

The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1
D01 V902

AN BORD PLEANÁLA	
LDG- _____	
ABP- _____	
29 APR 2019	
Fee: € _____	Type: _____
Time: _____	By: <u>Hand</u>

26 April 2019

Re: Referral under Section 5 of the Planning and Development Act 2000 (as amended) in respect of the question, "Whether the works concerning creation of an access road and entrance are or are not development and/ or are not exempted development" at Rathmoylan, Dunmore East, County Waterford.

PA Ref: D52019/2

ABP ref: ABP-304-134-19

Dear Sir/ Madam,

I have been engaged by Janice Murphy and Paul Lenehan to respond to your letter of 9 April 2019.

Background

Janice Murphy and Paul Lenehan applied for and received planning permission on 14 April 2016 for a dwelling house and access on their site at Rathmoylan, Dunmore East, County Waterford (planning permission ref: 16/21). The application description was as follows: "*for dwelling house and garage with waste water treatment system and access road together with all ancillary site works*". The permission therefore included for the provision of an access road to serve the proposed house (permission, location plans, folio map, layout and planners report attached – Appendix 1).

No submissions were made to the Planning Authority during the public consultation period of the application and there was no appeal to An Bord Pleanála. Nothing in the proposals changed between the lodging of the application and permission being granted and the conditions of the permission did not alter what had been applied for.

At the time their site was in the joint ownership of Janice Murphy and 9 of her cousins who had jointly inherited an extensive landholding. Access to the site was over a section of existing private access road which was partly owned by Janice Murphy and her cousins which would be extended with a proposed new section of access road.

The first section of the existing private access road is approximately 40m in length and was part of the original public roadway before the road was realigned to remove the right-angled bend in the 1950's. It is in shared ownership between Janice Murphy and her cousins and another landowner to the north. This section of road is outlined in red on the aerial photograph below.

During the site transfer, it materialised the section of road was not a public roadway and there was no public right of way over it. As part of the site transfer process, the landowner to the north, Janice Murphy and her 9 cousins granted each other a reciprocal right of way and, in turn, this was then granted to Janice & Paul as part of the site transfer.

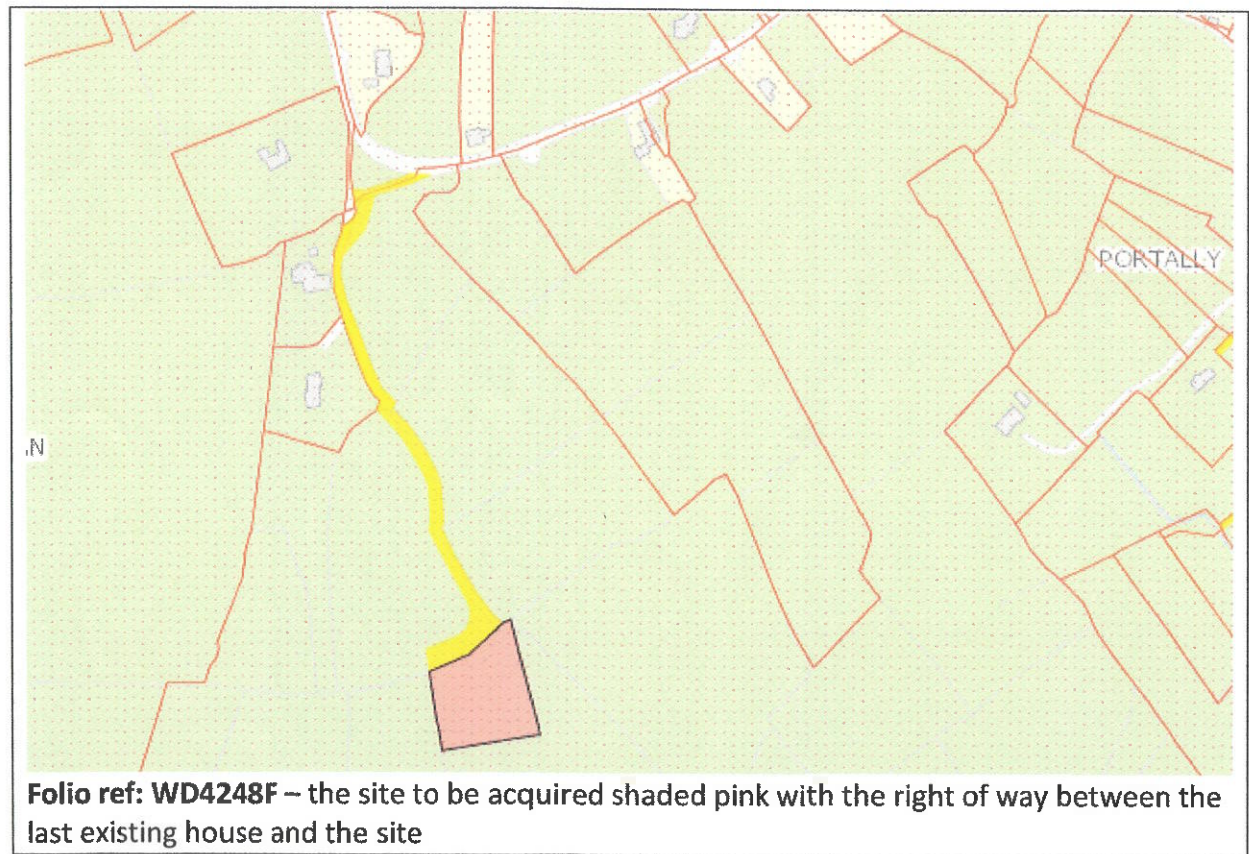


The second section of the existing private access road comprises a small parcel of land contained in folio ref: WD21533F. It is jointly owned under a "Tenants in Common" partnership between Janice Murphy and her cousins (50% ownership) and Ciaran Bailey and Jane Bailey (50%). All of the joint owners and the owners of the house to the south of Ciaran Bailey and Jane Bailey's house have an unregistered right of way over this parcel of land. This parcel of land is outlined in yellow on the aerial photograph above and coloured pink on the folio map extract below.

Before and during the planning process, Janice and Paul had regular neighbourly conversations with Ciaran Bailey and Jane Bailey, during which they often mentioned that they would need to seek their permission to use the parcel at the front of the lane and the Bailey's always indicated that there would be no problem with that.



The third section of the existing private access road, which is approximately 150m in length, is in the sole ownership of Janice Murphy and her cousins. Ciaran Bailey and Jane Bailey had, and still have, a registered right of way to their site and the owners of the other house to the south have a registered right of way over its length. This section of road is outlined in blue on the aerial photograph above.



Planning and post planning situation

When Janice Murphy and Paul Lenehan made their planning application, they were satisfied they had a right of access over the full length of the existing section of private access road and they had the consent of Janice's cousins to carry out all of the proposed works on the shared landholding.

Following the grant of planning permission, as part of the site transfer process, Paul and Janice set about trying to secure the necessary "Grant of Right of Way" over the small parcel of land (folio WD21533F) from the Ciaran Bailey and Jane Bailey who, as noted above, were 50% owners with Janice's family as the other 50% owner. This was necessary to perfect the title and allow Janice and Paul access to their home along the laneway.

Janice and Paul did look at the option of Janice transferring her 1/20th ownership into joint ownership with Paul, but this was not enough to perfect the title. Three solicitors looked at this and all disregarded this option as the original title on this parcel of land was poorly constructed and not sufficient.

Attempts to obtain the necessary grant of right of way over the small parcel of land commenced in early spring 2017 and on 19 July 2017 Ciaran Bailey and Jane Bailey advised in writing they were not prepared to agree to the change. The following is an extract from correspondence sent by them to Paul Lenehan confirming this.

-----Original Message-----

From: Ciaran Bailey [<mailto:ciaran.bailey@gmail.com>]

Sent: Wednesday 19 July 2017 22:37

To: Paul Lenehan <paul.lenehan@sienna.ie>

Cc: tomas O'Donoghue <todonoghue@wit.ie>

Subject: Right of Way

Hi Paul,

Jane and I have been giving the issue a lot of thought, these past few weeks. We have come to the conclusion that this matter has a lot of negative implications for us, now and into the future. We sent an email this evening to our Solicitor informing her that we will not be signing. We do not have any issue with your planned build, and hope you will achieve it. Unfortunately the lane will become a main road for construction traffic for yours and future projects. We wish you luck with the project and hope that alternative access to your site can be achieved. I'm sorry it has taken so long.

Regards

Ciaran & Jane=

As a result of Ciaran Bailey and Jane Bailey not granting the right of way it was necessary for Janice and Paul to enquire about a change to the access route to their proposed house to enable them to implement their permission.

Immaterial Deviation

In light of the impasse, Janice Murphy and Paul Lenehan made a request to the Planning Authority to undertake a minor modification to the permitted development involving a minor adjustment to the private access road to the proposed dwelling. This involved their access circumventing the small parcel of land in common ownership. All of the proposed work involved in this minor adjustment to the access road was on land in the ownership of Janice and her cousins.

On 5 January 2018 the Planning Authority agreed to the minor adjustment which was deemed not to materially affect the planning permission ref: 16/21. The following is the response received.

From: Jim O'Mahony [<mailto:jomahony@waterfordcouncil.ie>]
Sent: Friday 5 January 2018 16:52
To: Paul Lenehan <paul.lenehan@sienna.ie>
Subject: RE: Minor Alteration to layout of access laneway (16-21)

Dear Paul,

I refer to your submission below in relation to 'minor adjustment' of the entrance drive to your proposed dwelling. I wish to advise you that the Planning Authority considers the adjustment as minor in nature and not deemed to materially affect the permission Ref 16/21 and any condition attaching to the said permission..

Regards,

Jim O'Mahony
Senior Planner WCCC

Tel: 05820870
Email: jomahony@waterfordcouncil.ie



The decision of the Planning Authority was a lawful decision to permit an "immaterial deviation" and follows the principle established in previous judgements.

The term "immaterial deviation" stems from a judgement which provided for planning permissions to be interpreted flexibly so as to allow for tolerance in respect of changes to the details provided in the plans and particulars. Reference was made in *O'Connell v Dungarvan Energy Limited*¹ to a passage from *Lever Finance Ltd v Westminster Corporation*² in which Finnigan J. stated - "*In my opinion a planning permission covers work which is specified in the detailed plans and any immaterial deviation therein. It is obvious that, as the developer proceeds with the work there will necessarily be variations from time to time. It should not be necessary for the developers to go back to the planning authority for every immaterial deviation. The permission covers any variation which is not material*".

¹ Unreported High Court, Finnegan J. February 27, 2001.

² [1973] All E.R. 496 at 500; [1970] 3 WLR 732 at 738.

What the Planning Authority did was permit an immaterial deviation to the planning permission and from 5 January 2018 the revision formed part of the development permitted under planning permission 16/21 which Janice Murphy and Paul Lenehan were entitled to implement.

On foot of this decision Janice and Paul commenced the development of the access road to their house on or around 23 April 2018, the first section of which was to circumvent the small parcel of land in common ownership (details of commencement – Appendix 2).

On or around 17 October 2018, the Planning Authority received an allegation in respect of the unauthorised development of a section of private access roadway on the site; that being the section required to circumvent the small parcel of land in common ownership.

Google Earth imagery dated 4 September 2018 demonstrates that not only was the section of road in question complete at the time of the complaint, but the house was also at a stage of nearing completion.



Earlier Google Earth imagery shows the access road was in place on 13 May 2018 as far as the proposed site, which was also stripped.

Therefore, the timeframe between the commencement of works and the initial complaint to the planning authority was around 6 months.



Janice Murphy and Paul Lenehan responded to the Warning Letter, which the Planning Authority had been compelled to issue, reminding it of the decision of 5 January 2018 to the works in question being an immaterial deviation to the planning permission (ref: 16/21). Following investigation, the Council deemed the matter raised in the complaint to be trivial/minor and recommended the file be closed (relevant correspondence attached – Appendix 3).

On 29th January 2019 the Planning Authority responded to the complaint by Ciaran Bailey and Jane Bailey and advised them the re-adjusted section of roadway was not unauthorised and gave reasons for its conclusion (copy of reply letter dated 29 January 2019 attached – Appendix 4).

The Section 5 Declaration request by Ciaran Bailey and Jane Bailey

On 1 February 2019 the Planning Authority was requested to consider an application under Section 5 of the Planning and Development Act 2000 (as amended) in respect of whether the creation of an access road and entrance opposite Ciaran Bailey and Jane Bailey's house are, or are not, development, and whether the said works are, or are not, exempted development.

The applicants' case was made on the basis they considered the construction of the entrance and paved roads had been carried out under the provisions of Article 6(1) and Classes 9 and 13 of (Part 1) Schedule 2 of the Planning and Development Regulations 2001 (as amended), but were de- exempted by Article 9(a)(iii) as they considered it created a traffic hazard.

The Planning Authority did not issue a Declaration; hence the Referral now under consideration.

Vexatious Referral

As noted above, the work to develop the section of private access road to circumvent the small parcel of land in common ownership was the first piece of work undertaken in connection with the implementation of planning permission 16/21. The work commenced around 23 April 2018 and was excavated and surfaced to take construction traffic in a matter of days.

Having refused to grant the right of way to Janice and Paul to provide them with clean title to their house and access route, they could not secure funding. Ciaran Bailey and Jane Bailey were well aware of this, having written to them on 19 July 2017 advising they would not be signing to agree to a grant of right of way across the small parcel of land. In the same message Ciaran Bailey and Jane Bailey wished them luck with their project and hoped that they could achieve an alternative access to their site.

Ciaran Bailey and Jane Bailey sat back and witnessed the entire access road and most of the house being constructed before making a complaint to the Planning Authority about the section of private access road now the subject of this Section 5 Referral. That complaint was not made until around 17 October 2018; almost fully 6 months after works started.

To further frustrate the situation, in the third last paragraph of the Section 5 Referral, Ciaran Bailey and Jane Bailey state: *"We note that the house that this entrance and new road were constructed for (see planning permission 16/21) can also be accessed via the existing laneway and entrance. Furthermore there exists a right of way to the house along the existing lane. Should there be any doubt as to whether the existing right of way extends to all the occupants of the house, then we would be willing to clarify this. We therefore consider that, not only are these works likely to cause a hazard, but there is no need for them in the first place"*.

Both parties knew of the existence of the right of way and that all occupants of the existing houses and the proposed house and Janice Murphy's cousins had entitlement to use it. Ciaran Bailey and Jane Bailey knew the actual reason why the new section of private access road had been developed was due to their refusal to agree to the granting of a right of way to Janice and Paul.

Ciaran Bailey and Jane Bailey actually stated in their message of 19 July 2018 that they knew, as a result of their not agreeing to the granting of a right of way over the small parcel of land in common ownership, that an alternative access would be required. Therefore, they knew they had successfully blocked access to the proposed house along the existing right of way.

It was explained in the letter dated 29 January 2019 from the Planning Authority to Ciaran Bailey and Jane Bailey, in response to their complaint and a subsequent enquiry that, following investigation, the developed access road was in accordance with planning permission 16/21 and the readjusted section of road did not constitute unauthorised development.

For these reasons of contradictory statements, misleading facts and deliberate time delays in raising concerns about the development of the section of access road in question by Ciaran Bailey and Jane Bailey, that it is considered the Referral is vexatious.

Works in accordance with planning permission

On 20 July 2017, following Ciaran Bailey and Jane Baileys' refusal to agree to the granting of a right of way over the small parcel of land in common ownership, Janice and Paul wrote to the Planning Authority and requested a meeting. Following several e-mails they forwarded details of the proposed adjustment to the access road around the small parcel of land in common ownership, as requested. Janice and Paul met the Senior Planner in late December 2017 (see Appendix 5).

On 5 January 2018 the Planning Authority responded advising it considered the adjustment to be "*minor in nature and not deemed to materially affect the permission ref: 16/21 and any condition attached to the said permission*".

The Planning Authority had therefore taken the view that the change was an "immaterial deviation" and therefore in accordance with the planning permission.

While Ciaran Bailey and Jane Bailey may not have been aware of that decision, they were made aware of the change in road alignment on or around 23 April 2018 when its construction started. They chose not to challenge the change until October 2018 at which time the road was complete.

They were formally notified of the Council's determination that the adjustment was in accordance with planning permission 16/21 and not an unauthorised development on 29 January 2019. Again, they chose not to challenge that particular decision.

Instead Ciaran Bailey and Jane Bailey made their Section 5 case on the basis they considered the construction of the section of access road and entrance to have been carried out under the provisions of Article 6(1) and Classes 9 and 13 of (Part 1) Schedule 2 of the Planning and Development Regulations 2001 (as amended), and that the works were de-exempted by Article 9(a)(iii), as they considered they created a traffic hazard.

Section 5 of the Planning and Development Act 2000 (as amended) reads as follows:

“Section 5 - Declaration and referral on development and exempted development.

If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter”.

Section 5 is therefore not a mechanism to interpret a planning permission. The interpretation of a planning permission is a question of law which can only be determined by the Courts³

Being unable to use the Section 5 process to challenge the decision by the Planning Authority that the adjustment of the section of private access road was in accordance with the permission, Ciaran Bailey and Jane Bailey have attempted to challenge the Planning Authority’s decision by suggesting the works were an act of development separate to the planning permission.

In terms of the question posed, firstly, in respect of Class 9, no gateway has been constructed. Secondly, in the context of developing new structures, Class 13 relates only to the construction of new private footpaths and pavements, not roads.

The Planning Authority’s letter of 29 January 2019 made no reference the section of road being undertaken as an exempted development. It states the section of road was in accordance with permission 16/21.

It is considered the question posed in the Section 5 is irrelevant to the works which were undertaken and have been deemed by the Planning Authority to be in accordance with planning permission 16/21.

Other matters

For completeness, Ciaran Bailey and Jane Bailey consider the section of private access road in question to be a traffic hazard and detail their reasons why in the Section 5 Referral letter. However, in their correspondence to Janice Murphy’s and Paul Lenehan on 19 July 2018, it was only the construction traffic passing their property which was a concern to them.

³ This issue is addressed by Garrett Simons at paragraphs 5.23 and 10.29- and onwards, of “Planning and Development Law” (2nd Edition”), Thomson Round Hall 2007:

The Planning Authority outlines in detail in its letter of 29 January 2019 the reasons why the section of private access road in question does not represent a traffic hazard. These reasons were based on their review of the road as constructed. It states the section of road does not impact on sight lines at the junction with the public road, does not interfere with drainage on the public road and does not create a traffic or public safety hazard for public road users.

Conclusion

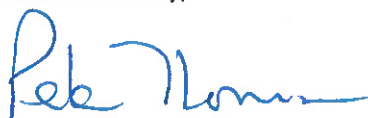
The works involving the construction of the section of private access road have been deemed to be in accordance with planning permission 16/21 by the Planning Authority.

The Section 5 Referral is clearly vexatious and designed to frustrate Janice Murphy and Paul Lenehan completing the development of their house.

Notwithstanding, the classes of development referred to in the Section 5, which Ciaran Bailey and Jane Bailey suggest are relevant to the construction of roads, in fact relate to the construction of footpaths and pavements. The Section 5 is therefore flawed and cannot be answered.

I look forward to the Boards decision

Yours faithfully,



Peter Thomson, MSc, MIPI

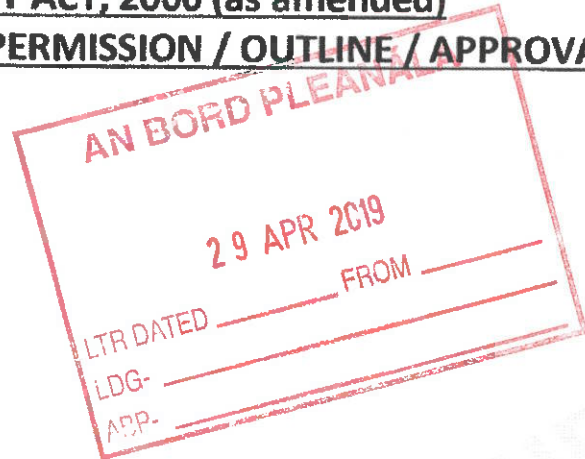




Comhairle Cathrach & Contae Phort Láirge
Waterford City & County Council

PLANNING & DEVELOPMENT ACT, 2000 (as amended)
NOTIFICATION OF A GRANT OF A PERMISSION / OUTLINE / APPROVAL

TO: Janice Murphy and Paul Lenehan
c/o David Smyth
5 Atlantic View
Church Road
Tramore
Co. Waterford



PLANNING REGISTER NUMBER: 16/21

APPLICATION RECEIPT DATE: 19/01/2016

Further to the Notification of the Council's Decision dated : 08/03/2016

Notice is hereby given that in pursuance of the powers conferred upon them by the above mentioned Acts, Waterford City & County Council has granted **PERMISSION** to the above named, and subject to the Conditions as set out in the Schedule which accompanied the Notification of the Council's decision on above date, for the development of land, in accordance with the documents submitted, namely:-

for dwelling house and garage with waste water treatment system and access road together with all ancillary site works at Rathmoylan Dunmore East Co. Waterford

Signed on behalf of Waterford City & County Council.

for DIRECTOR,
ECONOMIC DEVELOPMENT & PLANNING SERVICES

Date : 14/04/2016



Comhairle Cathrach & Contae Phort Láirge
Waterford City & County Council

RL6083981341E
8/3/16

NOTIFICATION OF DECISION TO GRANT - SUBJECT TO CONDITIONS

TO: Janice Murphy and Paul Lenehan
c/o David Smyth
5 Atlantic View
Church Road
Tramore
Co. Waterford

PLANNING REGISTER NUMBER : 16/21

VALID APPLICATION RECEIVED: 19/01/2016

FURTHER INFORMATION RECEIVED DATE ::

In pursuance of the powers conferred upon them by the Planning and Development Act 2000, as amended, Waterford City & County Council have by Order dated 08/03/2016 decided to GRANT PERMISSION for development of land, namely:-

for dwelling house and garage with waste water treatment system and access road together with all ancillary site works at Rathmoylan Dunmore East Co. Waterford

Subject to the 12 conditions and reasons set out in the attached schedule.

If there is no appeal against the said decision, a final grant notification in accordance with the decision will be issued as soon as maybe but not earlier than three working day after the expiration of the period within which an appeal may be made to An Bord Pleanala.

In deciding the planning application the planning authority, in accordance with Section 34 (3) of the Planning & Development Act 2000 (as amended) has had regard to submissions or objections (if any) received in accordance with the Planning & Development Regulations 2001, as amended.

It should be noted that until a grant of permission/approval has been issued the development/retention in question is NOT AUTHORISED. Site Notice(s) must be removed on receipt of this decision.

for DIRECTOR,
ECONOMIC DEVELOPMENT & PLANNING SERVICES.
N.B. PLEASE READ CAREFULLY ATTACHED NOTES

Date :: 08/03/2016

Waterford City and County Council, City Hall, The Mall, Waterford.
Comhairle Cathrach agus Contae Phort Láirge, Halla na Cathrach, An Meal, Port Láirge

contact@waterfordcouncil.ie

Tel : 0761 10 20 20

www.waterfordcouncil.ie

NOTES

APPEALS

An appeal against a decision of a Planning Authority under the Planning & Development, Act, 2000 (as amended) may be made to An Bord Pleanála, by an applicant for planning permission (first party), and, any person, body or interested group etc (third party), who made submissions or observations in writing to the Planning Authority in relation to the planning application in accordance with permission regulations. There are two possible exceptions to this: (1) a prescribed body entitled to be notified of a planning application by the Planning Authority and (2) a person who has an interest in adjoining lands who did not make a submission or observation may apply to the Board for leave to appeal the decision of the Planning Authority within four weeks of the date of the decision of the Planning Authority.

Except where a person is given leave by the Board to appeal, appeals must be made to the Board within **four weeks beginning on the date of the making of the decision by the planning authority** (N.B. Not the date on which the decision is sent or received). Where a person is given leave to appeal, the appeal must be received by the Board within two weeks of him/her receiving notification of that fact. These are strict statutory time limits. The Board has no discretion to accept late appeals, whether they are sent by post or otherwise. Please note that the nine days of Christmas/New Year i.e. from 24th December to 1st January inclusive are excluded for the purpose of calculation of all periods of time in relation to planning appeals.

Every appeal must be made in writing and must be sent by post to: **The Secretary, An Bord Pleanála, 64 Marlborough Street, Dublin 1** or delivered by hand to an employee of the Board at the Board's offices during office hours (9.15 a.m. to 5.30p.m. on Monday to Friday except on public holidays and other days on which the offices are closed).

The appeal must be fully complete from the start – you are not permitted to submit any part of it later on, even within the time limit.

You must include:

- ◆ Your own name and address. Where an agent makes the appeal, he/she must give his/her own name and address and your name and address.
- ◆ The subject matter of the appeal - you must give sufficient details to enable the Board to readily identify the application the subject of the appeal (e.g. a copy of the Planning Authority decision, or details of nature and the site of the proposed development, or the name of the Planning Authority and the planning register reference number of the decision you are appealing).
- ◆ The grounds of appeal and supporting material and arguments. The Board cannot take into consideration any grounds of appeal or information submitted after the appeal (except information specifically requested by the Board) and it cannot consider non-planning issues. Ground of appeal should not, therefore, include such issues.
- ◆ In the case of a third party appeal, the acknowledgement by the Planning Authority of receipt of the submission or observation made by the person to the Planning Authority at application stage to show that the submission or observation was made at that stage.
- ◆ The correct fee:

Fees for each case types	On or after 5th September 2011
Appeals against decisions of Planning Authorities	
(i). 1 st party appeal relating to commercial development where the application included the retention of development	€4,500 or €9,000 if EIS or NIS involved
(ii). 1 st party appeal relating to commercial development (no retention element in application)	€1,500 or €3,000 if EIS or NIS involved
(iii). 1 st party appeal non-commercial development where the application included the retention of development	€660
(iv). 1 st party appeal solely against contribution condition(s) – (2000 Act section 48 or 49)	€220
(v). Appeal following a grant of leave to appeal.	€110
(vi). An appeal other than referred to in (i) to (v) above.	€220
(vii). Request from a party for an oral hearing of an appeal or referral.	€50

Note: Where an appeal has already been made, another person can become an 'observer' and make submissions or observations on the appeal. The time limit for such submissions or observations is four weeks from the receipt of the appeal by the Board (or the last appeal where more than one is made). Submissions or observations must be accompanied by a fee of €50.

APPLICATIONS FOR OUTLINE PERMISSION

Where outline permission for development is granted, the development cannot take place until permission for approval on permission consequent on the grant of outline permission, as appropriate is applied for and granted. Where a Planning Authority decides to grant permission consequent on the grant of the outline permission, there is no appeal to the Board against any aspect of the decision which was decided in the outline permission.

DEVELOPMENT CONTRIBUTION SCHEMES

Where a Planning Authority has made a scheme setting out the development contributions which must be paid, no appeal is possible in relation to the financial contributions payable in accordance with the terms of the scheme. However, appeals will be possible where a developer considers that the terms of the scheme were not properly applied or where a special contribution condition relating to specific exceptional costs not covered in a scheme is imposed by a Planning Authority.

FEE REFUNDS

Provision is made in the above Regulations for the partial refund of fees in the case of certain repeat applications where the full standard fee was paid in respect of the first application (subject to the conditions set out in the Section 162 of the Regulations). An application for a refund must be made in writing to the Planning Authority and received within eight weeks beginning on the date of the Planning Authority's decision on the second application. This document does not purport to be a legal interpretation of the law in relation to making a planning appeal – you should consult the appropriate legislation, including sections 37 and 127 of the Planning and Development Act 2000 as amended for the statutory rules governing the making of appeals. Please refer to An Bord Pleanála website www.pleanala.ie for further information.

PLANNING & DEVELOPMENT ACT 2000, as amended

RE: Planning permission sought by Janice Murphy & Paul Lenehan for dwelling house and garage with waste water treatment system and access road together with all ancillary site works at Rathmoylan, Dunmore East, Co. Waterford.

Ref. No. 16/21

Decision: Pursuant to the Planning & Development Acts it is recommended for the reason set out in the First Schedule hereto, to grant permission for the said development in accordance with the said plans and particulars, subject to the conditions specified in the Second Schedule hereto.

First Schedule

Having regard to the nature of development proposed, the zoning provisions governing the area, and the type of development in the vicinity of the site, it is considered that, subject to compliance with the conditions set out in the Second Schedule, the proposed development would be in accordance with the proper planning and sustainable development of the area.

Second Schedule

Preliminary Conditions

1. The development shall be carried out in accordance with plans and particulars submitted to the Planning Authority on 19/01/2016 except where altered or amended by conditions in this permission.

Reason:

To clarify the documents to which the permission relates and in the interest of the proper planning and sustainable development of the area.

2. The development permitted herein shall be occupied by person(s) engaged full time in the management of agricultural activities as defined in section 2 of the Planning and Development Act, 2000, as amended, and their immediate family, on the landholding as outlined in record on the Property Registration Authority of Ireland documentation Folio WD1436 submitted with the planning application and date stamped 19/01/2016. 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:

In the interest of the proper planning and sustainable development of the area.

3. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicants, 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]. The applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000, as amended to this effect.

(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 (1) and the date of such occupation. 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 in the interest of the proper planning and sustainable development of the area.

Monetary Conditions

- 4 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. The relevant Development Contribution Scheme was adopted by Waterford City & County Council on 12th February 2015. The contribution shall be paid prior to the commencement of development or in such phased payments as the Planning Authority may facilitate.

Surface Water	€ 1,350
Recreation and Amenity	€ 450
Community Facilities	€ 3,600
Transport	€ 3,600
Total Contributions	€ 9,000

Reason:

It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act is applied to the permission.

Infrastructure Conditions

- 5 All excavated material shall, where practicable, be reused on site subject to, existing ground levels not being altered by more than 1metre, and the prior agreement of the Planning Authority. Any surplus excavated material to be removed from the site shall be brought to an authorised facility. Prior to removal of any surplus material, the Environment Department of Waterford City & County Council shall be informed of the approximate quantity of material and the location of the proposed facility. No material shall be removed from the site until such time as the Environment Department has authorised its removal.

Reason:

In the interests of Environmental Protection and the proper planning and sustainable development of the area.

- 6 (a)
Entrance to be constructed so that surface water is not allowed to flow onto the public roadway.
- (b)
A culvert pipe shall be constructed across and under the entrance where deemed necessary by the District Engineer and to the specification of the District Engineer, prior to the commencement of development.

(c)

Public roadside drainage arrangements shall be installed and maintained by the developer to the satisfaction of the District Engineer.

(d)

Prior to the commencement of development a letter of agreement, signed by the District Engineer shall be submitted to, and agreed in writing with, the Planning Authority indicating compliance with conditions (a), (b) and (c) above.

(e)

Regardless of the gradient of the driveway, the area between the edge of the roadway and the gate piers shall be reasonably flat and level with the public road, with a gradient not exceeding 2½% or as otherwise agreed in writing with the District Engineer. The surface dressing for this area shall be agreed with the District Engineer and a copy of all agreements shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development.

(f)

The entrance shall be constructed such that clear and unobstructed sight lines are available from a point 2.4 metres back from the nearside edge of the roadway at the centre of the entrance to a point to the left and right on the nearer edge of the major road running carriageway (which includes the hard shoulder) for a distance of 55 metres. The appropriate eye (1.05 metres and 2.0 metres) and object heights of 0.26 metres & 2.0 metres respectively, above the road surface, shall be used. The road boundary shall be set back behind the sightlines so as to accommodate this requirement.

(g)

Where the existing roadside boundary is to be set back to achieve the required sightlines, any existing service or utility poles between the new road fence line and the roadway shall be relocated with the agreement of the relevant service provider. A revised site layout plan shall be submitted to the Planning Authority, prior to any works commencing on the site, indicating the proposed location of the poles as agreed with the service provider. No works on site shall commence until written approval to the relocation is received from the Planning Authority. These poles shall be relocated at the same time as the road fence is being removed and prior to occupation of the dwelling.

Reason:

In the interests of traffic safety and the proper planning and sustainable development of the area.

7

(a)

The wastewater treatment system shall be installed in accordance with the submitted site characterisation and the manufacturer's instructions, relevant agreement certification and EPA Code of Practice Waste Water Treatment and Disposal Systems Serving Single Houses. The treatment system shall meet the requirements of EN 12566 series of standards developed by the European Committee for Standardisation TC165 and the standard and performance shall also meet those specified in the national annex as provided for under Circular Letter BC06/2012.

(b)

Prior to the dwelling being occupied, the Planning Authority shall be notified that the wastewater treatment system is constructed and operational. In addition, the dwelling shall not be occupied until such time as a Certificate of Compliance, prepared and signed by a suitably qualified Site Assessor to state that the wastewater treatment system and associated works fully comply with condition no. 7(a) above has been submitted to the Planning Authority for its written approval. The Certificate of Compliance must include date stamped photographic evidence of the installation of the wastewater treatment system and percolation area and/or polishing filter. The photographic evidence shall clearly demonstrate that the entire system has been installed in accordance with the recommendations of the site characterisation and the drawings and particulars of the granted planning permission. The Certificate of Compliance must include confirmation on the existing, proposed and 'as constructed' ground levels, the invert levels of tanks and percolation pipes, the length of the

percolation pipes, the materials used including suppliers delivery dockets, the separation distance to the constructed private borehole (if permitted) and the details of the person/company that installed the waste water treatment system.

(c)

The installation of the proposed wastewater treatment system shall include maintenance and repair contract, a copy of which shall be submitted to the Planning Authority prior to the commencement of development. This contract shall be renewed on an annual basis and shall be taken out initially with the supplier/manufacturer of the system. Thereafter any change of contractor shall be notified to the Planning Authority. A copy of all maintenance contracts shall be retained by the applicant and furnished to the Planning Authority on request.

(d)

Surface water shall be discharged to soakaways.

Reason:

In the interests of public health.

Heritage & Amenity Conditions

- 8 Prior to commencement of onsite development works, a Construction & Demolition Management Plan shall be submitted to the Planning Authority for its confirmed written agreement. This plan shall provide details of intended construction practice for the development, including onsite storage arrangements, hours of working, the demolition schedule, noise management measures, off-site disposal of construction and demolition waste/material, construction traffic, construction lighting, a scheme for dust and dirt control, road cleaning of access/egress routes to/from the site, vibration issues, foul and surface water discharges and any other nuisance or significant interference with amenities or the environment beyond the site boundary.

Reason:

In the interest of the protection of amenities, the environment and public safety and for the proper planning and sustainable development of the area.

9 (a)

Roof covering shall be dark coloured/black slate or tile.

(b)

External walls of the proposed dwelling shall be finished in a neutral shade of painted plaster. Any stone finish shall be natural stone only.

Reason:

In the interests of the protection of visual amenity.

- 10 All new site boundaries other than road and wing walls shall be planted with a double row of native hedgerow species suitable to the local environment. Prior to the first occupation of the dwelling house the applicant shall submit photographic evidence of the completion of the road and site boundary works for the written approval of the Planning Authority.

Reason:

In the interests of visual amenity and preservation of the natural character of the area.

- 11 Prior to the commencement of development the developer shall submit the following for the written agreement of the Planning Authority:

(a) Proposals for surface treatment and drainage of the proposed driveway along with boundary treatment along the length of the driveway. No lighting shall be permitted along the full length of the driveway.

Reason: In the interests of visual amenity and preservation of the natural character of the area.

12 The garage shall be used solely for purposes incidental to the enjoyment of the dwelling and shall not be used for commercial purposes. Any proposed change of use of the garage area shall be subject to the grant of a separate planning permission.

Reason:

In the interests of the proper planning and sustainable development of the area.

ANNULLED PLANÁLA

29 APR 2019

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

Waterford City & County Council,
-Viewing purposes only!

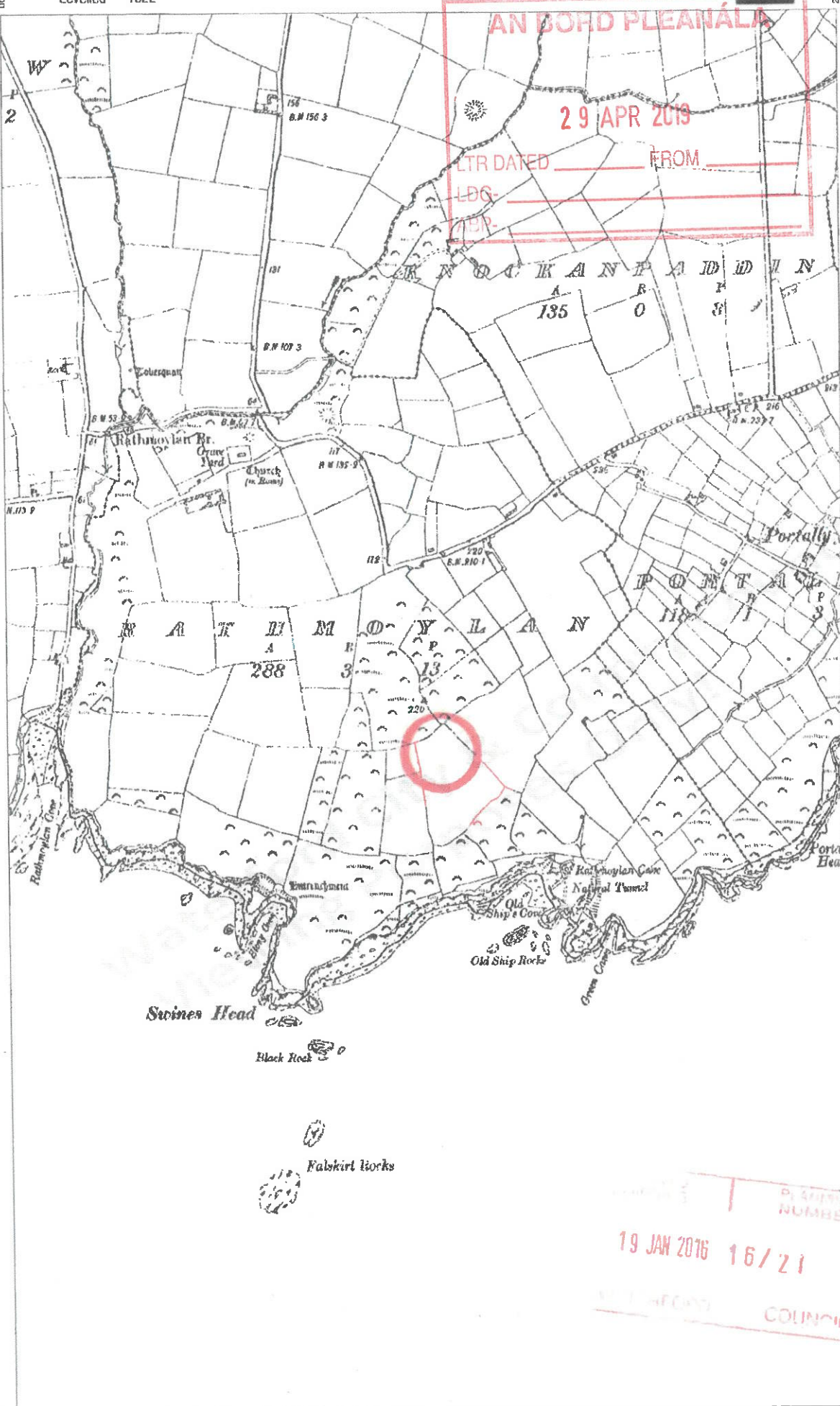
Surveyed 1840-1841
 Revised 1922
 Levelled 1922

Record PLACE Map



009592
267311

109200



ITM CENTRE PT COORDS

666391.598878

DESCRIPTION

MAP SHEETS

6 inch
WX054 W027



Produced by
 The Map Centre
 Burchell House, Parnell Street,
 Waterford
 On behalf of Ordnance
 Survey Ireland
 Phoenix Park, Dublin 8

Stairéamh áiríochta
 Ina dhiaidhbh aon chuid den
 Stairéamh áiríochtaí Ordánáil
 Éireann aige
 Ní féidir na hÉireann
 a chur ar ais
 Ní féidir na hÉireann a chur ar ais
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Gach tús eile
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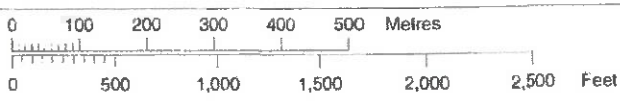
19 JAN 2016 16/21
 COUNCIL



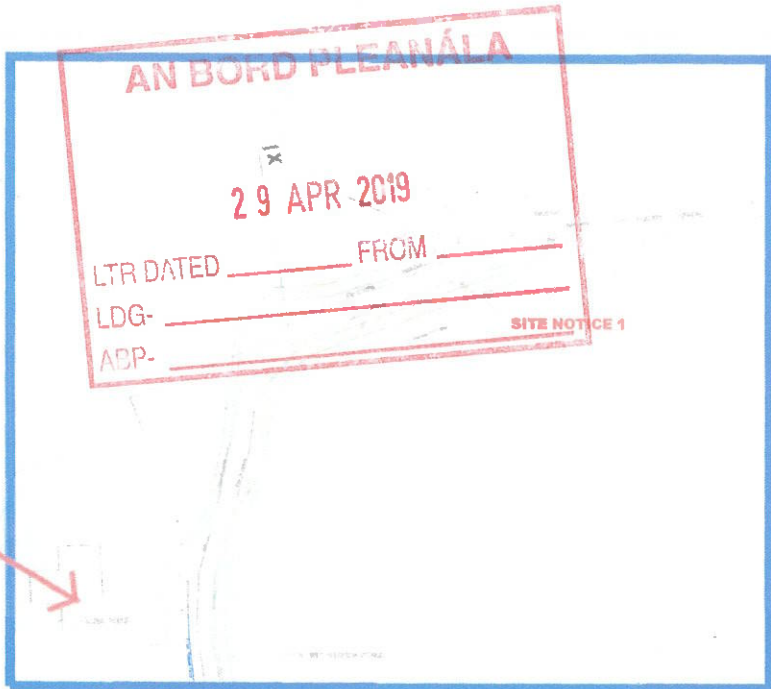
97444

97444

Scale: 1:10,560
 Scala: 1:10,560



Plot Ref. No 25250135_1
 Plot Date 06-JAN-2016



SITE NOTICE 2

PART PLAN OF ENTRANCE TO PUBLIC ROAD
ENTRANCE / SIGHTLINES GRANTED PERMISSION IN PO 08/707



SECTION AA THRO SITE (waste treatment) AT 1:250

Waterford City & County Council
Viewing Purposes Only



SITE LAYOUT PLAN 1:500

SITE SECTION XX 1:500

DAVID SMYTH ARCHITECTS
 15 ADAMIC VIEW, CHURCH ROAD, TRAVOUE, CO. WEXFORD (P) 08440992
 2015 RIAI 2015 RIAI G3 RIAI
 PROJECT: HOUSE AT RATHMOYLAN, DUNMORE EAST
 CLIENT: JANICE MURPHY & PAUL LENEHAN
 DRAWING: PLANNING, SITE PLAN DATE: 15/04/2019 JPI/144



This map should be read in conjunction with the folio.
 Registry maps are based on OSI topographic mapping. Where registry maps are printed at a scale that is larger than the OSI published scale, accuracy is limited to that of the original OSI map scale.
 For details of the terms of use and limitations as to scale, accuracy and other conditions relating to Land Registry maps, see www.lra.ie.

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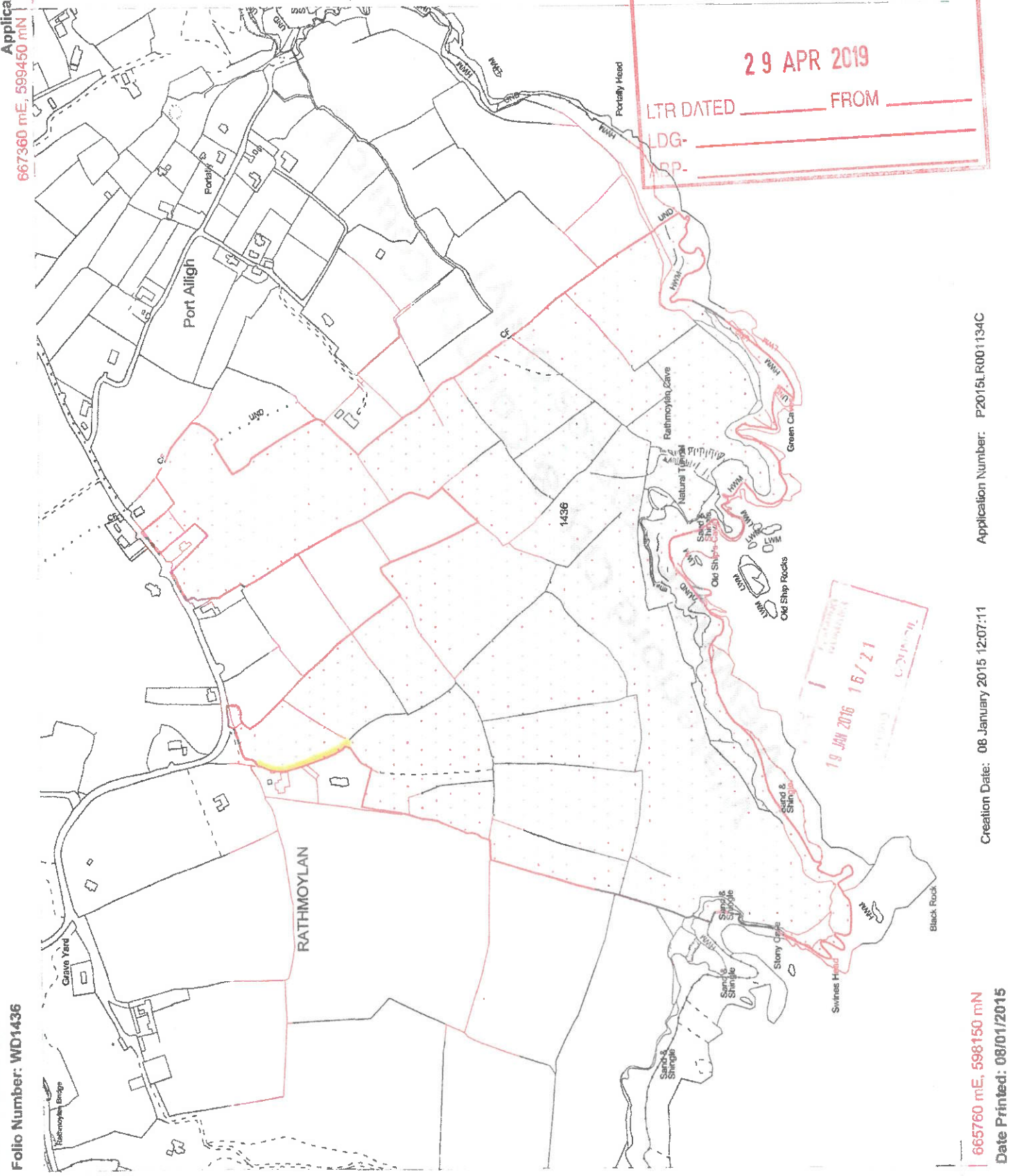
- (centre-line of parcel(s) edged)
- Freehold
 - Leasehold
 - SubLeasehold

- Burdens (may not all be represented on map)
- Right of Way / Wayleave
 - Turbary
 - Pipeline
 - Well
 - Pump
 - Septic Tank
 - Soak Pit

A full list of burdens and their symbology can be found at: www.landdirect.ie

THE REGISTRY OPERATES A NON-CONCLUSIVE BOUNDARY SYSTEM. THIS REGISTRY MAP IDENTIFIES PROPERTIES NOT BOUNDARIES MEANING NEITHER THE DESCRIPTION OF LAND IN A REGISTER NOR ITS IDENTIFICATION BY REFERENCE TO A REGISTRY MAP IS CONCLUSIVE AS TO THE BOUNDARIES OR EXTENT. (see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deeds and Title Act 2006.

1:5000 Scale



29 APR 2019

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

REPORT

**TO: MARINA MURRAY,
SENIOR EXECUTIVE PLANNER.**

**From: HUGH O'BRIEN,
EXECUTIVE PLANNER.**

RE: Planning permission sought by Janice Murphy & Paul Lenehan for dwelling house and garage with waste water treatment system and access road together with all ancillary site works at Rathmoylan, Dunmore East, Co. Waterford.

Date: 03/03/2016**Ref. No. 16/21****Site Context**

This proposed site has a stated area of 0.32 hectares, is located on agricultural lands c. 2km west of Dunmore East along the local primary road L4086. The site is located 600m west of green belt lands identified in the Waterford County Development Plan 2011-2017 which form a buffer around Dunmore East and in close proximity to lands identified as visually vulnerable in the County Development Plan within an area identified as being under urban pressure. The site forms part of a 41ha farm holding which is located between the public road and the coast while the proposed site is located centrally within the landholding, c. 350m from both the road and the coast. Access to the proposed site is via an existing unsurfaced laneway which serves 2 no. existing dwelling houses located outside the landholding. Groundwater in the area is classified as a locally important and highly vulnerable aquifer. There are no amenity or heritage designations relating to the proposed site. The site is exposed and elevated with clear views across the coast east and west from the site but it is not readily visible from the public road in the immediate vicinity. On date of inspection the site notices were legible.

Relevant Planning History

07/912: Planning permission granted for RETENTION of external elevational changes to North, South, East and West elevations of existing dwelling.

07/1866: Planning permission granted for alterations to a two storey existing cottage, demolition of a single storey extension, construction of a new two storey extension, replacing of existing septic tank and percolation area with ancillary siteworks.

08/707: Planning permission granted to construct a single storey dwelling house with septic tank and associated site works.

09/216: Planning permission granted for change of house type from a single storey dwelling house with gallery (granted planning permission reg. ref. no. 08/707) to a two storey dormer bungalow including revised site layout and associated site works.

14/600167: Outline planning permission granted for dwelling and associated services on the proposed site to the current applicants. Condition no. 3 of the grant of planning permission states:

The development permitted herein shall be occupied solely by persons engaged full time in the management of agricultural activities as defined in section 2 of the Planning and Development Act 2000, as amended, on the landholding as outlined in blue on the 6 inch site location map submitted with the planning application and date stamped 22/08/2014.

Reason: In the interest of the proper planning and sustainable development of the area.

Subsequent to the issue of a decision to grant of planning permission the applicants appealed the above condition to An Bord Pleanála however following consultation with the Senior Planner withdrew the appeal and now submit a new planning application with the intent of amending the said condition.

Referrals & Objections/Submissions

AN BORD PLEANÁLA

29 APR 2019

LTR DATED _____ FROM _____
to date however I note previous _____

APP: _____

Water Services (Drainage): No response received to date however I note previous recommendation on the site.

Water Services (Water) / Irish Water: No response received to date.

Transportation: No response received to date however I note previous recommendation on the site.

Habitats Directive Assessment: No requirement for appropriate assessment as per the checklist and concluding statement on the file dated 03/03/2016.

Submissions/Observations: None received.

Policy Context and Assessment

The principle of the development as considered under 14/600157 is identical to that now before the Planning Authority i.e. ensuring the applicants consistency with the rural housing need requirements of the Development Plan and ensuring any grant of planning permission does not set a precedent for other similar applications by the remaining 9 landholders (tenants in common). The applicant has set out a reworded condition no. 3 as agreed with the Senior Planner which is acceptable. Taking cognisance of same and the totality of the proposed development, its design and layout, I would consider the proposal acceptable. Development contributions of €9,000 should be levied on the proposed development.

Recommendation

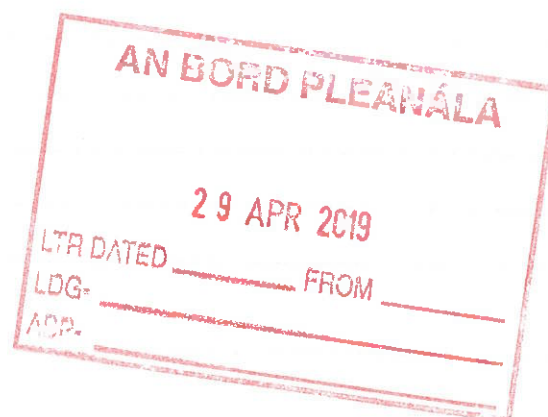
Taking cognisance of the details submitted with the planning application and planning history on the lands I would consider that on balance the proposed development complies with the policies and objectives of the Waterford County Development Plan 2011-2017 and I recommend that outline permission be granted subject to the following schedule of conditions.

Waterford City & County Council
-viewing purposes only-

APPENDIX 2

View Commencement

Number of Units: 1
Valid Commencement? Yes
Dev Commence Ind: Y
Fire Cert Number:
Commencement Date: 23/04/2018
Estimated Completed Date: 23/04/2019
Commencement Received: 09/04/2018
Dev Commencement Number: CN37816
Notice Description: for dwelling house and garage with waste water treatment system and access road together with all ancillary site works
Fee Exempt? Yes
Fee Amount Paid: 0.00
Fee Receipt Date: 09/04/2018
Fee Receipt Num:



Commencement Contacts

Contact Name	Type
(/WaterfordCCC/viewcommencement/1621/0/13149)	(/WaterfordCCC/viewcommencement/1621/0/13149?lald=0)

[Back to Planning Application...](#)

Start new search (/WaterfordCCC/)



(<http://validator.w3.org/check?uri=referer>)

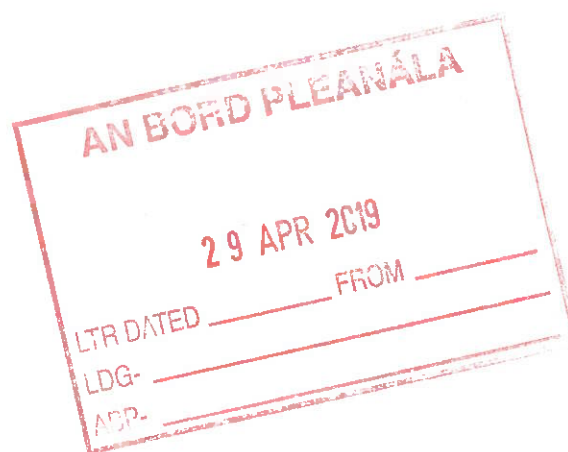


(<http://jigsaw.w3.org/css-validator/>)

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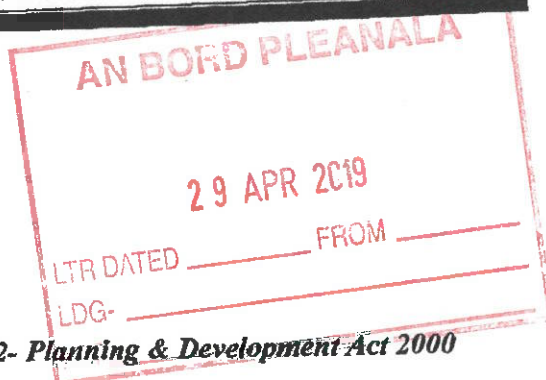


Comhairle Cathrach & Contae Phort Láirge
Waterford City & County Council

REF. DP/2867

WARNING LETTER

Janice Murphy & Paul Lenehan,
Oakleigh,
Killea,
Dunmore East,
Co. Waterford.



Re: **WARNING LETTER** issued pursuant to *Section 152- Planning & Development Act 2000*
(as amended)
Location : Rathmoylan, Dunmore East, Co. Waterford
Ref: 2867

Dear Sir & Madam,

WHEREAS it has come to the attention of the Planning Authority that unauthorised development consisting of the construction of a section of a private access roadway from the existing laneway to the south of the Public Road (Coxtown Road L 4068-10) may have been is being or may be carried out at Rathmoylan, Dunmore East, Co. Waterford..

Where, following investigation the Planning Authority considers that unauthorised development has been, is being or may be carried out, you are hereby warned that an Enforcement Notice under Section 154, of the Planning & Development Act 2000 (as amended), may be issued.

A person who is guilty of an offence under this section of the Act shall be liable to the penalties set out overleaf. In addition any costs reasonably incurred by the planning authority in relation to enforcement proceedings may be recovered from a person on whom an Enforcement Notice is served or where court action is taken.

Officials of the planning authority may at all reasonable times enter on the land for the purposes of inspection.

Any person served with this Warning Letter may make submissions or observations in writing to the Planning Authority regarding the purported offence not later than four weeks from the date of service of this Warning Letter.


For DIRECTOR OF SERVICES
ECONOMIC DEVELOPMENT & PLANNING SERVICES.

DATE: 16th November 2018

Waterford City and County Council, City Hall, The Mall, Waterford.
Comhairle Cathrach agus Contae Phort Láirge, Halla na Cathrach, An Meal, Port Láirge

Killea,
Dunmore East,
Co. Waterford.

12th December 2018

Director of Services,
Economic Development and Planning Services,
Waterford City and County Council,
City Hall,
The Mall,
Waterford City.

Re: **Ref 2867 – Warning Letter – Section 152 Planning and Development Act 2000**
Location: Rathmoylan, Dunmore East, Co. Waterford.

Dear Sir,

In reply to your “Warning Letter” reference above, I wish to advise that in January 2018, we made a submission to the Planning Authority to make a “minor adjustment” to our entrance drive, and furnished the necessary maps and documents to support this submission.

In response to this submission, the Planning Authority replied and considered the proposed adjustment as “minor in nature” and not deemed to materially affect the permission Ref 16/21 and any condition attaching to the said permission.

Please see that attached emails and supporting documentation relating to same.

On foot of this response, in April 2018, we commenced construction of our dwelling house including the minor adjustment to the entrance drive.

I trust that this clarifies the matter relating to the suggested unauthorised development referenced in the above-mentioned Warning Letter, and request that you confirm same by return. I can be contacted at 087 9786133, should you need to discuss any aspect of the above.

Your sincerely,

Janice Murphy and Paul Lenehan

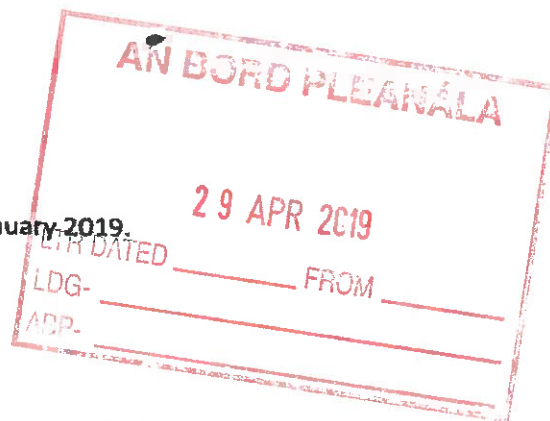


Comhairle Cathrach & Contae Phort Láirge
Waterford City & County Council

Our Ref: HOS/DP/2867

Janice Murphy & Paul Lenehan,
Killea,
Dunmore East,
Co. Waterford.

16th January 2019.



Re: 2867 – Rathmoylan, Dunmore East, Co. Waterford.

Dear Janice & Paul,

I wish to acknowledge receipt of your correspondence dated 12/12/2018 re the above and note contents. Following investigation of the matter it is held that the issue is of a trivial/minor nature. It is recommended to close this file.

Yours sincerely,

D. Pinnell

PP Hazel O'Shea,
Senior Executive Planner.

Waterford City and County Council, City Hall, The Mall, Waterford.
Comhairle Cathrach agus Contae Phort Láirge, Halla na Cathrach, An Meal, Port Láirge

contact@waterfordcouncil.ie

Tel: 0761 10 20 20

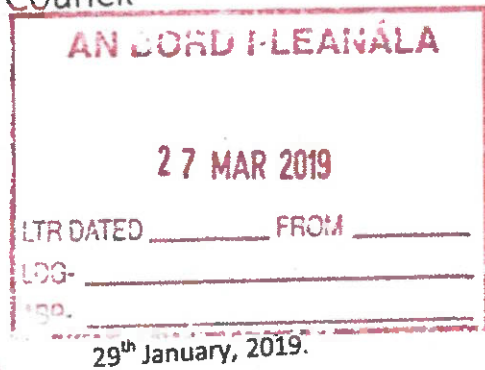
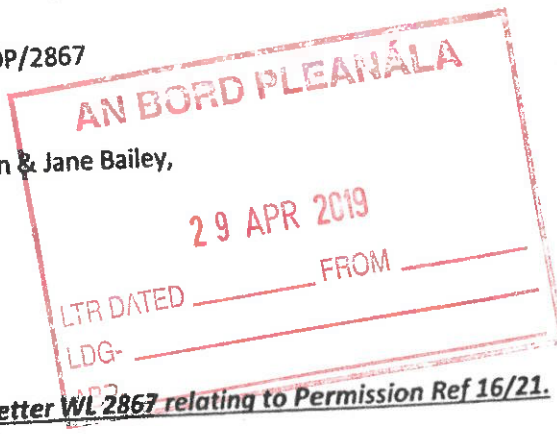
www.waterfordcouncil.ie



Comhairle Cathrach & Contae Phort Láirge
Waterford City & County Council

Our Ref: JO'M/DP/2867

Mr & Mrs Ciaran & Jane Bailey,
Rathmoylan,
Dunmore East,
Co. Waterford.
X91D6YO



Re: Warning Letter WL 2867 relating to Permission Ref 16/21.

Dear Mr & Mrs Bailey,

I refer to your Email correspondence of 18th January 2019 to CE, DoS and SP and I wish to respond as follows.

To clarify the matter, WCCC served a Warning Letter on the J & P Lenihan on 16th Nov last, on the complaint that unauthorised work may have been or is being carried out on their lands. (A Warning Letter is the fore-runner to possible Enforcement Action and affords the person complained of, within a period 4 weeks, to make a submission explaining the substance of the complaint). J & P Lenihan responded to the complaint on 12th Dec 2018 and following consideration of their response and an inspection of the work carried out, the Planning Authority decided not to pursue the matter further.

The Enforcement File No. 2867 relating to the issue is not available for public inspection.

In coming to its decision the Planning Authority considered the following:

1. The minor readjustment of the entrance drive was necessitated to overcome a legal obstacle to passage over a small section of the existing laneway.
2. The new adjusted section of access drive does not impede the continued use of the existing laneway, for any user.
3. The readjusted section of access driveway is fully within the applicants' landholding. The remainder of the access drive (south of the existing laneway) is located on the applicants' landholding. The readjusted part of the access drive, from that originally shown on permission mapping, does not impact on sight lines at the junction with the public road; does not interfere with drainage onto the public road and does not create a traffic or public safety hazard for public road users.
4. The substantive development that being the permission for dwelling (located approximately 350m from the Public Road) is in accordance with permission 16/21 and the access drive exits onto the Public Road at the location permitted by condition No 6 of permission. The other requirements for entrance construction - Condition 6 (a) - (g) have been complied with.

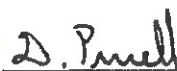
Waterford City and County Council, City Hall, The Mall, Waterford.
Comhairle Cathrach agus Contae Phort Láirge, Halla na Cathrach, An Meal, Port Láirge

On the basis of the foregoing the Planning Authority has determined that the readjusted section of the access drive does not constitute unauthorised development.

In relation to the other matter of concern raised your phone call, the Planning Authority is aware of the numbers of "owners in common" – This issue was highlighted during the review stage of the planning application and Conditions are attached to permission restricting the use of the dwelling to the person managing the farm .

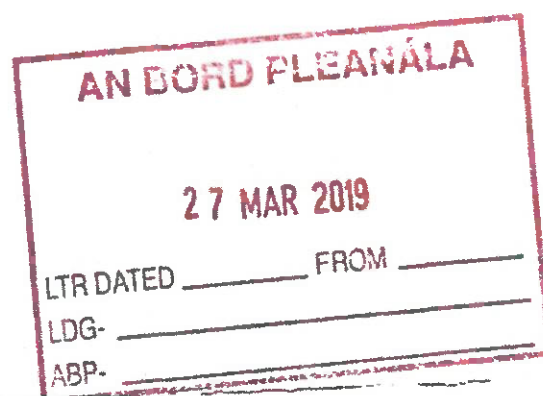
You are advised that you may pursue the matter further by making a formal submission to An Bord Pleanála for a "Section 5 Declaration and Referral on development and exempted development", under the Planning & Development Act 2000 (as amended).

Yours sincerely,



pp

J. O'Mahony,
Senior Planner.

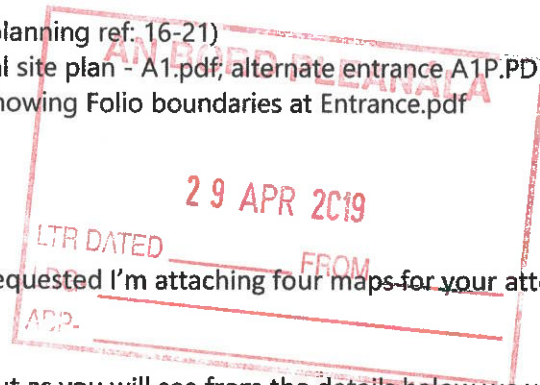


Peter Thomson

From: Paul Lenehan <paul.lenehan@sienna.ie>
Sent: Thursday 30 November 2017 12:57
To: 'Jim O'Mahony'
Cc: 'Janice Lenehan'
Subject: RE: Request for meeting (planning ref: 16-21)
Attachments: Historical Map.jpg; Original site plan - A1.pdf; alternate entrance A1P.PDF; Extract from Land Registry Map showing Folio boundaries at Entrance.pdf

Jim,

Following on from your most recent email of 26th Sept., as requested I'm attaching four maps for your attention, along with some background information.



We are keen to commence construction of our new home but as you will see from the details below we will need to amend part of the access route to the site. We would greatly appreciate a meeting with you to get your opinion as to whether we can proceed with these changes with our current planning permission grant. Ref 1621

The attached maps are as follows:

1. Original site layout drawing including the access laneway for which we were granted planning permission
2. Proposed revised layout of access laneway.
3. Extract from land registry map showing folio boundaries at the entrance area.
4. Historic Map showing public roadway to Dunmore prior to the re-alignment in the 1950s.

When we made our planning application, we assumed that the Spur Road "A" as shown on the land registry map was a public right of way. Our assumption was based on the fact that this spur roadway was part of the main Dunmore Road prior to the roadway re-alignment in the 1950s. (This roadway can be seen on the Historical Map attached).

In the course of doing the title searches, our solicitor sought confirmation of the "public right of way" from Waterford County council. Following some investigation, they confirmed that the spur was no longer a public roadway and no public right of way existed.

As you can see from the folio map, the "spur" roadway which we had planned to use as part of our access laneway is in fact part of 3 separate land folios and as there is no public right of way, we would need to obtain a right of way from each of the landowners to use this laneway to gain access to our site.

The land parcel, marked "B" on the Land Registry map, is owned jointly by the owners of the property "C" and Janice's family who own the farm from which our site is being transferred. We were aware of this joint ownership when we made our planning application and we had a verbal agreement from the owners of property C that they would grant us a right of way over the parcel "B" to allow us use the laneway to get access to our site. They never had any issues or concerns with our planning application and they did not lodge any submissions or objections during the planning process. However, it has now emerged that they are unwilling to grant us a right of way over this parcel, which makes it impossible for us to access our site by the original proposed laneway.

As we are unable to gain access using the laneway proposed in our planning application, we are now seeking to make a modification to the access laneway (See Proposed revised layout attached).

The revised layout would achieve the following:

1. The laneway will still join the public roadway as per the original planning permission granted and therefore there is no change to the entrance onto the public road.
2. The revised laneway by-passes the land parcel "B" as per the wishes of the owners of property C.

3. The proposed laneway will cross only 2 land folios, and the landowners in question have already agreed to the granting of a right of way.

Once again, we would appreciate the opportunity to have a brief meeting with you in the context of what we are proposing and to get your input as to how we should proceed in this matter.

Please can you revert to me at your earliest convenience either by email or you can call me on 087 9786133.

Regards,

Paul Lenehan,
Managing Director,
Sienna Home Furnishings,
Tramore Road Business Park,
Waterford City,
X91 PT63,
Ireland.

 +353 (0)51 595005

 +353 (0)51 595007

 paul.lenehan@sienna.ie

 www.sienna.ie



From: Jim O'Mahony [mailto:jomahony@waterfordcouncil.ie]

Sent: Tuesday 26 September 2017 08:43

To: Paul Lenehan <paul.lenehan@sienna.ie>

Subject: RE: Request for meeting (planning ref: 16-21)

Sorry Paul,

Had not seen yours since Aug. Did you provide map showing the changed location of entrance? We would need to see location, sightline on road, etc in order to discuss the merits of the changed entrance. I will advise further once I have inspected the location.

Regards,

Jim O Mahony

Senior Planner WCCC

Tel:05820870

Email: jomahony@waterford council.ie



ÉIRE
IRELAND

19
2016

Clár Comórtha
Céad Bliain
Centenary
Programme

From: Paul Lenehan [<mailto:paul.lenehan@sienna.ie>]
Sent: 26 September 2017 06:47
To: Jim O'Mahony
Cc: 'Janice Lenehan'
Subject: RE: Request for meeting (planning ref: 16-21)

Jim,

Have you had the opportunity to review my request below? We are available to meet at your convenience.

Thanks and regards,

Paul Lenehan,
Sienna Home Furnishings,
Tramore Road Business Park,
Waterford City,
X91 PT63,
Ireland.



+353 (0)51 595005



+353 (0)51 595007



paul.lenehan@sienna.ie



www.sienna.ie



From: Paul Lenehan [<mailto:paul.lenehan@sienna.ie>]
Sent: Tuesday 12 September 2017 22:14
To: 'jomahony@waterfordcouncil.ie' <jomahony@waterfordcouncil.ie>
Cc: 'Janice Lenehan' <janice.lenehan@sienna.ie>
Subject: RE: Request for meeting (planning ref: 16-21)

Jim,

I'm just following-up on my email of 6th Sept (below), and wonder if you have had the opportunity to consider a convenient meeting time?

Regards,

Paul Lenehan,
Sienna Home Furnishings,
Tramore Road Business Park,
Waterford City,
X91 PT63,
Ireland.

 +353 (0)51 595005

 +353 (0)51 595007

 paul.lenehan@sienna.ie

 www.sienna.ie



From: Paul Lenehan [<mailto:paul.lenehan@sienna.ie>]
Sent: Wednesday 6 September 2017 09:02
To: 'jomahony@waterfordcouncil.ie' <jomahony@waterfordcouncil.ie>
Cc: 'Janice Lenehan' <janice.lenehan@sienna.ie>
Subject: RE: Request for meeting (planning ref: 16-21)

Jim,

We took holidays in August so didn't get to meet with Hazel in your absence. Now that we are all back, we have a strong preference to meet with yourself, at your earliest convenience, as we have dealt with you in the past on this application, and you will have knowledge of the background.

Our plan is to bring a map/drawing of the proposed change options with us for this meeting. We are very happy to meet you at either your Waterford City or Dungarvan office.

Can you propose a suitable time for you. I look forward to hearing from you.

Thanks and regards,

Paul Lenehan,
Managing Director,
Sienna Home Furnishings,
Tramore Road Business Park,
Waterford City,
X91 PT63,
Ireland.

 +353 (0)51 595005

 +353 (0)51 595007

 paul.lenehan@sienna.ie

 www.sienna.ie



From: Jim O'Mahony [<mailto:jomahony@waterfordcouncil.ie>]

Sent: Friday 28 July 2017 10:35

To: Paul Lenehan <paul.lenehan@sienna.ie>

Cc: Hazel O'Shea <hoshea@waterfordcouncil.ie>

Subject: RE: Request for meeting

Paul,

I am away for month Aug. Can you arrange meeting with Hazel O Shea SEP (Development Management). You need to put any changes on map /drawing so that the changes can be assessed as material, etc.

Jim

Jim O Mahony

Senior Planner WCCC

Tel:05820870

EMail: [jomahony@waterford council.ie](mailto:jomahony@waterfordcouncil.ie)





1916

Clár Comortha
Céad Bliain
Centenary
Programme

KILKENNY - WATERFORD - WEXFORD
European Capital of Culture Candidate

From: Paul Lenehan [<mailto:paul.lenehan@sienna.ie>]

Sent: 27 July 2017 19:19

To: Jim O'Mahony

Subject: RE: Request for meeting


Hi Jim,


I wanted to check that you have received my email of last week re: meeting request, as I'm keen to get a slot in our respective diaries.

Can you confirm receipt of this email, and revert to me with a time and location when you can meet.

Many thanks,

Paul Lenehan,
Managing Director,
Sienna Home Furnishings,
Tramore Road Business Park,
Waterford City,
X91 PT63,
Ireland.

 +353 (0)51 595005

 +353 (0)51 595007

 paul.lenehan@sienna.ie

 www.sienna.ie



From: Paul Lenehan [<mailto:paul.lenehan@sienna.ie>]

Sent: Thursday 20 July 2017 16:57

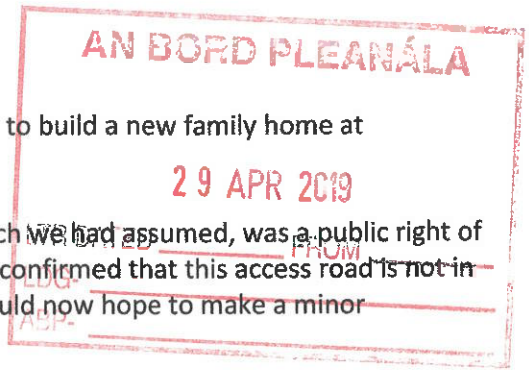
To: 'jomahony@waterfordcouncil.ie' <jomahony@waterfordcouncil.ie>

Subject: Request for meeting

Hi Jim,

My wife, Janice and I received a grant of planning permission in March 2016 to build a new family home at Rathmoylan, Dunmore East – planning reference 16-21.

In recent months, an issue has arisen in relation to the access roadway, which we had assumed, was a public right of way at the time we made our planning application. The Council have since confirmed that this access road is not in fact a public road and in order to progress and get access to our site, we would now hope to make a minor modification to the access road that we had planned.



We have taken some advice on this matter from Peter Thomson, Planning Consultant and Peter has suggested that we should meet you to discuss same. We make this request to you on the basis that we have met with you during the planning application process.

We are available to meet with you in either Dungarvan or Waterford city, at your convenience. You can contact me either on this email or on my mobile 087 9786133.

Thank you in advance and looking forward to hearing from you.

Regards,

Paul Lenehan,
Managing Director,
Sienna Home Furnishings,
Tramore Road Business Park,
Waterford City,
X91 PT63,
Ireland.

+353 (0)51 595005

+353 (0)51 595007

paul.lenehan@sienna.ie

www.sienna.ie



AN BORD PLEANÁLA

29 APR 2019

LTR DATED _____ FROM _____

LDG- _____

APP- _____



AN BORD PLEANÁLA

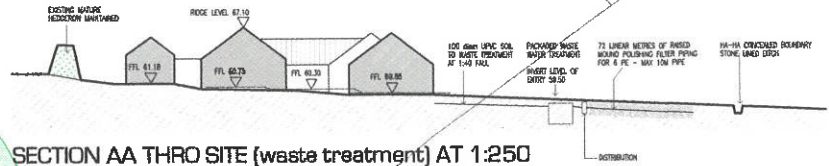
29 APR 2019

LTR DATED FROM
LDG-
ADP-

SITE NOTICE 1

SITE NOTICE 2

PART PLAN OF ENTRANCE TO PUBLIC ROAD
ENTRANCE / SIGHTLINES GRANTED PERMISSION IN PD 08/707

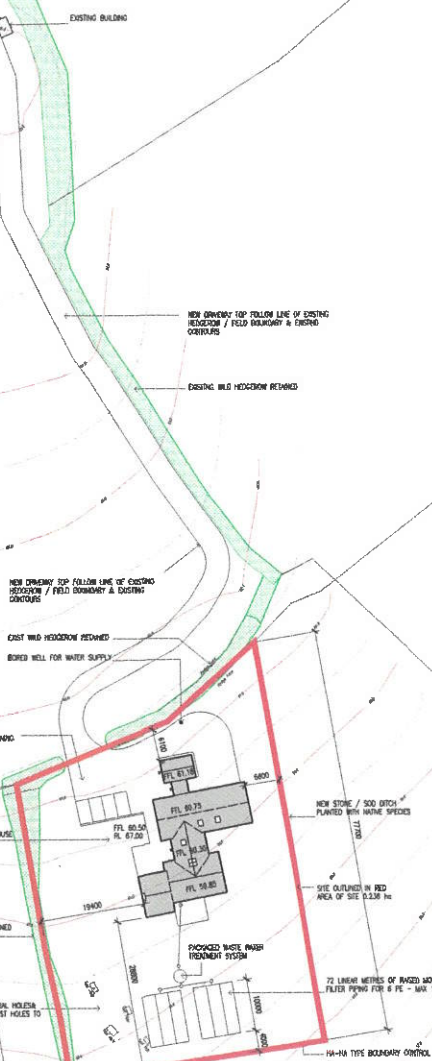


SECTION AA THRO SITE (waste treatment) AT 1:250

SITE SECTION XX 1:500

SITE LOCATION

SITE LAYOUT PLAN 1:500

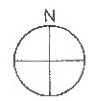


DAVID SMYTH ARCHITECTS
 2015 RIAI 2015 RIAI G3 RIAI
 ATLANTIC VIEW, CHURCH ROAD, TRIMCOCK, CO. WATKINSRD O O O (D) 04 409997
 PROJECT: HOUSE AT RATHMOYLAN, DUNMORE EAST
 CLIENT: JANICE MURPHY & PAUL LENEHAN
 DRAWING: PLANNING / SITE PLAN 06/01/18 1:500/250 JP/14A

AN BORD PLEANÁLA

29 APR 2019

LTR DATED _____ FROM _____
LDG- _____
ABP- _____



SITE LAYOUT PLAN 1:500

SITE LOCATION

PLANNING 2017 RIAI	DESIGNED 2017 RIAI	CONSULTANT G3 RIAI
DAVID SMYTH ARCHITECTS		
5 ATLANTIC VIEW, CHURCH ROAD, TRAMORE, CO WATERFORD Q10 D1 0N4 6079947		
PROJECT	HOUSE AT RATHMOYLAN, DUNMORE EAST	
CLIENT	JANICE MURPHY & PAUL LENEHAN	
DATE	03/27/17	SCALE 1:500
DRAWN		DATE
SITE PLAN		JP14B

EXTRACT FROM LAND REGISTRY MAP

AN BORD PLEANÁLA



29 APR 2019

LTR DATED _____ FROM _____

LDG- _____

ADP- _____



-  Spue Road "A"
-  Land Parcel "B"