



An
Bord
Pleanála

Inspector's Report PL26.249362

Development	Retention of guest house as constructed and proposed works to this building and associated structures.
Location	Main Street and Tully's Lane, Bunclody, Co. Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	2017/0952
Applicant(s)	Charles Meyler & Thomas Byrne
Type of Application	Retention permission + permission
Planning Authority Decision	Grant, subject to 16 conditions
Type of Appeal	Third party -v- Decision
Appellant(s)	Barty & Anne O'Connor & Bridget O'Connor
Observer(s)	None
Date of Site Inspection	22 nd November 2017
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located on the northern side of The Mall in the centre of Bunclody and towards the western end of a row of multi-storey buildings that enclose this side of The Mall. These buildings typically comprise retail and commercial floorspace on the ground floor and ancillary storage or residential floorspace on the upper floors.
- 1.2. The site itself is rectangular in shape and it extends over an area of 0.05 hectares. This site accommodates a three storey over basement/lower ground floor building, which has been extended to the rear. This extended building is in use as an 11-bed guest house. It fronts onto The Mall and a narrow external passageway, known as Tully's Lane, runs down its western side. To the rear at the same level as the lower ground floor is a garden area, which is enclosed by stone walls on its eastern and southern sides. This area is presently open along its western boundary to Tully's Lane and a gateway in the southern wall leads onto the River Clody. This Lane slopes downwards towards the River. It is accompanied on its eastern side by a level walkway and landing, which serves the external access to the reception for the guest house. This walkway and landing are also connected to a flight of external steps that links them to the rear garden.

2.0 Proposed Development

- 2.1. The proposal would entail the retention, as constructed, of a guest house, the development of which was previously approved under 2010/1100. This guest house, which is accessed via Tully's Lane, has a total of 11 bedrooms that are distributed over each of the four floors as follows: 4 bedrooms each on the first and second floors, 2 bedrooms and the foyer on the (upper) ground floor, and 1 bedroom and ancillary storage in the basement level/on the lower ground floor.
- 2.2. The proposal would also entail the following proposed works:
 - Construction of a roofed enclosure around the existing external landing on Tully's Lane;
 - De-commissioning of the existing external stairway on Tully's Lane and its replacement with a landscaped planter;

- Provision of additional screening above the handrail to the existing ramp access;
- Construction of a stone clad boundary wall to Tully's Lane with a steel fire exit door to the laneway;
- Application of frosted opaque film to the clear glazing of the existing doors and windows at ground floor, first floor, and second floor levels;
- Re-glazing of a rear service door at first floor level with frosted glazing;
- Installation of louvred panels over ventilation equipment at second floor level; and
- Removal of the sliding doors in the rear elevation to the lower ground floor and their replacement with a window.

3.0 Planning Authority Decision

3.1. Decision

Retention permission was granted, subject to 16 conditions, including ones that address the following issues/require the following changes:

2. The involvement of a chartered engineer to oversee outstanding works is required.
3. The normal exemption right to change the use of the bedroom in the basement is omitted.
5. Access to the flat roofed areas at first and second floors is debarred to customers/patrons.
6. Frosted opaque film shall be omitted in favour of glazing.
7. Grey pvc metal cladding shall be omitted in favour of nap plaster.
8. The locked up steel gate shall be omitted in favour of stone walling.

3.2. Planning Authority Reports

3.2.1. Planning Reports

See planning decision.

3.2.2. Other Technical Reports:

- Chief Fire Officer: Advises that a Fire Safety Certificate is required.
- Disability Access Officer: Attention is drawn to the Disability Access Certificate DAC014/15, which was the subject of revisions under 26.DV.0004 issued by the Board.

3.3. Prescribed bodies

None.

3.4. Third party observations

See grounds of appeal.

4.0 Planning History

The site has been the subject of several applications, enforcement enquiries, and a pre-application enquiry in recent years. Those most relevant to the current case are summarised below:

- **2010/1100:** Erection of a three storey over basement building, which would face onto a common laneway and the River Clody and which would be sited to the rear of an existing three storey building fronting onto Main Street, and alterations to this existing building.

The proposed works comprise the following:

- 14 guest en-suite bedrooms with reception area and associated stairwells and lift shaft,
- Basement coffee shop with toilets and riverside terrace,
- 2 shop units fronting onto Main Street with basement storage areas and toilets,

- Alterations to existing building, including raising existing second floor windows, forming half dormer windows fronting onto Street, conversion of existing upper floor habitable space to guest bedrooms, and sub-division of ground floor shop unit into 2 shop units, and
- All ancillary site works, including paved areas and services.

Permitted.

- **0009/2014**: Enforcement enquiry: Possible unauthorised works in the River Clody: Closed.
- **0009/2014A**: Enforcement enquiry: With respect to compliance with conditions 1 and 12 attached to permitted 2010/1100: Open.
- **0118/2015**: Enforcement enquiry: Possible unauthorised gabion basket used as a riverside embankment: Closed.
- **0142/2016**: Enforcement enquiry: Possible non-compliance with 2010/1100, which the current application seeks to address: Open.
- **2016/0225**: Retention of the following alterations to 2010/1100:
 - Café and 2 guest bedrooms at ground floor level in place of 2 previously permitted shop units and 4 guest rooms,
 - Two guest bedrooms and plant room at basement level in place of previously permitted shop storage areas, café, and 2 bedrooms,
 - Grey pvc coated wall cladding in place of previously permitted zinc sheeting on the east façade of the building, new north façade with rendered walls and new windows and doors + replacement of zinc sheeting with rendered walls on north and west facades together with window alterations, and
 - Site works, including external stairs, grassed and paved area, staff access gate to river bank for maintenance.

Refused at appeal PL26.246619 on the grounds of residential amenity, visual amenity, loss of public realm, in conjunction with riverside works the possibility of significant effect upon the Slaney River Valley SAC, and inadequate information.

- **P2016/0572:** Pre-application consultation.
- **2017/0951:** Concurrent application: Change of use of permitted shop to café at ground floor/street level and for extraction duct to roof level at the rear: Refused on 13th September 2017 on the grounds of prematurity.

5.0 Policy Context

5.1. Development Plan

The Wexford County Development Plan 2016 – 2022 categorises Bunclody as a district town.

5.2. Natural Heritage Designations

Slaney River Valley cSAC (site code 000781)

6.0 The Appeal

6.1. Grounds of Appeal

The appellants do not object to the overall draft permission, but they do seek the strengthening of certain aspects of this draft, as follows:

- a) While the gabion baskets installed along the riverbank have been removed pursuant to an enforcement notice, the applicant has re-profiled the riverbank and planted willow therein. The view is expressed that these works/planting should be considered under the current application and that they should be the subject of consultation with the DoAHG/NPWS.
- b) The porthole windows should be fitted with frosted glass, in the interests of neighbour privacy.
- c) Condition 6 is welcomed, but its purview should be expanded to include the fitting of frosted glass to the windows on the returns of the staircase and to the windows that serve the entrance enclosure.
- d) The steps that encroach onto Tully's Lane are to be removed. In tandem with this the line of the accompanying wall should be set back so as not to

encroach upon this Lane either. Furthermore, the height of this wall should be consistently 2.1m and the height of the associated walls along the common boundary with the appellants' property and the riverbank should be increased in height to a minimum of 2m measured internally to the site.

- e) Anxiety is expressed that the applicant may not remove the steps from Tully's Lane and so a specific condition with respect to the same is requested.
- f) Anxiety is expressed that, notwithstanding condition 5, access to the roof over the reception persists. In these circumstances, the need for a door to access this roof for maintenance purposes is questioned, as the water tanks that need to be the subject of such maintenance could be accessed by means of a ladder. The Board is therefore requested to condition out this door or, if it is indispensable, then to specify that it be a solid one.
- g) The Board is requested to attach a condition that would prohibit the use of the rear yard by either patrons or staff, otherwise it may become a smoking area.
- h) Access to the rear yard occurs via the emergency exit in the rear elevation of the basement. A condition should, therefore, be attached that requires this exit to be a solid door and the filling in of accompanying corridor glazing, to deter its non-emergency use.
- i) Anxiety is expressed that the basement bedroom may become a café in the future. The glazing accompanying this room should be curtailed to that which would be needed to solely service it, as a bedroom.
- j) The dimensions of the glazed opening in the rear elevation to the main foyer resemble that of a door and so look odd. A condition re-specifying this opening as a window should be attached.
- k) The proposed privacy measures to the opening in the rear elevation that would accompany the entrance space are welcomed.
- l) The landing window in the rear elevation at second floor level, when open gives rise to overlooking. It should be re-specified as a fixed light with frosted glass.

- m) The nap plaster conditioned should be self-colouring to avoid any future maintenance liability.
- n) The walling up of the gate required under condition 8 should await the removal of stone material emptied by the riverside when the gabions were removed.
- o) Under condition 12, the onus for noise monitoring should be upon the applicant and the records generated thereby should be open for inspection by the Planning Authority.

6.2. Applicant Response

The Board is alerted to allegations of unauthorised development, property boundary issues, and the definition of public realm, which are being addressed in other *fora*. Thus, Section 160 proceedings have been brought by the appellants and the current application is the applicant's response in advance of a Final Order. The court hearing occurred on 28th February 2017 and so full cognisance of the Board's previous decision, made on 20th September 2016, was taken. Concern is expressed that matters now raised by the appellants are *res judicata*, i.e. a matter that has been adjudicated by a competent court and therefore may not be pursued further by the same parties.

The entirety of the building authorised under 2010/1100 was not completed. The Court has not required that the remainder of this building be constructed. Several matters now raised by the appellants have been addressed by the Court as enforcement matters and so the Board should exercise caution with respect to these matters, which are outlined below:

- Item (a) refers to the River Clody. For the Board to address this item would be *ultra vires*.
- Other items, e.g. Items (e) and (f), were addressed by the Court and so they should not be revisited.
- Items (g) and (h) were the subject of undertakings given by the applicants to the Court and so they should not be revisited.

- Issue (i) relates to a speculative concern of the appellants only (cf. O’Flynn Capital Partners v DLRCC (2016 IEHC 480)).
- Issue (n) refers to an enforcement matter that has been addressed and the case closed.

In the light of the above, the applicants request that the Board dismiss this appeal as to do otherwise would risk interfering with the Court’s proceedings.

Without prejudice to the aforementioned request, if the Board proceeds with this appeal, then the following points should be noted:

- References to PL26.246619 should be viewed in the light of the fact that the Court took full cognisance of the Board’s decision.
- The Planning Authority’s draft permission may have gone beyond the findings and order of the Court and so this is a matter of concern to the applicants.
- The following conditions are in tension with what the Court requires:
 - Condition 2: There is no onus to cease the use or vacate the premises.
 - Condition 6: The application of film to glazing was deemed to be adequate.
 - Condition 7: The cladding insitu was deemed to be the best permanent finish.
- Attention is drawn to the absence of any response by the applicants to PL26.246619 and to how a misunderstanding developed with respect to the extent of Tully’s Lane. Along the eastern side of this Lane, it was open and the line of the boundary was demarcated by a white-painted stone, which is still visible on site, and railway sleepers. (Wexford County Council has not raised any alleged encroachment onto the Lane). The proposed boundary wall would be set within the said demarcation so as to avoid any possible encroachment and it would be built to a height of 1.2m, sufficient for the purpose in question.
- Riparian access should not be impeded by either a riverside wall or other structure, which may invite dumping into an inaccessible riverbank.

6.3. **Planning Authority Response**

The Planning Authority raises no objection to the appellants' request with respect to condition 5 of the draft permission.

6.4. **Observations**

None.

6.5. **Further Responses**

The Planning Authority has no further observations to make.

The appellants have responded to the applicants' response. They begin by outlining the chronology of their Section 160 application and they submit copies of the Booklet of Communications between the parties to this legal case and the notes of their solicitor as to the Court's proceedings, as no known Court record of the same is available. They state that

...the Judge's primary concern was to deal with the overlooking, noise and nuisance issues arising from the entrance, landing and steps and from overlooking windows which were the driving force for the Section 160. The core of the Court order was that the planning application must provide for the entrance and landing to be enclosed, and this is now provided for in the application. The Court was not adjudicating on the design or external finishes to the enclosure or obscure film to windows relative to frosted glazing. This was left as a matter for the planning application.

The appellants also respond to the following specific points made by the applicants:

- In relation to (a), attention is drawn to the Board's previous consideration of unauthorised works to the riverbank under its Screening for AA and so the requested further consideration now would be appropriate.
- In relation to (e), the removal of the steps would reduce overlooking and in the Court proceedings there was a clear understanding between the parties that this would ensue.
- In relation to (f), in the light of recent experience, the prevention of use by patrons of the roof is a legitimate planning matter that should be attended to now.

- In relation to (g) and (h), the requested restriction of access would reinforce undertakings made by the applicants in their cover letter to this application.
- In relation to (i), the appellants reiterate their acceptance of a bedroom in the basement, provided extensive glazing is curtailed.
- In relation to (n) and draft condition 8, the specification of walling to the riverside opening would be aesthetically appropriate and, as the applicants did not appeal the said condition in this respect, any objection now is undermined.
- In relation to draft conditions 2, 6, and 7, the only matter that the Court ruled upon was the continuation of use of the premises. Again, as the applicants did not appeal the said conditions, any objection now is undermined.
- In relation to the line of Tully's Lane, it is accepted that this may be beyond the remit of the Board to adjudicate upon. However, the requested increase in the height of the wall is reiterated, on security grounds.

7.0 **Assessment**

7.1. I have reviewed the proposal in the light of the CDP, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Background,
- (ii) Land use,
- (iii) Visual amenity,
- (iv) Residential amenity,
- (v) Miscellaneous, and
- (vi) AA.

(i) Background

7.2. The applicant has submitted a letter dated 18th July 2017, which sets out the history of the guest house project in question. Thus, the parent permission for this project was granted to 2010/1100. However, the alterations and substantial extension to the

existing building on the site did not proceed wholly in line with what was permitted and, for example, the majority of the two storey portion of the rear extension was not built.

- 7.3. Enforcement enquiries were raised over unauthorised works to the existing building and to the adjacent riverside. A retention permission application 2016/0225 was thus made with respect to some of the said works to the building. However, this application was refused at appeal PL26.246619, partly on the grounds that not all of these works had been either described or depicted in the application (cf. the fifth reason). With respect to the unauthorised works to the riverside, the Planning Authority issued an enforcement notice that was subsequently complied with.
- 7.4. The current application seeks to address the aforementioned fifth reason and the other four reasons that led to the previous refusal of retention permission. This application is also informed by Section 160 proceedings that were brought by the current appellants against the applicants, largely out of concern over the impact that the as built guest house was having upon their residential amenity. (These appellants reside in the adjoining property to the east and the adjacent property to the west on the opposite side of Tully's Lane). These proceedings resulted in a court judgement that specifies certain measures that are to be taken to safeguard this amenity. None of the parties disputes that the said measures have not been encapsulated in the current application.
- 7.5. The Planning Authority's draft permission includes conditions that, variously, reflect and go beyond the court's judgement. The applicants have not appealed any of these conditions. The appellants have not objected to the overall draft permission. However, they consider that its conditions should be strengthened and augmented. The applicants express concern that this appeal invites the Board to reconsider matters that have already been dealt with in the court judgement, thereby risking *res judicata*. Accordingly, the Board is requested to either simply dismiss the appeal or not to revisit that which the Court has already pronounced upon.
- 7.6. I note that the ambit of the application goes beyond that of matters that relate solely to residential amenity, a subject that was dealt with under the first of the previous reasons for refusal only. It thus seeks to address all of these previous reasons and so it goes beyond the matters dealt with in the court judgment, too. The appeal,

likewise, engages with the application “in the round” and so, in these circumstances, I conclude that it would be inappropriate to dismiss it.

7.7. I note, too, that, insofar as the means of resolving the matters in dispute need to be the subject of a planning permission, the current application is one that should be assessed and determined in the normal manner. I, therefore, conclude that the Board has the discretion to go beyond the means that the Court has identified, provided the underlying objective of the Court is not frustrated.

(ii) Land use

7.8. The site is located on The Mall, which forms the Main Street in the town centre of Bunclody. The Bunclody LAP 2009 – 2015, which has now expired, included this site within its town centre zoning and within a proposed ACA. While this Plan has not been replaced, I am not aware of any material change in planning circumstances that would be likely to prompt a change in this zoning or the pursuit of the proposed ACA in the foreseeable future.

7.9. Under 2010/1100, the permitted proposal for the site would have led to the provision of 2 shop units to the front of the extended building, a café to the rear, and a 14-bed guest house throughout this building. This mixed-use outcome would have been appropriate to the site’s town centre location.

7.10. The current proposed retention of the “as constructed” extended building is for an 11-bed guest house only. The space that would have been occupied by the 2 shop units was the subject of parallel application 2017/0951 for a café, which was refused on the grounds that it would be premature in advance of a final decision on the current application. Thus, whether the guest house continues to be accompanied by 2 shop units or a café, the prospect exists of an appropriate mixed-use outcome.

7.11. The appellants have raised concerns over the possible future use of the basement bedroom as a café and the anticipated use of the rear garden to the extended building as a smoking area if patron and staff access is permitted (cf. grounds (i) and (g), respectively). I note that draft condition 3 seeks control over the future use of the said bedroom by removing the normal exemption right. I consider that this condition would suffice to allay the appellant’s’ concern and so their requested revision of the fenestration to this room would be unnecessary. I note, too, that the applicants have stated that the rear garden was the subject of undertakings given to the Court by

them. While none of the draft conditions refer to the usage of this garden *per se*, conditions 14 and 15 address the storage of “finished goods, raw materials and waste products” and “internal refuse storage areas”, respectively. The former condition appears to be misplaced, while the latter condition seeks clarification of the whereabouts of such areas.

7.12. As a corollary to the appellants concern over the aforementioned uses of internal and external spaces, they request, under ground (h), that the glazing at the end of the basement corridor be omitted in favour of a solid door and surrounds. Again the applicants respond by stating that these items have been the subject of undertakings made to the Court. I do not consider that the requested measures would be necessary to regulate the uses of the said spaces.

7.13. I conclude that the proposed retention would be appropriate in land use terms.

(iii) Visual amenity

7.14. A comparison of the front elevation of the building on the site as depicted in plans submitted under 2010/1100 and the current application shows that the first and second floor windows would have been taller under the former than has transpired under the latter, i.e. 1.6m as against 1.4m and 1.2m as against 1.1m. The resulting space between these windows is 1.5m rather than 1.2m. The resulting squat appearance of this elevation is accentuated by the present arrangement of the rainwater goods whereby a gutter crosses the front elevation just below the cill level of the second floor windows. Under the current proposal, these goods would be rearranged by means of the introduction of 3 downpipes that would add to the vertical emphasis of this elevation, which is presently lacking.

7.15. The eastern side elevation of the extended building is largely finished in grey profiled, pvc coated, metal cladding. Under condition 7 attached to the draft permission, the Planning Authority requires that this cladding be replaced by nap plaster. The appellants, under ground (m) of their appeal, state that such plaster should be self-colouring to avoid any future maintenance liability. The applicants have responded by stating that the court considered this matter and judged that the existing cladding is the best permanent finish.

7.16. I note that the extended building is finished throughout in nap plaster except for expanses of its eastern side elevation, which are clad in the said metal sheeting and

which are visible from within the neighbouring property. From a visual perspective, this sheeting is anomalous and incongruous within its context and so I agree with the Planning Authority that it should be replaced by a nap plaster finish of light colour to match the remainder of the extended building. That this finish should be self-colouring, as requested by the appellants would be appropriate, too, as it would obviate any future maintenance liability that would otherwise arise.

7.17. Under ground (j), the appellants draw attention to the (upper) ground floor opening in the rear elevation of the extended building. At present, this opening has a door within it and its tall form is considered to be odd. The applicant undertakes to fit a fixed light window within it, which would be opaque glazed.

7.18. I note that the said opening serves the foyer and that the outlook available from it includes the neighbouring rear garden to the east. I note, too, that the glazed openings beneath the opening in question are of greater height again. Within this context, I do not consider that this opening would look unduly odd. I also consider that the applicants' above cited undertaking would be appropriate.

7.19. I conclude that, subject to the rearrangement of rainwater goods on the front elevation, the application of a self-colouring nap plaster to the eastern side elevation, and the installation of a fixed obscure light at (upper) ground floor in the rear elevation, the proposal would be compatible with the visual amenities of the area.

(iv) Residential amenity

7.20. The appellants draw attention to the submitted plans which show the application of opaque film to the inside of certain glazed openings in the rear and western side elevations of the extended building. Under grounds (b), (c), and (l), they state that this treatment should be re-specified as obscure glazing and that such glazing should be extended to include the port hole windows in the side and the large opening in the rear elevation of the proposed structure that would be constructed around the entrance to the foyer and the windows that correspond to the returns of the staircase.

7.21. I note that, under draft condition 6, the respecification of obscure glazing is required to the openings identified in the submitted plans. I consider that such respecification is justified as the application of opaque film would be a less enduring methodology. I am not persuaded that the extension of such respecification would be necessary as

the port hole windows would be high level ones, the large opening would be accompanied by a steel grill, which would restrict the oblique views in question, and, as the landings to the staircase rather than the returns about the windows, obscure glazing corresponding to the landings alone, as proposed, would suffice.

7.22. The appellants also draw attention to the glazed door at first floor level in the rear elevation, which affords access to the flat roof over the foyer area and the water storage tanks. Notwithstanding draft condition 5, they express concern that this roof may be accessed by patrons. In a bid to avert this eventuality, the appellants request that the door be respecified as a solid one. The applicants have responded to this concern by stating that this matter was the subject of an undertaking given by them to the Court.

7.23. I note that the glazed door in question contributes to the lighting of the adjoining corridor and that to respecify it as a solid one would forfeit this contribution. While the said respecification would remove the visual link between the corridor and the flat roof, the management of the use of this door *per se* would be unaffected, i.e. it would be needed either way. In these circumstances, I am not persuaded that the requested respecification is necessary.

7.24. I conclude that the proposal, as submitted, would be compatible with the residential amenities of the area.

(v) Miscellaneous

7.25. The appellants raised several other matters, which are summarised below:

- While the appellants acknowledge that gabion baskets installed along the riverbank have been removed, they allege that other works have been undertaken, which should be the subject of the current application (cf. ground (a)). The walling up of the gateway in the rear wall to the riverbank (cf. condition 8) should await the completion of these works.
- Concern is expressed that the proposed wall along the western side of the rear garden would encroach onto Tully's Lane and that this wall and the one to the riverbank should be higher.
- Concern is expressed that steps to the rear garden may not be removed and that a condition should be attached requiring the same.

- Condition 12 should be expanded to require that noise monitoring is the prerogative of the applicants and that such monitoring be made available, as a matter of course, to the Planning Authority.

7.26. The applicants have responded to the aforementioned matters as follows:

- An enforcement notice relating to the riverbank has been complied with by the applicants and so this matter is now closed. The current application does not pertain to the riverbank and so the Board would be acting *ultra vires* if it were to consider the same.
- The line of the wall would be set on the inside of the boundary between the rear garden and Tully's Lane and so encroachment would not occur. In this respect, attention is drawn to the absence of any objection to this line from Wexford County Council. The height of this wall and the one along the riverside would suffice for their role as boundary markers.

7.27. I note that, under the parent permission, no access from the rear garden to the riverbank was envisaged and that the Planning Authority's reason for attaching condition 8 includes a reference to "the protection of the historic access to the banks of the River Clody via Tully's Lane". I understand this reference to be to the existing pedestrian access at the foot of this Lane. In these circumstances, the requirement to omit the gateway from the rear garden to the riverbank in favour of a continuous wall appears reasonable.

7.28. The applicants consider that the northern portion of the proposed eastern boundary wall to Tully's Lane, which would range in height between 1.2m and 1.5m, would be an appropriate height. The appellants express concern that its low height would mean that it would risk becoming a venue for anti-social behaviour with attendant nuisance and security implications. During my site visit I observed that Tully's Lane is narrow and that, due to its downward gradient towards the River Clody, the northern portion is largely concealed from view, for example from The Mall. I, therefore, consider that it would be prudent to increase the height of the said portion of the proposed wall. To ensure consistency, this height should coincide with that portion of this wall that accompanies the proposed steel door.

7.29. I note, too, the above exchanges between the parties. I consider that not only the identified works, but all the works that are specified in the proposal should be the

subject of a timetable for their implementation. A condition requiring such a timetable and the agreement of the Planning Authority to the same should be attached to any permission.

7.30. I consider that the expansion of condition 12, as requested, would go beyond what is normally required of applicants. That said, the course of action suggested may be a prudent one for them to adopt, insofar as I understand the extended building has been the source of noise complaints hitherto.

(vi) AA

7.31. The fourth reason for the Board's refusal of 2010/1100 pertained to inadequacy of the information supplied for the purpose of a Stage 1 Screening for Appropriate Assessment. The current application is accompanied by greater information in this respect in the form of a Screening Report, which I have drawn upon in the screening exercise that follows.

7.32. The site abuts the Slaney River Valley SAC (site code 000781) along its northern boundary. This site is an urban one and the extended building upon it is served by the public foul sewer, while surface water run-off drains to the River Clody, which forms part of the said SAC.

7.33. As the application is partly for retention permission, the applicant's Screening Report provides a commentary on works that were undertaken during the construction phase, which had the effect of either removing a pre-existing source of pollution to the River Clody or mitigating any risk arising during this phase. This Report concludes that the construction phase would thus have been unlikely to have had a significant effect on this River and so a Stage 2 Appropriate Assessment would not have been necessary.

7.34. As the application is partly for permission, I consider that, during the construction phase for the remedial works specified in this application, provided good construction practises are adhered to, no significant effect upon the Conservation Objectives of the Slaney River Valley SAC or any other Natura 2000 site would be likely to arise. Similarly, during the on-going operational phase of the developed site, no significant effect upon the Conservation Objectives of the Slaney River Valley SAC or any other Natura 2000 site would be likely to arise.

7.35. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposal, individually or in combination with other plans or projects, would not be likely to have a significant effect on European Site No. 000781, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

8.1. That retention permission and permission be granted.

9.0 Reasons and Considerations

Having regard to the Wexford County Development Plan 2016 – 2022 and the planning history of the site, it is considered that, subject to conditions, the retention of the as constructed extended building on the site would be appropriate within the town centre of Bunclody and that, subject to the proposed remedial works, this building would be compatible with the visual and residential amenities of the area. No Appropriate Assessment issues would arise. The proposal would, thus, accord with the proper planning and sustainable development of the area.

10.0 Conditions

1. The extended building shall be retained in accordance with the plans and particulars lodged with the application. The proposed remedial works to this building shall be carried out in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed remedial works shall be amended and augmented as follows:

(a) The grey pvc coated metal cladding to the eastern side elevation

shall be replaced by a self-colouring nap plaster finish to match the colour of the existing painted nap plaster finish on this elevation.

- (b) The glazing proposed to be the subject of frosted opaque film shall be replaced by obscure glazing.
- (c) The gateway in the rear wall along the riverbank shall be omitted in favour of a continuous wall to match the existing wall.
- (d) The northern portion of the proposed eastern boundary wall shall be raised in height to coincide with the height of this wall immediately adjacent to the proposed steel door from Tully's Lane.
- (e) Details of bin storage arrangements.
- (f) Any additional works that may be required to facilitate universal access.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity, to prevent the opening of a new access to the riverbank, to safeguard public health, and to facilitate universal access.

3. Prior to the commencement of the remedial works, the developer shall submit to, and agree in writing with, the Planning Authority a timetable for the implementation of all the remedial works.

Reason: In order to ensure that these works are expedited in the interests of visual and residential amenity and to prevent the opening of a new access to the riverbank.

4. No access by patrons to the first floor flat roof over the main foyer shall be permitted.

Reason: In order to safeguard the residential amenities of the area.

5. Notwithstanding exemption development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, no change of use of the bedroom in the basement shall

occur, unless otherwise authorised by a prior grant of planning permission.

Reason: In order to afford the Planning Authority control over any change of use, in the interest of residential amenity.

6. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

7. Remedial works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

8. The noise level shall not exceed 55 dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) at any point along the boundary of the site between 0800 and 2000 hours, Monday to Friday inclusive, and shall not exceed 45 dB(A) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenities of property in the vicinity of the site.

9. The developer shall pay to the planning authority a financial contribution of €11,100 (eleven thousand, one hundred euro) 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, as amended. The contribution shall be paid within 3 months of the date of this Order 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Hugh D. Morrison
Planning Inspector

23rd January 2018