



An
Bord
Pleanála

Inspector's Report PL26.247950

Development	12 no. houses and a local shop.
Location	Davidstown, County Wexford.
Planning Authority	Wexford County Council.
Planning Authority Reg. Ref.	20161244.
Applicant	Aidan Kenny.
Type of Application	Permission.
Planning Authority Decision	To Refuse Permission.
Type of Appeal	First Party v. Decision.
Appellant	Aidan Kenny.
Observers	None.
Date of Site Inspection	19 th May, 2017.
Inspector	Brendan Wyse.

1.0 Site Location and Description

- 1.1. Davidstown is a small village located approximately 5kms south-west of Enniscorthy and a short distance south of the N30, Enniscorthy – New Ross Road. The village comprises a church, school, pub, some individual housing and a small housing scheme called Cloney Park.
- 1.2. The appeal site is located centrally within the village on the north-eastern side of the local through road. It has a stated area of 1.31 hectares and comprises, for the most part, a grassed field. Generally, ground levels drop gently from the road frontages towards the rear of the site. A mixed woodland extends to the north and east. The village wastewater treatment plant (WWTP) is located a short distance to the east.
- 1.3. See maps and photographs in the file pouch.

2.0 Proposed Development

- 2.1. The proposed development comprises 12 no. 4-bedroom two-storey detached houses (3 house types A, B and C) and a local shop (floor area 233 square metres). The application is also stated to include provision for connection to and upgrade of the Davidstown WWTP.
- 2.2. The shop would occupy the front/road corner of the site with the houses laid out informally and generally around a central green space. Access/circulation roads are to be shared surfaces. The houses are of simple contemporary design with some traditional references. The corner shop also has echoes of traditional design.
- 2.3. As indicated foul drainage would be to the Davidstown WWTP. This plant includes a discharge to a percolation area to the north and a final outfall to the Davidstown Stream, c.300 metres to the north. Surface water would discharge to an existing sewer running along the eastern site boundary. This also ultimately discharges to the Davidstown Stream. Mains water supply is available.
- 2.4. Application documentation includes an Architect's Report and an Engineer's Assessment Report.

3.0 Planning Authority Decision

3.1. To refuse permission for four reasons referring to:

1. Permaternity vis. prospective deficiency in Davidstown WWTP and the public surface water attenuation network serving the area. Also unacceptable to locate foul and surface water sewers, including manholes, on private open space.
2. Significant effect on Natura 2000 sites cannot be excluded – reference to Slaney River Valley SAC in close proximity.
3. Inadequate details re surface water attenuation and disposal, public lighting and road construction.
4. Contrary to Development Plan Objectives HP20 and HP21 re accessibility requirements.

3.2. Planning Authority Reports

3.2.1. Planners Report

Basis for Planning Authority decision.

Includes:

- Development acceptable in principle.
- While density (at c.10 units per hectare) is low it is acceptable.
- Shop is appropriately located.
- EIA required – No.
- AA requirement – Yes. AA Screening Report indicates potential for negative impact on the Slaney River Valley SAC due to capacity issue with the Davidstown WWTP.

3.2.2. Other Technical Reports

Roads Reports: Further information requested re; alternative surface water discharge (due to lack of capacity in the existing 225mm surface water line); design

details for attenuation tank; public lighting; and the provision of a 2m wide footpath along the entire site boundary.

Fire Officer: Requirements noted.

The planner's report also refers to the **Disability Access Officer** who noted the accessibility requirements.

3.3. **Prescribed Bodies**

The planning authority planner's report refers to **Irish Water** not submitting any comments.

3.4. **Third Party Observations**

None.

4.0 **Planning History**

4.1. By reference to the planning authority's planner's report it appears that three previous applications for permission to develop the site, over the period 2006 – 2013, were each subsequently withdrawn. Planning Authority Refs. 20130260, 20120495 and 20063531 refer. The lack of capacity in the Davidstown WWTP was at issue in all three cases.

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. **Wexford County Development Plan 2013 – 2019**

The Core Strategy (Settlement Strategy) of the plan contains specific policies/objectives for smaller villages (Section 3.4.9). These villages are divided into two categories; less than 400 population and 400 to 1,500 population, in order to ensure that the development approach is appropriate to the character and scale of each type of village. Davidstown falls into the former, less than 400 population, category. The policy approach includes:

- Ensuring that the villages maintain their existing population levels and services.
- Future growth is to be incremental, small in scale and appropriate to the size, scale and character of the village.
- New residential developments should comprise no more than 12 residential units.
- Larger scale developments may be considered but only where it can be demonstrated there is/will be sufficient physical and social infrastructure to cater for the development.
- No one residential development shall have the potential to increase the population of the village by more than 20%.

Associated objectives include **SS25 – SS29**.

Housing Objective HP20: A minimum of 20% of dwellings in all new housing estates of 5 dwellings or more must be suitable to accommodate or be adaptable to provide accommodation for people with disabilities. Accessible routes within the development and to local services also required.

Housing Objective HP21: Access Statements for significant developments required.

Retail Objectives ED31 and 32: All retail development to be in accordance with retail guidelines/retail strategy and to a scale appropriate to the level of the town/area in the retail hierarchy.

Infrastructure Objective WW03: To facilitate the provision and improvement of adequate wastewater services to serve existing/future needs of towns villages and settlements identified in the core/settlement strategy.

Infrastructure Objective SWM01: to promote water retention facilities for new developments and design solutions based on Sustainable Drainage Systems (SUDS).

Chapter 18: Development Management Standards.

Recorded Monument WX025-013 – Urn Burial located within the Cloney Park housing scheme to the south east of the appeal site.

5.2. Other Relevant Guidance

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, Department of the Environment, Heritage and Local Government, 2009.

5.3. Natural Heritage Designations

- Slaney River Valley SAC (Site Code 000781). Located c.2kms to the south east of the appeal site.
- Wexford Harbour and Slobbs SPA (Site Code 004076). Located c.4kms to the east of the appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

These may be summarised as follows:

- The refusal of permission mainly relates to the availability of foul water treatment in Davidstown. The planning authority planner's report notes the development is broadly acceptable in principle.
- The application seeks to remedy the shortfall to allow incremental development in the village in accordance with the settlement policy of the development plan.
- The dilemma is that the WWTP will not be upgraded unless new housing contributes to it and the new housing cannot be built unless the WWTP is upgraded.

Reason for Refusal No. 1

- The application proposes to contribute to the upgrade of the Davidstown WWTP – it is not premature to seek to make the plant comply with development plan standards.
- The proposal is supportive of development plan and national policy to encourage development in villages and in an environmentally sustainable manner.

- Reference also to the recent Government policy document ‘Realising our Rural Potential, Action Plan for Rural Development’ and its provision for very substantial capital investment in water and wastewater infrastructure over the period 2016 – 2021, the five-year period over which a permission on the subject site would be actionable.
- If a wayleave for sewers through private lands is unacceptable a condition could require House No. 7 to be rotated, house change B to C, and a public road/open space area extension alongside as illustrated on enclosed Drg. No. 1207P102.
- An enclosed engineering report addresses the technical issues relating to wastewater treatment and surface water attenuation requirements. References to information provided in the planning application documents. Further technical details provided.

Reason for Refusal No. 2

- This is addressed in an enclosed Natura Impact Statement (NIS). Finding of no likely significant effects.

Reason for Refusal No. 3

- These matters are also addressed in the enclosed engineering report.
- Public lighting details are usually dealt with by a condition for subsequent agreement with the local authority prior to commencement of development.
- Road construction details in accordance with Site Development Works and DMURS were provided on planning application drawings P211 to P213. Reference also to Engineering Assessment Report submitted with the planning application.

Reason for Refusal No. 4

- All of the houses are suitable to accommodate or are adaptable to provide accommodation for people with disabilities.
- The individual elements of the development are described to illustrate how the development complies with access requirements.

6.2. Planning Authority Response

Includes:

- There are no proposals from Irish Water to upgrade the treatment plant and no plans for the EPA to amend the existing license.
- In this context the offer of the applicant to contribute to upgrading works is premature.
- In this context also the NIS is deficient in the absence of details of upgrading works.
- The layout change to ensure service lines are no longer on private property is acceptable.
- No effort has been made to address the issue of the surface water pipe/system being at capacity.
- Based on enforcement experience the planning authority has taken the view that details re road construction and public lighting should be submitted with applications. The road construction details may be acceptable but the absence of public lighting proposals is not.
- The failure to submit an access statement is contrary to the access objectives.

6.3. Observations

6.3.1. The Board referred the application details to the following bodies:

- Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs (DAHRRG)
- An Taisce
- The Heritage Council
- Failte Ireland
- An Chomhairle Ealaíon

6.3.2. The only response received was from the DAHRRG. It includes:

- Recommendation for an Archaeological Impact Assessment prior to any site preparation/construction works due to proximity to Recorded Monument WX025-013.

7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the planning authority's reasons for refusal. In this regard it is noted that there is strong policy support for the proposed development – reference the terms of the planning authority decision (Section 3.1 above); the supporting planner's report (Section 3.2.1 above); and the Core Strategy/Settlement Strategy provisions of the Wexford County Development Plan (Section 5.1.1 above).

7.2. The issues are addressed under the following headings:

- Foul Drainage
- Surface Water Drainage
- Appropriate Assessment
- Technical Details
- Accessibility

7.3. **Foul Drainage**

7.3.1. This is the principal issue in relation to the proposed development. As indicated there is strong policy support for a residential development of the type proposed, including a corner shop, within the village of Davidstown, but the need to upgrade the village WWTP, accepted by all sides, is the stumbling block. In this context I acknowledge the dilemma as identified by the applicants – the plant is unlikely to be upgraded in the absence of new housing but new housing cannot be provided in the absence of the upgrade.

7.3.2. It appears that the upgrading of the WWTP is now a matter for Irish Water and that it would also require amendments to its existing license from the EPA. The planning authority referred the application to Irish Water but no response was received. It is the planning authority's position, therefore, that there are no proposals from Irish Water to upgrade the plant. While the applicants refer to the Government's plans for

substantial capital investment in water and waste water infrastructure over the period 2016-2021 there is no indication of any specific projects or that the Davidstown scheme is likely to be included. I also note from the planning authority planner's report that any planning permission that might issue would not contain any development contribution for water or waste water following on the transfer of authority for such infrastructure to Irish Water.

- 7.3.3. Notwithstanding the undoubted merits of the proposed development, given the circumstances as outlined, there does not appear to be any mechanism available to the Board that would allow a permission to issue conditional on the WWTP upgrade. The proposed development, therefore, remains premature in relation to foul sewerage facilities.

7.4. **Surface Water**

- 7.4.1. The issue here focuses on the capacity of the existing 225mm sewer that runs along the eastern site boundary. The applicant's engineering report, submitted with the appeal, reiterates that the attenuation on site will limit discharge to equivalent green field runoff rates so that no increase from existing runoff from the site will occur.
- 7.4.2. I am satisfied that this issue could be suitably addressed by condition in the event of permission being granted.

7.5. **Appropriate Assessment**

7.5.1. **Screening**

Clearly the proposed development in this case is not directly connected with or necessary to the management of a Natura 2000 site.

The proposed development is as described in Section 2.0 above.

The nearest Natura 2000 sites are:

- Slaney River Valley SAC (Site Code 000781). At the nearest point (The Boro River) it is c.2kms to the south east of the appeal site.
- Wexford Harbour and Slobs SPA (Site Code 004076). At the nearest point (The Slaney River) it is c.4kms to the east of the appeal site.

Specific conservation Objectives have been published for these sites. Many of these relate to species/habitats that are reliant on good water quality.

The primary potential significant impact on these sites likely to arise from the proposed development relates to the proposed surface water and foul water discharges. The former is to be via the existing 225mm pipe that runs along the eastern site boundary and which discharges to the Davidstown Stream. The latter is to be via the Davidstown WWTP that also has an outfall to the Davidstown Stream. This stream in turn flows (instream distance c.2.7kms) to the Boro River, part of the Slaney River Valley SAC. The Boro River flows on to the Slaney River, still part of the SAC, and also part of the Wexford Harbour and Slobs SPA.

I am satisfied that the potential surface issue can be resolved, as proposed, through appropriate design. This includes attenuation and restriction of discharge to greenfield rates. It can, therefore, be screened out for appropriate assessment purposes.

However, given the acknowledged capacity issues at the Davidstown WWTP and the absence of definitive proposals to address them, it is not possible to screen out the foul water issue. I note that the planning authority reached a similar conclusion.

In this context potential significant in-combination effects cannot be ruled out either.

It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would be likely to have a significant effect on the Slaney River Valley SAC (Site Code 000781) or the Wexford Harbour and Slobs SPA (Site Code 004076), in view of the sites' Conservation Objectives, and that a Stage 2 Appropriate Assessment is required.

7.5.2. Appropriate Assessment (Stage 2)

The applicants appeal submission includes a Natura Impact Statement (NIS).

The NIS correctly identifies the nearest Natura 2000 sites as the Slaney River Valley SAC and the Wexford Harbour and Slobs SPA. It also correctly identifies the hydrological connection that exists between the development site and these sites,

namely, arising from surface water and foul water discharges to the Davidstown Stream that in turn flows to the Boro River and on to the Slaney River.

While the NIS acknowledges that the Davidstown WWTP is not operating to adequate standards it simply references the applicants proposal to contribute to its upgrade and states that no new connections to the sewer will be made until such works are completed. This appears to be the primary basis for the conclusion of no significant effects on the integrity of the Natura 2000 network.

I have already indicated (Section 7.3 above) that there is no mechanism available at this time to allow a permission to issue conditional on the WWTP upgrade.

Furthermore, no details at all are available as to the viability of such an upgrade in the context of appropriate assessment. In this regard, I note the planning authority planner's report, in screening for appropriate assessment, where it raises a query in relation to the assimilative capacity of the Davidstown Stream. The issue of likely significant in-combination effects would also have to be considered.

I do not consider, therefore, that it is possible, in this case, to reach a conclusion of certainty of no adverse effects to the extent that is necessary for the purposes of appropriate assessment.

On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the assessment carried out above, I am not satisfied that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of the Slaney River Valley SAC (Site Code 000781) or the Wexford Harbour and Slobbs SPA (Site Code 004076), in view of the sites' Conservation Objectives. In such circumstances the Board is precluded from granting permission.

7.6. Technical Details

- 7.6.1. The planning authority's first reason for refusal refers to the unacceptability of locating public sewers on private lands. The applicants propose minor layout/house type changes to address this – see Drg. No. 1207P102 submitted with the appeal. I consider these changes to be satisfactory.

- 7.6.2. The planning authority's third reason for refusal refers to inadequate details re.; surface water attenuation; public lighting; and road construction.
- 7.6.3. In relation to surface water attenuation the applicants refer to the details submitted with the application and further construction details of the proposed underground system are provided in the appeal documentation. I am satisfied that the level of detail provided is sufficient for planning purposes.
- 7.6.4. In relation to public lighting I concur with the applicants that details in relation to this are normally dealt with by condition. While I acknowledge that Wexford County Council is entitled to adopt a different approach I would not consider that the absence of such details should prevent the Board from granting a permission.
- 7.6.5. In relation to road construction the applicants refer to the documentation submitted with the application. I concur that this is generally adequate for planning purposes and I note the planning authority's indication, in the appeal response, that they are acceptable.
- 7.6.6. In relation to the matter of access the applicants, in their appeal submission, describe how the design of the development incorporates all accessibility requirements. I am satisfied that all necessary planning requirements are met.

8.0 Recommendation

- 8.1. I recommend that permission be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. Development of the kind proposed on the land would be premature by reference to the existing deficiency in the provision of sewerage facilities, being the lack of capacity on the Davidstown WWTP, and the period within which the constraints involved may reasonably be expected to cease. The proposed development, therefore, would be contrary to the proper planning and sustainable development of the area.

2. On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and noting, in particular, the existing capacity constraints at the Davidstown WWTP, the Board is not satisfied that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of the Slaney River Valley SAC (Site Code 000781) or the Wexford Harbour and Slobbs SPA (Site Code 004076), in view of the sites' Conservation Objectives. In such circumstances the Board is precluded from granting planning permission.

Brendan Wyse
Assistant Director of Planning

20 July 2017