



An  
Bord  
Pleanála

## Inspector's Report PL26.247196

---

<b>Development</b>	Outline planning permission for a house and associated site works
<b>Location</b>	Slippery Green, Wexford Urban No. 2
<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20160659
<b>Applicant(s)</b>	Jacqueline Nolan
<b>Type of Application</b>	Outline planning permission
<b>Planning Authority Decision</b>	Refuse outline permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Jacqueline Nolan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	1 <sup>st</sup> December 2016
<b>Inspector</b>	Mary Kennelly

## **1.0 Site Location and Description**

- 1.1.** The site is located within the built up area of Wexford Town, in an area known as Slippery Green, to the south west of the town centre, overlooking Bishop's Water. Distillery Road (R733) runs in a south-westerly direction from Mill road, linking the town centre with the N25 and ring road. St. Aidan's Road, a residential access road, runs parallel to Distillery Road to the north, and Slippery Green is situated between the two roads. Distillery road is predominantly residential with some commercial uses. There is a small cul-de-sac, Bishop's Park, on the northern side of the road. The appeal site is located to the rear of No. 7 Bishop's Park, with frontage to St. Aidan's Crescent to the rear.
- 1.2.** The site is in the shape of a pentagon with frontage to St. Aidan's Crescent of 11.3m along its northern boundary. The southern part of the site forms part of a steep embankment. The site area is given as 0.29ha. Although the site is overgrown with brambles and scrub, the section closest to St. Aida's Crescent appears to be quite level. However, the levels at the rear of the site drop sharply. Existing ground levels are not provided, but I would estimate that the difference in levels between St. Aidan's Crescent and Bishop's Park is approx. 6m as the road level in St. Aidan's Crescent is roughly level with the ridge line of the two-storey terraced dwellings below.

## **2.0 Proposed Development**

- 2.1.** It is proposed to erect a two-storey dwelling, which would be fully serviced, together with all associated and ancillary works. The dwelling would be accessed from St. Aidan's Crescent. The submitted drawings show a rectangular shaped footprint of 12.5m x 6.5m and would be set back approx. 3.4m from the roadside boundary and a similar distance from the side boundaries. The site layout plan shows the dwelling extending to just over 2.5m from the rear boundaries. This would involve building into the embankment.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to refuse permission for three reasons which may be summarised as follows:

1. Overdevelopment of this constrained site – due to lack of useable private amenity space.
2. Two-storey dwelling, due to location and topography, would have an overbearing impact on the adjoining properties and would significantly injure the amenities of the adjoining properties to the south.
3. Insufficient information regarding slope stability and impact on flooding and connection to services to determine suitability of site.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

It was noted that the site is zoned residential and that as such, the development of a dwelling on the site would be acceptable in principle, subject to the required standards. Notwithstanding this, the Area Planner considered that as the site slopes steeply towards a stream to the south, it would not be suitable for development and would require significant stability works if developed. Furthermore, it was considered that a two-storey dwelling would have an overbearing impact on the dwellings to the south given the change in levels. The following comments were also made:-

- Useable private amenity space would be limited to the side of the dwelling.
- No details have been provided in respect of connections to public water mains or public foul sewer.
- The site is located within OPW Flood Map Category C and A. The embankment falls to the stream to the south.
- A Certificate of Exemption from Part V has been granted Ref. HSE010/16.

It was concluded that the site is not suitable for development of a two-storey dwelling.

### **3.2.2. Other Technical Reports**

Water Services – further information is requested regarding service connections for the site as none are shown on the drawings.

### **3.3. Prescribed Bodies**

Irish Water (25/07/16) – The drawings and specifications provided do not provide IW with sufficient data to make a determination on the development.

### **3.4. Third Party Observations**

Submission from Linda and William Keating, 5 Bishopspark (15/07/16) expressed concern regarding loss of privacy as the proposed dwelling would directly overlook their property. In addition, due to the steep slope, concern was expressed regarding any future boundary walls surrounding the site and the implications for the observers' property.

## **4.0 Planning History**

W0005833 – planning permission granted for 2-storey extension to rear of No. 7 Bishop's Park, subject to conditions.

## **5.0 Policy Context**

### **5.1. Development Plan**

#### **Wexford Town and Environs Plan 2009 2015 (as extended) –**

The site is zoned Residential Medium, the objective for which is "To protect and enhance the residential amenity of existing and developed communities", (Zoning Objective B). It is stated (11.2) that the purpose of this zone is to preserve existing residential uses and to provide for infill residential development at a density that is considered suitable to the area and the needs of the population. It is further stated that while infill would be acceptable in principle, careful consideration would have to be given to protecting residential amenities.

Chapter10 - Design Guidance - provides general advice on urban design and good design practice for all development, including residential.

11.08 Residential Development – sets out general requirements for residential development, the most relevant of which are as follows:-

11.08.01 Density – Medium density standard is 17-25 units/ha. However, in determining the appropriate density, regard will be had to the amenities of surrounding areas.

11.08.03 – Design – the design of dwellings in residential estates should bear a relationship to the nature, scale and form of the existing built fabric.

11.08.06 - Private Open Space – A minimum area of 60-75m<sup>2</sup> of private open space must be provided which should be free from overlooking and have adequate amounts of day lighting. The proportions may vary but a distance of 22m shall generally be observed between opposing first floor windows. Boundaries should be enclosed with walls of 1.4m in height.

11.08.10 Infill housing – well designed and integrated infill housing will be encouraged for its role in the social and environmental revitalisation, but each case will be considered on its merits. Regard will be had to matters such as sympathetic design and density; provision of appropriate amount of open space; sufficient space to accommodate bin, fuel and other household storage.

11.14 Car parking – Table 4 sets out car parking standards. The standard for houses is 2 spaces per house.

11.19 Development Contributions – set out in Development Contributions Scheme, 2013.

## **5.2. Natural Heritage Designations**

Slaney River Valley cSAC – approx. 1km to east

Wexford Harbour and Slobs SPA – approx. 1km to east

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The first party appeal was submitted by Colm Nolan Architect on behalf of the applicant. The main points raised may be summarised as follows:

- The site is zoned residential and is located within an established housing area. The P.A. has acknowledged that the development of the site for residential purposes would be acceptable in principle.
- Precedent has already been established by virtue of the approval of a Part 8 for a 2-storey dwelling house on the site in 1987. Furthermore, a precedent has been established by the grant of permission for a 2-storey house on St. Aidan's Terrace with similar site constraints.
- A 2-storey dwelling would be in keeping with both sustainable living and with the streetscape, whereas a single storey one would not be appropriate.
- There would be no direct overlooking of Bishops Park as these houses are at least 22m distant and at a significantly different level. Views are towards Wexford Golf course, not these houses.
- The issue of the stability of the site could be investigated once OP is granted, as it would then be financially viable to do so.
- The final design of the dwelling will be in keeping with the character of the site using natural levels to inspire its design and in the context of its surroundings.
- The issues raised by the P.A. can be dealt with by condition.

### **6.2. Planning Authority Response**

The P.A. responded on the 21<sup>st</sup> September, 2016. It is stated that the determination of outline planning permission requires assessment of the suitability of the site for such development. It is stated that the useable space is limited given the slope of the land and the impact on neighbouring properties would injure the amenities of these dwellings.

## **7.0 Assessment**

**7.1.** It is considered that the main issues arising from the appeal are as follows:-

- Overdevelopment of the site
- Residential amenity
- Slope stability and flooding

### **7.2. Overdevelopment of the site**

- 7.2.1** The location of the site on residentially zoned and serviced land, within an established housing estate, means that the development of the site as infill development is acceptable in principle. However, as noted in 5.1 above, the Development Plan makes it clear that infill development is only appropriate where suitable sites and site conditions exist and that the impact on the residential amenities of the neighbouring sites must be taken into account. It is also noted that the Zoning Objective is to protect and enhance the residential amenity of existing residential property and of developed communities.
- 7.2.2** Then appellant refers to two decisions which, it is claimed, have created a precedent. In terms of the appeal site, there is no information provided with the grounds of appeal regarding a Part 8 grant of approval in 1987 for a 2-storey house on the site, which was referred to by the appellant. The P.A. has not mentioned it in its internal reports or response to the appeal and I have been unable to find any reference to it on the planning authority's website. Given that the date referred to is 1987, it is considered that any relevance would be only slight, as the policy framework and conditions on the ground are likely to have changed in the intervening period.
- 7.2.3** The second precedent referred to in the grounds of appeal relates to a site immediately to the east of No. 5 St. Aidan's Crescent (P.A. Ref. W005932). I have reviewed this permission on the P.A.'s website and note that the site area was considerably greater than that of the appeal site, (416m<sup>2</sup> as opposed to 290m<sup>2</sup>). The plot ratio and site coverage also indicated a much less dense development. The plot ratio and site coverage for the current proposal are estimated at 0.56:1.0 and 28%, respectively, whereas the relevant figures for the previously permitted development are 0.23:1.0 and 12.5%, respectively, (based on 96m<sup>2</sup> floor area and 52m<sup>2</sup> GF area).

Furthermore, the permitted development was designed such that it occupied the level part of the site only and did not encroach on the embankment. A rear garden had also been provided and it is stated in the reports associated with that permission that a Civil Engineering Report had been submitted stating that the stability of the site was acceptable.

7.2.4 The site area is given as 290m<sup>2</sup>, and a substantial portion of that incorporates a steep drop in ground levels. The proposed dwelling is shown on the submitted site layout plan as 12.5m x 6.5m, which would give a footprint of 81.25m<sup>2</sup> and a floor area of 162.5m<sup>2</sup>. As stated above, this would result in a plot ratio of 0.56 and a site coverage of 28%, but the remainder of the site would be at a significantly different level. It is considered that the site is constrained, not only by its small size, but by the presence of the steep gradient towards the rear. It is difficult to see how it would be possible to incorporate a private amenity space in the order of 60m<sup>2</sup> as required by the Development Plan. As such, it is considered that the development of a two-storey dwelling would result in overdevelopment of the site.

### **7.3. Residential amenity**

7.3.1 The site overlooks the adjoining development to the south. I would disagree with the appellant's claims that the distances are greater than 22m and that the significant difference in levels would result in no overlooking from the proposed dwelling. It is estimated that distances between the site boundaries and existing development to the south are in the order of approx. 10-15m. Although the proposed structure would be sited at a greater distance, the likelihood of achieving 22m between opposing windows is considered to be remote. Even if the privacy of the neighbouring houses below were to be respected by the design of the dwelling, the boundary would, by necessity, have to be heavily screened. It is considered that any walls or fences in this location could have an overbearing impact on the small gardens of the dwellings below. Thus the proposal would be likely to result in serious injury to the residential amenities of the properties to the south.

7.3.2 The proposed development is unlikely to be able to provide adequate private amenity space within the site for the enjoyment of the future occupants of the dwelling. The Development Plan requires the provision of 60-75m<sup>2</sup>, which it is considered, would be difficult to achieve due to the topography of the site, combined



with the restricted site size. Thus the proposed development would be injurious to the residential amenities of the future occupants of the site.

#### **7.4. Slope stability and flooding**

7.4.1 The Area Planner considered that the site does not appear to be suitable for development due to the fact that it slopes steeply towards a stream and that it would be likely to require significant stability works, if developed. It was, therefore, recommended that permission be refused on the grounds of inadequate information regarding the stability of the slope and the impact on flooding. In response the appellant has stated that once the principle of constructing a dwelling on the site is permitted, it would then be intended to investigate the slope stability and impact on flooding, as it would be financially viable to do so. Although it is understandable that the appellant is reluctant to conduct expensive site investigation works, I would agree with the P.A. that, in the absence of such information, it is impossible to understand the implications of development on the site in terms of slope stability, flooding and design of the dwelling on the visual and residential amenities of the area and on the environment in the vicinity of the site.

7.4.2 It is further noted that the site is located within a Flood Risk Area which is designated as both Category A and Category C, yet no flood risk assessment has been carried out. No information has been provided regarding connection to public services. It is considered, however, that this matter could be addressed by means of an appropriately worded condition, should the Board be minded to grant permission.

#### **7.5 Appropriate Assessment**

7.5.1 The site is located approximately 1km from two Natura 2000 sites, namely, Slaney River Valley cSAC, (approx. 1km to east), and Wexford Harbour and Slobbs SPA, (approx. 1km to east). Given the distances involved, and as the site is located in an established urban area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

## **8.0 Recommendation**

- 8.1.** It is recommended that outline planning permission be refused for the reasons and considerations set out below.

## **9.0 Reasons and Considerations**

1. Having regard to the restricted site area, which is further constrained by the steeply sloping ground to the south, and to the topography of the area and the proximity of adjoining residential properties to the south, it is considered that the proposed development of a two-storey dwelling would result in overdevelopment of the site, which would seriously injure the residential amenities of these properties by reason of overlooking and overbearing impact, and would result in inadequate useable private amenity space for the future occupiers of the site. The proposed development would, therefore, be contrary to the provisions of the Wexford Town Development Plan 2009-2015 (as extended) and to the proper planning and sustainable development of the area.
2. The Board is not satisfied, in the absence of information on the stability of the slope and associated ground and site drainage conditions, that the proposed development would not result in slope instability and/or an inappropriate design and layout of the dwelling which could result in serious injury to the visual and residential amenities of the area and give rise to an increased flood risk in the vicinity of the site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

---

Mary Kennelly  
Planning Inspector

5<sup>th</sup> December 2016