffic hazard.

4.7. **Wastewater Treatment System**

- 4.7.1. A completed site characterisation report was submitted with the application. The Planning authority was of the view that the trial hole investigation tests were undertaken following the installation of the treatment system, however this is refuted in the appeal. I note the trial hole and test holes are still evident on the site. The Site Characterisation found a surface percolation test result of 27 and a sub-surface test of 17 and stated that all minimum separation distances are met. It concludes that the site is suitable for development. A secondary treatment system and soil polishing filter is recommended, discharging to groundwater, and these have been installed.
- 4.7.2. A copy of the Site Sketch/Desktop Study extracted from the Site Suitability Report submitted with the application accompanies the appeal. It shows ground water flow direction and some features within 250m of the trial hole location and it states that information will be confirmed during on-site assessment. It shows the existing well on the site and one other well serving a house to the south. The on-site assessment again references only these two wells. I see no evidence or reference to a public water supply in the vicinity. Wells to serve any other existing dwellings in the vicinity are not shown on the Site Sketch or referenced in the on-site section of the Site Characterisation. I note that a number of observations made reference to additional wells in the vicinity which are not shown on drawings/documentation submitted.
- 4.7.3. The EPA Code of Practice for Domestic Wastewater Treatment Systems 2021 for dwellings equal to or less than 10 PE (EPA CoP 2021) requires a separation distance of between 30m and 60m from down gradient domestic wells. A letter submitted with the appeal from WJG consultants who prepared the Site Suitability

Assessment state that site suitability test results indicate a separation distance of 45m would be required to any down gradient domestic bored well based on Table 6.2 of the EPA CoP 2021. This would appear to be a sufficient distance to protect the well indicated on the drawing. However, it is of concern that documentation does not show wells serving other adjacent dwellings/chalets. Therefore, I am not satisfied, based on the documentation provided, that the minimum distances between the wastewater treatment system on the site and neighbouring water supplies are compliant with EPA CoP 2021.

5.0 Recommendation

- 5.1. I recommend that permission for the retention of development and permission for development be refused for the reasons below.

6.0 Reasons & Considerations

1. Having regard to the nature of the development it is proposed to retain, the location of the site in a rural area outside of any settlement and the documentation provided with the application and appeal, it is considered that the development at this location is contrary to Tourism Policy Objectives ECON 24 and ECON 25 of the Waterford City and County Development Plan 2022-2028, which seek to locate tourist accommodation within or adjacent to existing towns and villages, and if permitted would set an undesirable precedent for similar development and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The site is located in a prominent coastal location in a 'most sensitive' landscape as designated in the Scenic Classification in the landscape and Seascape Character Assessment in the Waterford City and County Development Plan 2022-2028. It is considered that the development at this location detracts from the visual amenities of the area and would be contrary to Landscape Objective L02 of the Waterford City and County Development Plan 2022-2028, which seeks to protect the landscape assets of the County by ensuring that development proposals do not detract from the character and scenic value of the area and are not unduly visually obtrusive in the

landscape. The development would, therefore be contrary to the policies and objectives of Waterford County Development Plan 2022-2028 and if permitted would set an undesirable precedent for other similar developments and would, therefore, be contrary to the proper planning and sustainable development of the area.

3. Traffic movements arising from the development would endanger public safety by reason of traffic hazard due to the narrow sub-standard nature of the road accessing the development and the development would, therefore, be contrary to the proper planning and development of the area.
4. The Board is not satisfied, on the basis of the documentation provided with the application and the appeal, that the minimum separation distance between the onsite wastewater treatment system and neighbouring water supplies are in accordance with the Code of Practice for Domestic Wastewater Treatment Systems (Population Equivalent < or =10), Environmental Protection Agency 2021. Therefore, the development would be a danger to public health and be contrary to 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.

Ann Bogan

Planning Inspector

17/06/2024

Appendix 1 Relevant policies and guidance

Waterford City and County Development Plan 2022-2028

Volume 1 Written Statement

ECON 24 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.

ECON 25 Camping/Campervan Sites

We will ensure that all camping sites are of a standard which do not adversely impact on environmental and landscape quality and amenity, avoid adverse effects on Natura 2000 sites and build and uphold the reputation of Waterford as a high quality destination for guests from home and abroad. Proposals for camping sites should be consistent with the development management standards of Volume 2 and comply with one of the following

- **Settlements:** Camping sites should be located at appropriate locations within or adjacent to existing settlements where such proposals demonstrate the provision of safe pedestrian links to the settlement.
- **High Potential Tourism Attractors:** Camping sites to service a high potential tourism attractor such as the Waterford Greenway, coastline, rivers, Comeragh Mountains, walking and tourism trails, outdoor recreational amenities or Blueways, should be located at existing settlements or at established centres which provide existing services to tourists, subject to the capacity of the site and the location to facilitate the proposal.

All Other Locations: We may facilitate proposals for camping sites which support rural tourism initiatives developed upon rural enterprise, natural heritage assets and outdoor recreational activities and which are located at a rural location removed from any settlement or high potential tourism attractor, subject to the capacity of the

site and the location to facilitate the proposal. The scale of any tourism accommodation will be determined by the nature and scale of the existing tourist attractions and/or the extent of existing underutilised agricultural/commercial/ancillary building stock available for reuse for the purposes of tourist accommodation and ancillary services.

- Campervans: Proposals for the provision of standalone campervan facilities i.e. designated parking bays/electrical supply, within car parks will be considered in terms of the availability of surplus car parking and the capacity of the site and the location to facilitate the proposal.

Chapter 10 Landscape Coast/Marine and Green Blue Infrastructure

Strategic Objective: Protect our sensitive landscapes and seascapes which contribute to the distinctiveness of Waterford as a place.

Landscape Policy Objective L 02 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.”

Development Management Standards (Volume 2)

Section 4.13 relates to tourism activities and requires all applications for tourism development to comply with the following:-

Development Management DM 13

Does not place unsustainable demands upon existing or planned infrastructural capacity for the area;

- Does not conflict with the maintenance of the natural and cultural heritage of the area;
- Is compliant with the policy objectives of this Development Plan (2022-2028) • Reinforces and supports the provision of non-residential tourism facilities in the County either through integration with established facilities, or by the provision of new facilities; and

- Minimises the need for additional vehicular journeys to/ from visitor facilities in the immediate environ

Section 8.6 Sightline requirements

Table 8.1 sets out minimum sightline requirements at entrances. Local Roads with a speed limit of 80km/h require minimum sight distance of 55m.

Sightlines of 30m shall be required for dwelling houses accessing onto a cul-de-sac (serving not more than 3 dwellings).

Zoning:

Site designated 'white lands' (01) 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.