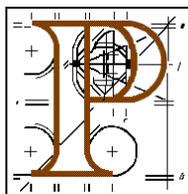


An Bord Pleanála



Inspector's Report

Development: Construction of six houses to the east of railway line, new pedestrian access, transfer of sterilised land to west of railway line and alterations to site works granted under planning reg. no. 20033191 at Rosetown, Rosslare, Co. Wexford.

Planning Application

Planning Authority:	Wexford County Council
Planning Authority Reg. Ref.:	20062303
Applicants:	Chris and Kathy Lynch
Type of Application:	Permission
Planning Authority Decision:	Grant permission subject to conditions

Planning Appeal

Appellants:	Maeve and Patrick Malone and others
Type of Appeal:	Third parties-v-Grant
Observers:	None
Date of Site Inspection:	21 February 2007

Inspector: Keith Giddens

1.0 SITE LOCATION

The site lies immediately to the east of the Dublin to Rosslare Harbour railway line approximately 1 kilometre south of the centre of Rosslare. The land proposed for sterilisation lies to the west of the railway.

2.0 SITE DESCRIPTION

The site has a stated area of 0.75 hectares and comprises former agricultural land which is now disused and provides areas for storage of topsoil and builders materials in connection with the almost completed residential estate development to the north. This estate development provides access to the appeal site.

To the west the site is bounded by a concrete wall providing security for the railway line. To the east are dormer bungalows of the adjoining housing estate and two older style single-storey dwellings with large rear gardens. These dwellings front onto a narrow cul-de-sac road which runs above the site along its southern boundary. The older style single-storey dwelling immediately to the east has a well-established mixed tree screen along its boundary (and within its curtilage). A block built shed and boundary wall some 2 metres high runs along the remainder of the boundary.

The land proposed for sterilisation comprises an area of open, level grazing land.

Photographs of the site are attached.

3.0 THE PROPOSED DEVELOPMENT

The application proposes the construction of two two-storey dwellings and one dormer bungalow at the northern end of the site and three single-storey dwellings to the south. The maximum height of these single-storey dwellings is 5 metres. Materials of construction would echo those used on the larger estate development to the north.

The existing estate road to the north is proposed to be extended throughout the site with a large area of public open space in a fairly central position. Landscaping is indicated both within and around the site and a pedestrian access to the minor county road at the southern end of the site is proposed at the eastern extremity.

4.0 DEVELOPMENT PLAN

The Wexford County Development Plan 2001 (CDP), at section 3.3, emphasises the importance of maintaining the role and vitality of the County's

small towns and villages, while protecting their identity, character, setting and quality of life for local communities. At paragraph 4.11 the CDP recognises the national planning guidance to achieve higher densities consistent with the maintenance of quality residential environments. Paragraph 4.14 requires new housing development to be of a scale and layout appropriate to the settlement, of a design which is sympathetic to the character of the area and the amenity of neighbouring properties, and to include adequate functional open space areas. The standards for residential estate development are detailed at paragraph 4.24.

The Rosslare Local Area Plan 2002 (LAP) was adopted in March 2002 and is consistent with the objectives of the CDP. The appeal site lies just within the southern boundary of the plan area. The strategic aims of the LAP in relation to residential development are to provide for adequate housing to meet local need, to limit the number of holiday homes and to consolidate the existing settlement pattern.

The site is zoned for low density long-term residential development at 3 units per acre pending the upgrading of sewerage infrastructure. Compliance with the CDP Housing Strategy necessitates the transfer of up to 20% of zoned land, sites or units to the local authority for the provision of social and affordable housing.

Policy OSP2 requires all new housing developments to allow for recreational opportunities by encouraging the provision of useful open space.

5.0 PLANNING HISTORY

The file records that under the terms of Reg. ref. 2003/3191 permission was granted (date unclear) for the construction of forty-four houses to the north of the subject site. These are nearing completion. Condition 3 required the sterilisation of the land which now forms the subject of this appeal.

In May 2005 the Board refused permission, (PL26.210285), for the construction of six houses to the east of the railway line, fourteen houses to the west of the railway line and the transfer of the sterilised land from the east to the west of the railway. The reasons for refusal related to the suburban style layout and design, poor disposition of open space and, in the absence of a plan for the overall development of the zoned lands, would constitute a disorderly form of development.

In June 2006 the Board refused permission (PL26.214883) for the construction of six houses on the subject site and the transfer of sterilised land to the west of the railway line. The reasons for refusal related to the excessive height of the proposed dwellings, the poor design and disposition of public open space within the scheme and the lack of a long-term plan for the sterilised land.

6.0 THE PLANNING AUTHORITY'S DECISION

On 19 September 2006 it was decided to grant permission for the development subject to twenty-six unexceptional conditions.

7.0 GROUNDS OF APPEAL

- 7.1 A request to build a 2.4 metre high block and rendered wall along the boundary with the railway has been ignored. The existing concrete post and slab wall is inappropriate.
- 7.2 The proposed dwellings would increase the overall housing density to above the three houses per acre prescribed in the LAP.
- 7.3 The proposed pedestrian access would encourage resident and visitor parking on the narrow road to the south.
- 7.4 The proposed development is not sympathetic to the semi-rural coastal environment. The area should remain as an open space in the interests of visual amenity.
- 7.5 The Board have previously refused permission for six dwellings on the site.

8.0 APPLICANTS RESPONSE TO GROUNDS OF APPEAL

- 8.1 The appeal is vexatious and should be dismissed under the terms of Section 138 of the Planning and Development Act 2000. The appeal submission is the same as that lodged against the previous proposal for the site.
- 8.2 The previous conclusions of the Board have been addressed in the current proposal.
- 8.3 The 2.4 metre high concrete wall was deemed by Irish Rail, and agreed by the planning authority, as a more acceptable solution in terms of public safety to the 2.4 metre block and rendered wall previously reached with an adjoining development in order to secure an uninterrupted wall between two railway bridges.
- 8.4 The sterilisation requirement was to prevent surcharging of the existing sewerage system. The Board has previously accepted that there is no infrastructural deficit serving the development and that the overall development would comply with density requirements.
- 8.5 The pedestrian access to the south has been deemed acceptable to the Board.

8.6 The land is zoned for development.

8.7 The application should be assessed on its merits.

9.0 COUNCIL'S RESPONSE TO GROUNDS OF APPEAL

None received.

10.0 ASSESSMENT

In refusing permission for a similar development in June 2006 (ref. PL26.214883) the Board clearly accepted the principle of the development along with the proposed pedestrian access to the south and the concrete posts and slab wall along the boundary with the railway. The concern of the Board centred on the height of the proposed dwellings at the southern end of the site, the design and disposition of public open space and the lack of a long-term plan for the western portion of the site. The Board was satisfied that there was no deficit in infrastructure to service the development as the overall density would meet the requirements of the LAP. On this basis I consider that the only matters which need to be addressed in the current appeal are the dwelling design and relationships to adjoining dwellings, the design and disposition of the proposed open space and proposals for the western part of the site.

10.1 Dwelling design

The existing development adjoining the northern edge of the site comprise two-storey dwellings which, at the time of my inspection, were nearing completion. The proposed dwellings at the northern end of the appeal site would echo the design and layout characteristics of the existing dwellings and would site comfortably in the street scene.

At the southern end of the site the previous appeal proposals (PL26.214883) included two dormer bungalows with steeply pitched roofs at a height of 7.215 metres. The Board considered that this height was excessive and did not reflect the scale of the two adjoining older style properties or the interface with the open rural area to the south of the road. The applicants have sought to address this issue.

The layout of the site has been amended to provide two bungalows facing the southern boundary with another to their rear facing north. The proposed height of 5 metres and the low hipped roofs now respect the design context of the area and, being set below the level of the county road, will be unassuming and recessive elements in the street scene. I am satisfied that sufficient space would exist around each dwelling and that they would relate well together without threat of overlooking or loss of privacy. 1.8 metre high screening is proposed

around rear gardens with landscaping to reinforce the existing tree screen along the boundary of the curtilage of the existing adjoining dwelling.

10.2 **Open space**

In refusing permission for the previous proposal on the site (ref. PL.26.214883) the Board was concerned that the disposition of the proposed open space was poor and that the areas proposed were effectively left over areas rather than being included as part of the central design. Again, the applicants have submitted amended proposals.

The submitted drawing no. 06/ECR_QP/A1_02 (dated August 2006) now provides for a centrally located swathe of public open space extending to 0.175 hectares. This represents 23% of the total site area. In my view this would provide a suitable centrally located facility which would both enhance the visual characteristics of the development and allow appropriate passive supervision.

10.3 **Western part of the site**

In response to the Board's previous concern in respect of the lack of a long-term plan for the western part of the site the applicants have stated, in their letter of 21 June 2006, that the sterilised land will be grazed for seven years or until the town's sewage treatment facilities are completed. The County Council's completion date for such works is stated as March 2008.

In response to a request for further information, the applicants confirmed, on 23 August 2006, that the land would remain sterilised for seven years and that no plan had been, or was proposed, to be devised for the western land. This was reconfirmed on 6 November 2006 in their response to the grounds of appeal. Additionally, the Board were advised that the land had been offered to the Housing Department of Wexford County Council for social or affordable housing in view of its close proximity to the local authority development to the north.

In my view, the lack of formulation of a long-term plan for this part of the site is understandable given the residential zoning of the land and the potentially uncertain date when current sewerage restrictions will be eased, or overcome. In any event, the planning authority would have absolute control over the acceptability, timing and implementation of any development proposals for the site. In the circumstances of the case I can see no immediate need for a long-term plan for that part of the site or, indeed, an agreement to sterilise the land for a prescribed period.

I acknowledge that the Board may consider however, that an agreement is required in order to comply with the spirit of the terms of Condition 3 of the original permission for the wider development of the site (reg. ref: 2003/3191). Should that be the case, I consider that it should only remain in force for a period of seven years or until the planning authority confirm in writing that sufficient capacity exists in the sewerage treatment plan to accommodate further development.

11.0 RECOMMENDATION

I have read the submissions on file, visited the site and had due regard to the provisions of the development plan and all other matters arising. I recommend that planning permission be granted for the development based on the reasons and considerations under and subject to the conditions set out below.

REASONS AND CONSIDERATIONS

Having regard to the provisions of the current Wexford County Development Plan, Rosslare Local Area Plan and the existing character of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of layout and design. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the drawings received by the planning authority on the 23 day of August 2006, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

3. Prior to commencement of construction of houses, details of the materials, colours and textures of all the external finishes to the proposed houses shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

4. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed requirements of the planning authority for such works.

Reason: In the interest of amenities and public safety.

5. According as each street is occupied, public lighting shall be provided in accordance with a scheme, details of which shall be submitted to the planning authority for agreement prior to the commencement of development.

Reason: In the interest of amenity and public safety.

6. Prior to commencement of development, a management scheme providing adequate measures relating to the future maintenance of private open spaces, roads and communal areas in a satisfactory manner shall be submitted to the planning authority for agreement.

Reason: To ensure the adequate future maintenance of this private development in the interest of residential amenity.

7. Prior to commencement of development, proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development.

8. Prior to commencement of development, a phasing programme for the development shall be submitted to the planning authority for agreement.

Reason: To provide for the orderly development of the site.

9. Rear garden walls shall be bounded with 1.8 metres high concrete block walls, suitably capped, or by 1.8 metres high concrete post and timber fence inserts.

Reason: In the interest of visual and residential amenity.

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

Reason: In the interest of public health and to ensure a proper standard of development.

11. The site shall be landscaped with suitable trees, shrubs or hedging which shall mainly be of indigenous species. Details shall be agreed with the planning authority before the development is commenced.

Reason: To help integrate the development into the surrounding (rural) area.

12. The areas shown as public open space on the lodged plans shall be reserved for such use and shall be soiled, seeded, levelled and landscaped in accordance with a detailed scheme, including a timetable for implementation, to be agreed with the planning authority.

Reason: In the interest of the amenities of the occupants of the proposed housing.

13. Within eight weeks of the date of this order, the developer shall enter into an agreement with the planning authority under Section 96 of the Planning and Development Act, 2000 (as amended) in relation to the provision of social and affordable housing, in accordance with the requirements of the planning authority's housing strategy, unless, before the expiry of that period, the said developer shall have applied for and been granted an Exemption Certificate under Section 97 of the Planning and Development Act, 2000.

Reason: To comply with the requirements of Part V of the Planning and Development Act, 2000 (as amended).

14. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the planning authority of roads, footpaths, water mains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to the Board for determination.

Reason: To ensure the satisfactory completion of the development.

15. 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 contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

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 be applied to the permission.

Keith Giddens
Inspector
9 March 2007