

An Bord Pleanála



Inspector's Report

Appeal Reference No: PL26.246191

Development: Removal of pedestrian access and reinstatement of fence. Removal of condition no. 2 of Reg. Ref. 2006/2313.

Location: South Bay, Rosetown, Rosslare, Co. Wexford.

Planning Application

Planning Authority: Wexford County Council

Planning Authority: Reg. Ref.: 2015/203

Applicant: Clifftop Bay Management Company Ltd.

Planning Authority Decision: Refuse permission

Planning Appeal

Appellants: Clifftop Bay Management Company Ltd.

Type of Appeal: First party

Observers: (1) Rosetown Village Managers
(2) Ross and Pamela Doyle

Date of Site Inspection: 25/5/2016

Inspector: Siobhan Carroll

1.0 SITE LOCATION AND DESCRIPTION

- 1.0.1 The appeal site is located at South Bay housing estate which is located off Mauritiustown Road. The housing scheme contains 51 no. detached dwellings and it was constructed over 10 years ago is situated to the southern side of Rosslare and adjacent to the coast.
- 1.0.2 The subject pedestrian access is situated to the south-eastern corner of the estate. This section of the housing estate has a boundary of 75m with Rosetown Lane. The boundary is formed by a post and wire fence and mature hedging. The pedestrian access is flanked by two capped pillars with a height of 2.3m. Two sections of the wire fence in adjacent to the pillars have been broken and there is a clear desire line across a section of the boundary at this location where pedestrian movement has occurred.
- 1.0.3 Rosetown Lane runs from the Regional Road R736 to the coastal cliff for circa 560m. It serves dwellings with direct access onto the lane as well as Rosehill Heights and Rosetown Village. The width of the lane narrows to the east of the entrance to Rosetown Village. There is a bridge across the rail line and the eastern section of the lane serves two dwellings. The lane terminates at the cliff at Rosslare Strand. There was previously pedestrian access from the lane to the beach. This has now been blocked off due to coastal erosion and subsidence.

2.0 PROPOSED DEVELOPMENT

Permission is sought for Removal of pedestrian access and reinstatement of fence. Removal of condition no. 2 of Reg. Ref. 2006/2313. Features of scheme include;

- Site area – 5.95 hectares,
- It is proposed to extend and repair the 1.2m high chainlink fence.

3.0 PLANNING HISTORY

Reg. Ref. 2003/3191 – Permission was granted for 44 no. houses at South Bay.

Reg. Ref. 2006/2303 & PL26.220060 – Permission was granted for 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. 2003/3191 at Rosetown, Rosslare, Co. Wexford. Condition no. 2 refers to the subject pedestrian access and states;

2. The proposed pedestrian access and footpath to the county road to the south of the site shall be completed and ready for use prior to first occupation of the proposed dwellings. The proposed gate shall not be locked at any time. The proposed access shall not be used by any motorised vehicles other than wheelchairs.

Reason: In order to facilitate access and permeability to / within the proposed development and in the interest of proper planning and sustainable development.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

Internal Reports:

None

Submissions

The Planning Authority received five submissions in relation to the planning application. The issues raised are similar to those set out in the observations to the appeal.

4.2 Planning Authority Decision

The Planning Authority refused permission for two reasons. The first reason refers to the proposal having an adverse impact on pedestrian permeability and being contrary to the Government Guidance set out in the Urban Design Manual and Design Manual for Urban Roads and Streets and also Objective T10 and Sections 17.2.2, 17.77 and 18.10.2 of the Wexford County Development Plan 2013. The second reason states that the proposed chain link fence would have a detrimental impact on the visual amenities of the area.

5.0 GROUNDS OF APPEAL

A third party appeal was submitted by Clifftop Bay Management Company Ltd on the 22nd of February 2016. The content of the appeal submission can be summarised as follows;

- It is stated that if the Council wish to provide the residents of Rosetown and Rosehill with safer pedestrian or cycle facilities to the village there are other measure which can be taken.
- It is suggested that the Council could provide street lights and footpaths along the existing public roads.
- It is also suggested that alternative locations for pedestrian routes are available to serve Rosetown and Rosehill via the Cois Mara and Commodore Barry housing areas.
- The reference to the 2009 and 2013 Urban Design Manuals in the Planner's report does not state specific sections. The appellants consider it is not appropriate to provide such pedestrian permeability as it is a rural road.
- The matter of anti-social behaviour and criminal damage is cited as a reason that the pedestrian access should be removed and the fence reinstated.
- The erosion of the cliff face at Rosslare Strand is noted and it is stated that it poses a safety issue for children.
- It is stated that it is not contrary to a Right of Way to prevent permeability through a private estate.
- It is suggested that the original reason the gate was conditioned by the Board was to facilitate access for South Bay residents to the cliffs and beach at the end of Rosetown Road.
- The second reason for refusal referred to the chain link fence and stated that it is not in keeping with the environs. The fence was approved under Reg. Ref. 20062303.
- It is requested that the Board overturn the decision for the reasons set out in the appeal.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority response

- A footpath linkage to Rosetown Lane was sought under 2006/2303 in the interests of permeability to benefit residents of the development. At that time it was possible to access the beach from the head of Rosetown Lane.
- A vehicular access was not sought due to the narrow width of Rosetown Lane.
- It is now not possible to access the beach at the head of Rosetown Lane due to recent erosion and subsidence.
- The subject pedestrian access has and will contribute towards the overall permeability of this side of Rosslare.
- It is stated that the promotion of permeability is a constant theme of recent Government Guidance and it is also set out in the Transport, Design and Development Management chapters of the Wexford County Development Plan 2013-2019.
- The proposal would be contrary a number of objectives set out in the Development Plan.
- The creation and retention of an unobstructed pedestrian access was also supported by the Board in their considerations of the appeal 2006/2303.
- It is requested that the Board uphold the Council's decision to refuse permission.

6.2 Observations

Two observations to the first party appeal were received by the Board from (1) Rosetown Village Management Ltd and (2) Ross and Pamela Doyle.

(1) Rosetown Village Management Ltd

- Rosetown Village Management Ltd is the management company responsible for Rosetown Village a scheme of 24 no. dwellings which is accessed via Rosetown Lane.
- A right of way has existed historically at this location and has never lapsed.
- The Council affirmed the right of way in condition no. 2 of Planning Register No. 2006/2303.
- The closing of the right of way was in breach of the permission granted.

- The absence of proper footpaths on the public road from Rosetown Village to the petrol station makes it unsafe for pedestrians. It is therefore important that the existing access from Rosetown Village to Rosslare Strand via the South Bay right of way is maintained.
- A coded lock was previously fitted at the gate at South Bay which locked out all inward pedestrian traffic.
- The provision of a gated pedestrian access which restricted access to and from South Bay negatively impacted the residents of Rosetown Village.
- It is requested that the Bord uphold the decision to refuse permission.

(2) Ross and Pamela Doyle

- The observers live at Odessa Cottage which is located adjacent to the subject pedestrian access.
- The pedestrian access through South Bay to the shops and Rosslare Strand provides a shorter route of circa 1.5km from the observer's home. If the access is permanently closed it would increase the walking distance to these locations.
- It is noted that from a security point of view that locals walking through South Bay would increase passive security particularly during the winter months.
- The observers note that they have lived at Odessa Cottage since 2012 and have not seen anti-social behaviour in the area.

7.0 POLICY CONTEXT

7.1 Wexford County Development Plan 2013-2019

Rosslare is designated a "settlement" in the Wexford County Development Plan 2013-2019 and the site is within the built up area of the settlement.

- Chapter 8 – Transportation

Objective T10

.....Promoting cycling and pedestrian friendly development layouts, provide

facilities at public transport nodes, towns and villages, plan for and make provision for the integration of cyclist and pedestrian needs when considering new development proposals;

- Chapter 17 – Design

17.2.2 Connections

This relates to how well the new neighbourhood is connected. There should be attractive routes in and out for pedestrians and cyclists. Developments ought to be located in or close to a mixed-use centre. The development's layout must make it easy for a bus to serve the scheme. The layout must link to existing movement routes and the places people will want to get to. Depending on location, appropriate density helps support efficient public transport.

17.7.7 Layout

Proposals should create people friendly streets and spaces. One way in which this can be achieved is through aligning routes with desire lines to create a permeable interconnected series of routes that are easy and logical to navigate around.

- Chapter 18 – Development Management Standards

18.10.2 Access and Transport

- Developments should be located and designed to facilitate ease of access to existing and proposed facilities such as shops, schools and health facilities particularly by pedestrians, cyclists and by public transport. Attractive, safe and direct connections should be proposed.

7.2 National Policy

Design Manual for Urban Roads and Streets (DoECLG/DoTTS, 2013)

- Chapter 3 refers to 'Street Networks' and recommends connectivity between destinations to promote higher levels of permeability and legibility for all users including cyclists and pedestrians.

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) (2009)

- Chapter 3 refers to 'The Role of Design' and Section 3.14 recommends that connectivity and permeability be promoted in particular it states that routes within the area should be accessible for everyone and as direct as possible, and for this reason "gated estates" should be discouraged. The design process should consider what levels of permeability are appropriate for different street users, with permeability for pedestrians and cyclists taking precedence over permeability for vehicles.

8.0 ASSESSMENT

Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Planning history
- Principle of development
- Appropriate Assessment

8.1 Planning History

8.1.1 In order to assess the proposal to removal the pedestrian access and reinstatement of fence at South Bay Estate it necessary to establish the relevant planning history as it is pertinent to determination of the appeal.

8.1.2 Under Reg. Ref. 2003/3191 permission was granted for a residential scheme of 44 no. detached dwellings at South Bay. Under Reg. Ref. 2006/2303 & PL26.220060 permission was granted for 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. 2003/3191. The proposed scheme granted included a gated pedestrian access in the south-eastern corner of the site. In the permission issued by the Board condition no. 2 is directly relevant to the current appeal.

8.1.3 Condition no. 2 of PL26.220060 specified that;

2. The proposed pedestrian access and footpath to the county road to the south of the site shall be completed and ready for use prior to first

occupation of the proposed dwellings. The proposed gate shall not be locked at any time. The proposed access shall not be used by any motorised vehicles other than wheelchairs.

Reason: In order to facilitate access and permeability to / within the proposed development and in the interest of proper planning and sustainable development.

8.1.4 The wording of the condition clearly sets out the requirement for a permanently accessible pedestrian gate without any restriction to access in order to facilitate access and permeability to and within the proposed development. Therefore the current proposal to remove the pedestrian access and reinstate the boundary fence is contrary to condition no. 2 of the development permitted under appeal reference number PL26.220060.

8.2 Principle of development

8.2.1 In terms of the principle of the development the matters to be considered relate to the acceptability or otherwise of the proposed development having to the issue of pedestrian permeability through the site against the requirement of the Management Company to restrict access to prevent anti-social behaviour. Also the matters of compliance with the provisions of the Wexford County Development Plan 2013 – 2019 and relevant national Planning Guidance should be taken into consideration.

8.2.2 The appellants have made a case based on the issue of anti-social behaviour and crime as to why they require the pedestrian access to be permanently closed with the reinstatement of the boundary fence. The observers to the appeal stated that since living in the area from 2012 they did not see the occurrence of anti-social behaviour.

8.2.3 The pedestrian access to the south-eastern corner of the site which it is proposed to remove is also part of the scheme permitted by the Board. The gate provides access for residents of South Bay to Rosetown Lane. Rosetown Lane runs from the R736 to the coastal cliff for circa 560m. It serves dwellings with direct access onto the lane as well as Rosehill Heights and Rosetown Village.

8.2.4 It is noted that due to recent coastal erosion and subsidence that there is no longer pedestrian access from the eastern end of the Rosetown Lane to Rosslare Strand. However, I note that there are extensive views of the coastal area from the lane and therefore usage of the lane itself provides amenity to local residents of the surrounding area.

- 8.2.5 The route along Rosetown Lane and the pedestrian access through the South Bay Estate and through Clearwater Cove onto Mauritiustown Road provide a shorter walking route for residents of Rosetown Lane and residents from Rosehill Heights and Rosetown Village to the surrounding facilities including the local shops to the north, the 878 bus route on Mauritiustown Road, Rosslare train station and Rosslare Strand.
- 8.2.6 I concur with the opinion of the planning authority that there are amenity and permeability issues arising from the proposed development. Furthermore I note the proposal would be contrary to Objective T10 of the Development Plan. This policy seeks to promote accessibility and local permeability in developments through the provision of schemes designed in a manner which facilitates and encourages safe walking and cycling. Section 17.2.2 of the Development Plan refers to the requirement for connections and sets out the need to provide attractive routes in and out of housing schemes for pedestrians and cyclists. Section 17.7.7 refers to the layout of housing schemes and states that proposals should create people friendly streets and spaces where routes aligned with desire lines to create a permeable interconnected series of routes that are easy and logical to navigate around.
- 8.2.7 Section 18.10.2 of the Development Plan refers to Access and Transport and also sets out policy in relation to permeability and connectivity. It recommends that developments should be located and designed to facilitate ease of access to existing and proposed facilities such as shops, schools and health facilities particularly by pedestrians and cyclists. “The Design Manual for Urban Roads and Streets” published in 2013 and the “Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas” published in 2009 provide guidance in relation to design of housing areas and urban streets. Both publications recommend the promotion of higher levels of permeability and legibility. Specifically, chapter 3 of the Guidelines on Sustainable Residential Development in Urban Areas refers to the role of design in ensuring the promotion of connectivity and permeability. Section 3.14 states that routes within the area should be accessible for everyone and as direct as possible, and for this reason “gated estates” should be discouraged.
- 8.2.8 Accordingly, the proposed development would seriously injure the amenities of the area by reason of prevention of pedestrian movement through this section of the development and would set an undesirable precedent for further such development.
- 8.2.9 While I note the concerns of the appellants regarding anti-social behaviour, however I consider other security measures could be taken to address the problem such as use of surveillance cameras etc. Accordingly, I concur with the opinion of the planning authority, that the proposal would restrict permeability and if permitted the development would set an undesirable precedent for similar type development that would be at variance with the

overall objectives of the Development Plan and the relevant Ministerial Guidance.

8.2.10 The second reason for refusal issued by the Planning Authority referred to the proposed chain link fencing and stated that it would have a detrimental impact on the visual amenities of the area. Section 17.6.12 of the Development Plan is cited in the refusal reason. Section 17.6.12 refers to detailed design and states that materials and external design must make a positive contribution to the locality, and not take away from existing character.

8.2.11 While, the concerns of the Planning Authority in relation to the proposed boundary fence are noted regarding its appearance, the applicants are proposing to extend and repair the existing fencing. Furthermore, an alternative boundary treatment including type of fencing could be conditioned should the Board decide to grant permission in this instance.

8.3 Appropriate Assessment

8.3.1 In relation to the matter of appropriate assessment, I consider that having regard to the nature of the proposal and the nature of the receiving environment, namely a suburban and fully serviced location that no appropriate assessment issues arise.

9.0 CONCLUSIONS AND RECOMMENDATION

9.0.1 I have read the submissions on file and visited the site. Having due regard to the provisions of the Development Plan, together with all other issues arising, I recommended that permission be refused for the following reasons.

REASONS AND CONSIDERATIONS

1. The proposed removal of the pedestrian access and reinstatement of the boundary fence would prohibit permeability through the development and would be contrary to Objective T10 and Sections 17.2.2, 17.7.7 and 18.10.2 of the Wexford County Development Plan 2013 - 2019. Furthermore, the proposed development would be contrary to Section 3.14 of "The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas" published in 2009 and the provisions of "The Design Manual for Urban Roads and Streets" published in 2013. The proposed development would seriously injure the amenities of the area by reason of prevention of pedestrian movement through this section of the development and would set an undesirable precedent for further such development and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development would contravene an existing condition (number 2) to a permitted development granted under appeal reference number PL26.220060 and would not be in accordance with the proper planning and sustainable development of the area.

Siobhan Carroll,
Inspectorate
30th of May 2016