



An
Bord
Pleanála

Inspector's Report ABP-302583-18

Development	Permission for construction of 51 no. Dwellings
Location	Coolcots, Wexford Rural
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20180887
Applicant(s)	Bawn Developments Ltd
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Seamus & Joan Codd
Observer(s)	None
Date of Site Inspection	17th December 2018
Inspector	Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 1.78 ha consists of three large agricultural fields located approximately 3km to the west of Wexford Town centre. The Wexford Ring Road, N25, is located approximately 1 kilometre to the west. Wexford Racecourse is located approximately 200 metres to the east. The site has road frontage of c30m to Coolcots Lane to the west with two potential access points to Cois Carraige and Garrain Beithe to the east that are accessed from the inner orbital road (T8). The boundaries here are defined by hedgerows. The appeal site is in grass at present. To the east the site adjoins relatively new residential development with one off suburban linear residential development on lands to the north and west fronting onto the public roads.
- 1.2. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. The planning application submitted to Wexford County Council on 29th June 2018 sought permission for the construction of 51 no dwellings comprising of 6 no 2 storey 2-bedroom units, 32 no 2 storey 3-bedroom units, 2 no single storey 3-bedroom units, 3 no single storey 2-bedroom units, and 8 no 3 storey 4-bedroom units; in detached, semi-detached, and terraced configurations, together with all associated site works.
- 2.2. The application was accompanied by the following:
 - Disposal of Stormwater Report prepared by John Creed & Associates, Civil & Structural Engineers
 - Letter from Irish Water indicating that a connection can be facilitated
 - Letter from Wexford County Council Housing Department that a Part V “agreement in principle” has been reached for the transfer of 5 no housing units
 - Architects Design Statement

- Minutes of meeting with the Wexford County Council Major Pre Planning Committee held on the 22nd September 2017 together with a copy of a further proposals developed on foot of these discussions

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 22nd August 2018 Wexford County Council issued a notification of decision to **grant permission** for 51 no dwellings subject to 18 no generally standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Case Planner** was satisfied with the design and layout, the public open space proposed, private open space, car parking provision and drainage proposals. It is stated that access onto Coolcots Lane, whilst problematic in the short term is more desirable than single access to the estate as a whole. In conjunction with the area engineer, it has been agreed that works will be undertaken by Wexford Borough Council to improve the quality of this lane, thereby increasing traffic management which will prioritise pedestrian and cycle use and discourage vehicles from using the lane. A special road contribution levy by way of condition will finance these works. The Case Planner recommended that permission be granted subject to 18 no conditions. The notification of decision to grant permission issued by Wexford County Council reflects this recommendation.

3.2.2. Other Technical Reports

- **Housing Section** – Part V agreement in principle in place
- **Chief Fire Officer** – Full compliance with the Building Regulations required.
- **Senior Executive Scientist (Environment)** – Requested further information in relation to the provision of a silt interceptor and an oil interceptor connected

to the surface water drainage system together with drawings and cross sections through the proposed surface water attenuation tanks

- **Area Engineer** – No objection subject to the installation of a surface water attenuation system.
- **District Engineer** – Recommended that a special site specific contribution in the amount of €40,000 be applied for improvement works on Coolcots Lane to support the above development.

3.3. Prescribed Bodies

3.3.1. There are no reports from any Prescribed Bodies recorded on the appeal file.

3.4. Third Party Observations

3.5. There are four observations recorded on the appeal file from (1) James & Margaret Stafford, (3) Theresa Hanton, (3) Seamus & Joan Codd and (4) John & Barbara Diamond.

3.6. The issues raised relate to proximity to existing dwellings, loss of privacy, palisade boundary fencing required, access to the main sewerage network is desired / to be facilitated, density too high, traffic impact to Coolcots Lane, no street lighting, inadequate water pressure, overlooking, drainage, inadequate plans and details, boundary treatment, premature pending upgrades to the local road network as detailed in Objective T8, open space not sufficiently overlooked, significant zone of archaeological potential,

4.0 Planning History

4.1. There was a previous appeal on part of this site that may be summarised as follows:

ABP.PL26.223215 (Reg Ref 20062587) – Wexford County Council issued a notification of decision to grant permission to Bawn Developments Limited on 3rd April 2007 for the erection of 39 dwellings (reduced from 41 units by condition) on a site with a stated area of 1.18ha subject to 20 no conditions. It is noted that the single access to the site as originally proposed is from the orbital route to the east through Cois Carraige housing estate with no access

from Coolcots Lane. The decision was appealed by two third parties. The Board granted permission on the 4th December 2007 for 41 houses subject to 12 conditions. Condition No 2 stated that *access to the development shall be solely from the south-eastern corner, immediately to the south of Sites 9, 10 and 11, as indicated in Drawing No. P03 Revision Band that there should be no access to the site from the adjoining Cois Carraige cul-de-sac, Road F.*

- 4.2. It is stated that the applicant have since acquired additional lands to the west and north of the previously permitted scheme, increasing the development capacity and enabling a new roadway link to Coolcots Lane.

5.0 Policy Context

5.1. National Planning Policy & Guidance

- 5.1.1. The following is a list of Section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design manual) (2009)
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2018)
- Design Manual for Urban Roads and Streets (2013)
- The Planning System and Flood Risk Management (including the associated technical Appendices) (2009)
- Framework and Principles for the Protection of the Archaeological Heritage (1999)
- Architectural Heritage Protection Guidelines for Planning Authorities (Revised 2011)

5.2. Development Plan

- 5.2.1. The operative plan for the area is the **Wexford Town and Environs Development Plan 2009 – 2015** (as extended to 2019). The site is zoned “Residential Medium

Density” where the objective is *to protect and enhance the residential amenity of existing and developed communities* and where residential development is permitted in principle. Chapter 11 deals with Development Management Standards. **Section 11.08.01 Residential Density** states that in areas identified as medium residential density will provide an indicative density of 17 to 25 dwellings per ha.

5.3. Natural Heritage Designations

- 5.3.1. The site is not located within a designated Natura 2000 site. The site is proximate to the Slaney River Valley SAC (Site Code 000781) (c0.5km); Wexford Harbour and Slobs SPA (Site Code 004070) (c1.2km); Screen Hills SAC (Site Code 000708) (c9.3km) and Long Bank SAC (Site Code 002161) (c14km).

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The third party appeal has been prepared and submitted by Ian Doyle Planning Consultant on behalf of Seamus & Joan Codd, Highrath, Newtown Road, Wexford against the decision to grant permission. The appellant’s house backs onto the northern boundary of the appeal site and fronts onto the R769. The issues raised may be summarised as follows:

- **Decision** - There a number of irregularities regarding the planning authorities decision specifically with regards to drainage, surface water and archaeological potential.
- **Pre-Planning** - Submitted that the applicant ignored significant recommendations for alterations to the scheme as requested by the Major Pre-Planning Committee in relation to the location of open space, compliance with Part V and phasing.
- **Drainage & Surface Water** - The Senior Executive Scientist requested details pertaining to the design and layout of the proposed surface water drainage system that was ignored. The Area Engineer recommended that a condition be attached regarding surface water attenuation. No such condition was attached.

- **Archaeology** - Noted that an adjoining scheme was referred to the Dept of Arts, Heritage and the Gaeltacht that resulted in the requirement for full archaeological testing of the site via further information. The appeal site is closer to the River and the Council buildings where archaeological material was discovered during construction. Further noted that there are no conditions requiring pre-development survey work or monitoring for archaeological materials during construction.
- **Overbearing & Loss of Residential Amenity** – The proposed development (specifically houses 25 to 32 located along the rear boundary) by virtue of its design, scale, elevated position on the site and proximity to the appellant's site boundary would result in an overbearing form of development thereby resulting in an acceptable impact on the amenity of the appellant's property. What is established by the permission is that the dwellings located along the rear boundary of the site have a finished floor level of 70.8 while the appellant's property is 68 giving the proposed development the appearance and impact of a 3 storey scheme. If the ground level of the proposed rear gardens is not raised and sloped down to meet the existing boundary the result would be a significant impact on the amenities of the appellant's property including direct overlooking. If the level of the garden is raised to match that of the finished floor level of the proposed dwellings a 2.8m high retaining wall will be required along the rear boundary upon which the proposed post and rail fence would sit. A 1.8m to 2m high wall would sit on top of a 2.8m retaining wall resulting in a rear boundary of almost 6m in height followed by the proposed building which would be a further 9m in height. The result will be an unacceptable overbearing development which will have significant impact on the residential amenities of the appellant's property.
- **Poorly Located & Overlooked Open Space** – The open space associated with the proposed development is poorly located and inappropriately overlooked and with no natural surveillance. There is an opportunity to redesign the proposed layout to relocate open space along the shared rear boundary of the property thus increasing the separation distance between the proposed development and the appellant's property.

- **Traffic Safety & Access onto Coolcots Lane** – Coolcots lane is inadequate in width and both horizontal and vertical alignment to accommodate the traffic associated with this development. The proposed development is premature pending completion of the Orbital Inner Relief Road (Objective T8 of the Development Plan). Due consideration to traffic impact has not been considered by the Planning Authority in arriving at a decision to grant permission. No Traffic Impact Assessment or Road Safety Audit has been submitted as part of the application and no assessment has taken place with regards to the impact of the proposed development on Coolcots Lane.
- **Single Storey Dwellings** – Consideration to be given to the relocation of the single storey dwellings to the rear of the site along the shared boundary in order to reduce the potential for negative impacts on the amenities of the appellant’s property.
- **Conclusion** – The Board is requested to refuse permission or make significant alterations to reduce unnecessary impacts as outlined above.

6.2. Applicant Response

6.2.1. The First Party response to the appeal has been prepared and submitted by Kiaran O'Malley & Co Ltd, Town Planning Consultants on behalf of the applicant Bawn Development Ltd. The submission may be summarised as follows:

- **Background & Context** - The scheme is compliant with the development plan zoning objective for the site together with the policies and control standards. The proposal is to provide much needed affordable housing to Cluid that has an established track record in the management and provision of affordable housing.
- **Pre-Planning** – All pre application consultation is without prejudice and there is no statutory requirement for the local authority to “issue comment or approval of the revised details”.
- **Major Pre-Planning Committee Recommendations** – The minutes from pre-planning were sent to the applicant and included in the planning application as required by Wexford County Council. There were no

“significant recommendations for alterations to the scheme” requested by the Major Pre-Planning Committee.

- **Open Space** – The open space location was reviewed by the scheme Architect which resulted in an increase in open space north of Unit No 24. The provision of open space exceeds the development plan requirements and it would be subject to passive surveillance by the residential units.
- **Part V** – Letter dated 23rd May 2018 from the Councils Housing Department was submitted with the application confirming in principle with respect to Part V. This is standard practise for planning applications in Wexford County Council. The details won't be finalised until planning permission is granted.
- **Phasing** – No phasing of the development is proposed. Conditions No 9 and 10 address taking in charge. The applicant has no objections to these conditions.
- **Decision Irregularities** – A review of the planning file does not suggest any irregularities with the decision making process or the Councils planning assessment of the application.
- **Drainage & Surface Water** – All engineering details for the proposed development have been addressed by John Creed & Associates in their report and accompanying drawings that include surface water drainage calculations and the location and size of the attenuation tanks. Condition No 10 addresses the detail of surface water drainage.
- **Archaeological Potential** – There is no known archaeological potential on this site. There are no structures on the site. It does not contain any record of monuments and places, no zones of archaeological potential.
- **Appellant** – The applicant has met with the appellants in an attempt to agree a specific boundary treatment and also offered to construct the boundary treatment suggested in the appellants initial observation to Wexford County Council. The offer was rebuked.
- **Finished Floor Level** - The appellants provided access to their property. The FFL at the conservatory door is 68.68 i.e. slightly higher than that stated in the appeal. Therefore the difference in FFLs would be 2.12m (70.8 – 68.68) and the separation distance between the existing and proposed

dwellings would be 30.99m and not 28m as claimed in the appeal. The layout shown in the first proposed site section is generally reflective of how the scheme would be constructed relative to the appellants property but with the rear gardens graded down from the dwellings to the existing northern boundary of the site. The separation between the opposing rear elevations would vary from 30.99m from the rear of No 27 up to 40m from the rear of No 32. These are substantial separations that would prevent any overlooking or loss of privacy at the appellant's property irrespective of the difference in FFLs. It is not accepted that the proposal would "have a significant and detrimental impact on the amenities of their property".

- **Overbearing & Loss of Residential Amenity** – The separation distance between the rear of Units No 25 to 32 and the closest point of the appellants property is just short of 31m. With a minimum separation of c31m the scheme layout exceeds the 22 metres separation standard between first floor opposing windows in Section 11.8.6 of the Development Plan. The appellant's overlooking and overbearing concern are without foundation or merit and they should be rejected by the Bard.
- **Boundary Treatment** - To further enhance the boundary treatment, it is proposed to plant 12 no Pyrus Chanticleer trees. These would be spread along the northern boundary of the appeal site and would serve to reduce any visual impact and further ameliorate any potential for overlooking. The Board is invited to attach a condition requiring the submission for agreement of same.
- **Condition No 15** – The initial proposal for a concrete post and rail fence is more suitable and would better preserve the existing boundary hedge that appears to be planted on the appellant's side of the boundary.
- **Poorly Located & Overlooked Space** – The open space is neither poorly located nor insufficiently overlooked. It is graded from larger areas at the southern end of the site to smaller play areas at the northern end as required by Section 11.8.5 of the Development Plan. The quantum of open space is 12% of the site area and thus exceeds the 10% development control standard minimum. The open space within the scheme would be subject to extensive surveillance from the proposed dwellings and from persons coming

and going from the development. There is no basis to challenge the quantum, location, layout and passive surveillance of the proposed open space in this scheme. The appellant's suggestion to relocate open space along the northern boundary of the site would contravene their argument on passive surveillance because no dwellings would then overlook that open space. No change is required to the open space provision.

- **Traffic Safety & Access onto Coolcots Lane** – There is no justification to request a TIA. It is good urban planning to maximise connectivity and permeability through this site and that is best achieved through the provision of two accesses. However in recognition of the Councils request to discourage use of Coolcots Lane, traffic management measures including a raised ramp, perpendicular parking, and narrower carriageway widths are proposed in front of units no's 43-51. Other than the provision of a special development levy of €40,000 which the applicant has accepted, the Council and its technical departments are supportive of the dual access approach and no traffic safety concerns were raised in their reports.
- **Conclusion** – The appellants concern solely relates to No's 25 – 32 which is a row of 8 no dwellings with a minimum separation of 30.99m metres between the rear elevation and the appellants dwelling that is effectively single storey aspect towards the appeal site.

6.2.2. The submission was accompanied by a Wexford County Council email dated 22nd August 2018 from Craig Innes to James Lavin re the Site Specific Planning Levy for the scheme setting out the details of the expenditure for the €40,000 levy.

6.3. Planning Authority Response

6.3.1. Wexford County Council in their response to the appeal set out the following as summarised:

- **Pre Planning** – The pre planning meetings are a service provided to advice on the suitability of a particular project at a particular location; they have no legal status in relation to the processing of an application.
- **Surface Water** – Condition No 10 requires water attenuation to be carried out and completed to the construction standards as set out in Wexford County

Council "Taking in Charge Policy". The area engineer considered the proposal acceptable and did not require additional information.

- **Archaeological Potential** – The site is not located within any known area of archaeological interest. A number of significant residential development including the new orbital road have taken place in the immediate vicinity and no evidence of archaeological interest has been uncovered.
- **Overbearing and Loss of Amenity** – The proposed dwelling houses have a minimum separation distance of 22m for first floor windows. Therefore there are no issues of overlooking as 22m is a standard and accepted separation distances for residential developments.
- **Open Space** – Open space is appropriately located and will be overlooked by dwellings providing a level of passive surveillance. A 1.2m wall would render surveillance of open space ineffective and illogical as the average person would easily see over such a wall. The proposal to relocate the open space to the rear boundary would diminish the amenity value of the open space.
- **Coolcots Lane** – A second access point onto Coolcots Lane, while problematic in the short term is more desirable in the interest of permeability than a single access to the estate. In conjunction with the Area Engineer it has been agreed that works will be undertaken by Wexford Borough Municipal District to improve the quality of this lane. A special road contribution for works consisting of augmentation and improvement to Coolcots Lane by way of condition will finance these works. The Special Development Levy makes no mention of the provision of a footpath contrary to the claims made in the submission.

6.4. **Observations**

6.5. There are no observations recorded on the appeal file.

6.6. **Further Responses**

6.6.1. The first party response to the appeal was cross circulated to relevant parties. A further response was received from the appellant, Ian Doyle Planning Consultant on

behalf of Seamus & Joan Codd (appellant). Additional comments may be summarised as follows:

- **Increased Ground Levels** – The potential for overbearing and loss of residential amenity does not occur as a result of the separation distance but instead as a result of the finished floor levels of the proposed dwellings located along the rear boundary. The finished floor levels of the proposed dwellings are in excess of 2.5m higher than that of the appellants.
- **Reduced Ground Levels** – No objection to the proposed development if the finished floor level was reduced to current ground levels or less. The combination of the reduced finished floor levels and the 1.8m high wall as conditioned by the planning authority would ensure that no direct overlooking of their property would occur. The Board is requested to condition the proposed development to maintain current ground levels and attach a condition requiring a 1.8m high wall along this boundary
- **Irish Water** - The applicant has repeatedly stated that a reduction in finished floor level cannot be accommodated as to do so would require a pumping station for a waste water connection and that Irish Water would not facilitate same or take the resultant pumping station in charge. Stated that Irish Water will take in charge a pumping station and have a clear process of same. The provision of a gravity flow only system should not take precedent over proper planning and development.
- **Archaeological Potential** – A housing development located in close proximity to the appeal site was subject to archaeological testing. It is not unreasonable to assume the same would apply to the appeal site.
- **Poorly Located and Overlooked Open Space** – The proposed layout could more appropriately provide for overlooking and natural surveillance of proposed public open spaces.
- **Traffic Safety & Access onto Coolcots Lane** – Permeability should not take precedent over public safety. Should the Board grant permission consideration should be given to preventing a left hand turn on exiting the proposed development or temporarily blocking all exiting traffic until such time as Objective 8 (Orbital Inner Relief Road) is realised.

7.0 Assessment

- 7.1. Concerns raised regarding *irregularities* in the planning authority's decision are noted. Firstly I would make the comment that together with my site visit I am satisfied that there is adequate information available on the appeal file to consider the issues raised in the appeal and to determine this application. Secondly I would point out for the purpose of clarity that the development proposed is considered "de novo". That is to say that the Board considers the proposal having regard to the same planning matters to which a planning authority is required to have regard when making a decision on a planning application in the first instance and this includes consideration of all submissions and inter departmental reports on file together with the relevant development plan and statutory guidelines, any revised details accompanying appeal submissions and any relevant planning history relating to the application.
- 7.2. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:
- Principle
 - Density
 - Open Space
 - Residential Amenity
 - Traffic Safety
 - Drainage
 - Archaeology
 - Other Issues

8.0 Principle

- 8.1. Under the provisions of the Wexford Town and Environs Development Plan 2009 – 2015 (as extended to 2019) the site is zoned "Residential Medium Density" where the objective is *to protect and enhance the residential amenity of existing and developed communities* and where residential development is permitted in principle.

Accordingly the principle of developing 51 no dwelling units is acceptable subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.

9.0 Density

- 9.1. With regard to density it is a clear and overriding objective of the National Planning Framework Plan (2018) to promote compact growth in serviced urban areas. Section 11.08.01 *Residential Density* of the Wexford Town and Environs Development Plan 2009 – 2015 (as extended to 2019) states that in areas identified as medium residential density such sites will provide a density of 17 to 25 dwellings per ha.
- 9.2. However contrary to the foregoing the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design manual) (2009) state that in Outer Suburban / ‘Greenfield’ sites, *the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally. Development at net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares.*
- 9.3. With a stated site area of 1.78ha this appeal site is in excess of 0.5ha. Accordingly it is accepted in the interests of sustainability and the efficient use of infrastructural investment that higher densities in the range of 35 – 50 dwellings per hectare are to be encouraged on lands such as these.
- 9.4. The scheme provides a development of 51 units / 1.78 ha or 29 units (28.65 rounded up) / ha. This does not meet the minimum default density (35 units / ha) for new residential developments on a suburban greenfield site of this size. There are no obvious impediments or constraints pertaining to this site that would permit a reduction downwards from the minimum density of 35 units per hectare.
- 9.5. The proposed density would not be sufficiently high enough to provide for an acceptable efficiency in serviceable land usage given the proximity of the site to the built-up area of Wexford Town Centre and to the established social and community

services in the vicinity. Furthermore, such a low density would be contrary to the aforementioned Ministerial Guidelines. Refusal is recommended.

- 9.6. With regard to the proposed housing mix I am concerned that the variety proposed appears to be restricted to single plot sizes comprising mainly two storey dwelling houses with a small number of single storey and three storey dwellings albeit that the three storey dwellings give the external appearance of being two storey. The scheme provides 9 no 2bed units, 34 no 3 bed units and 8 no4 bed units. There are no apartment units or duplexes proposed. It is noted from the appeal file that the proposed development will be a Cluid managed housing development; an organisation that specialise in the provision of social and affordable housing. It is accepted that Cluid may have a specific housing type that is necessary to meet their criteria. While I do not consider the mix of housing of itself to be a reason to refuse the scheme in this instance it is recommended that any future higher density development should give consideration to the provision of a wider variety of housing types and with a balanced tenure where possible.
- 9.7. With regard to the details of the proposed scheme it is noted that the house type legend set out in the site layout plan makes reference to House Type 1 to 5. However the plans and details of the proposed dwellings make reference to Type A, B, C, D, F and G together with Type 5 and 5A and not the houses listed in the legend. Taken together with the street elevations drawings a reasonable interpretation of the scheme can be understood. However there is no certainty in such an approach in planning terms. It is recommended that any future application should ensure that the house type legend as set out in the site layout plan aligns with the details of each house proposed.

10.0 Open Space

- 10.1. The appellant raises specific concerns that the open space within the scheme is poorly located with no natural surveillance. It is also submitted that there is an opportunity to redesign the proposed layout to relocate open space along the northern boundary of the site thus increasing the separation distance between the proposed development and the appellant's property.

- 10.2. As set out previously the site is zoned for residential development and as documented previously residential development has been previously approved on this site. In my view the site is well laid out having regard to the sites proximity to adjoining properties with designated communal open space areas appropriately located and overlooked by dwelling houses providing a level of passive surveillance. I agree with the Planning Authority that the suggestion that a 1.2m front boundary wall would render surveillance of open space ineffective is not logical. I further agree that to relocate the open space to the northern boundary would diminish the overall amenity value of the open space and would be contrary to the principles of urban design and proper planning where communal open space within a scheme should be well designed and located, accessible and generally serve to enhance the overall development. To relocate the open space to the northern boundary would be ill-conceived and provide little benefit to the scheme as a whole or to future residents.
- 10.3. Overall I am satisfied that the open space provision within this scheme in terms of location, quality and quantity is acceptable and that it meets the requirements of the Development Plan.

11.0 Residential Amenity

- 11.1. The appellants who reside at Higrath on the Newtown Road and whos rear garden adjoins the northern boundary of the appeal site raised detailed concerns in relation to the overbearing nature of the scheme and the associated loss of residential amenity by virtue of the schemes design, scale, elevated position on the site and proximity to the appellant's site boundary. It is requested that consideration be given to the relocation of open space to this area and / or that single storey dwellings be provided along the shared boundary in order to reduce the potential for negative impacts on amenities. The matter of open space has been discussed above.
- 11.2. I refer to the site layout plan submitted by the applicant with their response to the appeal (Sheet No A1.1 Rev No D refers) together with my site inspection. The applicant proposes to construct 8 no two storey dwellings along the northern boundary of the appeal site (House No 25 to 32 refers). It is proposed to construct a 1.8m concrete post and rail boundary fence to the rear of these new properties along the shared boundary with the appellant. The separation distance between this rear

boundary fence and the appellant's house is stated as 19.967m. The separation distance between the rear of the proposed dwellings and the appellant's house is stated as 30.99m. On the basis of separation distances the proposed scheme meets the minimum separation distance of 22m for first floor windows. I am therefore satisfied that the scheme is acceptable in terms of separation distances particularly given its outer suburban / 'greenfield' location and where the lands are zoned for residential development and where developments of this nature are to be expected.

- 11.3. As documented in the appeal and as observed on day of site inspection the appeal site is on lands marginally more elevated than the appellant's property. I note the appellants concerns regarding the treatment of the rear gardens of House No 25 to 32 i.e. are they to be sloped down to the rear boundary or raised to match the FFL of the proposed dwelling. It is submitted that raising the rear garden would require a retaining wall and that this together with the proposed boundary wall would result in a rear boundary of almost 6m in height proximate to the appellants house. The applicant in their response to the appeal states that the rear gardens would be graded down from the dwellings to the existing northern boundary of the site. I consider this approach to be acceptable and recommend that should the Board be mindful to grant permission that a condition be attached requiring the details of same to be agreed prior to commencement of work on site.

12.0 Traffic Safety

- 12.1. The appellant raises specific concerns in relation to access / egress from Coolcots Lane on the western boundary of the site. It is submitted that Coolcots Lane is inadequate in width and both horizontal and vertical alignment to accommodate the traffic associated with this development; that that scheme is premature pending completion of the Orbital Inner Relief Road (Objective T8 of the Development Plan) and that no Traffic Impact Assessment or Road Safety Audit has been submitted. It is requested that should the Board grant permission consideration should be given to preventing a left hand turn on exiting the proposed development or temporarily blocking all exiting traffic until such time as Objective 8 (Orbital Inner Relief Road) is realised.

- 12.2. I have considered the information available on the appeal file together with my site inspection and I am satisfied that there is adequate information available to consider the issue of traffic safety. I fundamentally disagree with the appellant's statement that permeability should not take precedent over public safety. Permeability is one of the basic principles of good urban design and can be achieved without compromising public safety. The provision of two access point to serve this scheme is appropriate and correct given the layout and context of the site. I agree with the Planning Authority that a second access point onto Coolcots Lane, while problematic in the short term is more desirable in the interest of permeability and good urban desing than a single access to the estate from the east. To this end I share both the applicants and the Planning Authority's approach in seeking to discourage the use of Coolcots Lane through the implementation of traffic management measures including a raised ramp, perpendicular parking and a narrower carriageway width to the front of Units No 43-51 as indicated on the site layout plan.
- 12.3. In conjunction with the Area Engineer the Planning Authority agreed that works would also be undertaken by Wexford Borough Municipal District to improve the quality of Coolcots Lane and that a special road contribution for works consisting of augmentation and improvement to Coolcots Lane by way of condition will finance these works. Other than the provision of a special development levy of €40,000 which the applicant has accepted, the Council and its technical departments are supportive of the dual access approach and no traffic safety concerns were raised in their reports.
- 12.4. Given the location of the appeal site together with the layout of the proposed scheme I am satisfied that the vehicular movements generated by the scheme would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area. Overall I consider the proposal to be acceptable and I am satisfied that the proposed development and in particular access / egress from Coolcots Lane will not result in the creation of a traffic hazard subject to conditions requiring that all traffic management measures comply with DMURS and that a special development levy towards the upgrade of Coolcots Lane at this location. The Special Development contribution is discussed separately below.

13.0 Drainage

- 13.1. The appellant raises concern that the recommendation of the Wexford County Council Senior Executive Scientist (Environment) to seek further information in relation to interceptors connected to the surface water was ignored and that the recommendation of the Area Engineer to attach a condition in relation to the installation of a surface water attenuation system was also ignored.
- 13.2. The development will connect to the public mains and public sewer. Documents from Irish Water with regard to the connection have been submitted. Surface water from the development will first discharge to two storm water attenuation tanks, which will then discharge to existing surface water sewers via a hydrobrake. As pointed out by the Executive Scientist (Environment) no petrol interceptors / separators or silt traps are shown on the site layout map and no manufacturer's specifications for same have been submitted.
- 13.3. I have noted the plans and particulars available to view on the appeal file together with the report and drawings of John Creed & Associates Engineers that include surface water drainage calculations and the location and size of the attenuation tanks. Condition No 10 of the notification of decision to grant permission required water attenuation to be carried out and completed to the construction standards as set out in Wexford County Council "Taking in Charge Policy.
- 13.4. Overall I am satisfied that this matter is not material to the consideration of this appeal and recommend that should the Board be minded to grant permission that a similar condition be attached together with the general requirement that water supply and drainage arrangements, including the attenuation and disposal of surface water and the provision of petrol interceptors / separators or silt traps, shall comply with the requirements of the planning authority for such works and services.

14.0 Archaeology

- 14.1. The appellant raises concerns that because an adjoining scheme required full archaeological testing together with the proximity of the appeal site to the River and the Council buildings where archaeological material was discovered during construction that appropriate consideration of same is required at this site whereby

pre-development survey work or monitoring for archaeological materials during construction is required.

- 14.2. There are no structures on the site and as pointed out by the Planning Authority the site is not located within any know area of archaeological interest. The appeal site is not listed in the Record of Monuments and Places (Wexford Map 37 refers) which provides the statutory list of all known archaeological monuments provided for in the National Monuments Acts. Accordingly I do not consider this matter to be material to the consideration of this appeal. It is worth noting that if previously unknown archaeological object or monument is found on the appeal site it should be reported to the Director of the National Museum of Ireland or the National Monuments Section DEHLG.

15.0 Other Issues

- 15.1.1. **Appropriate Assessment** - Having regard to the nature and scale of the proposed development comprising the construction of 51 no dwellings and associated works and its distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.
- 15.2. **EIA Screening** – Having regard to the nature and scale of the proposed development comprising the construction of 51 no dwellings and associated works in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.
- 15.3. **Pre-planning** – I note the concerns raised in relation to discussions between the Wexford County Council Major Pre-Planning Committee and the applicant, recommendations and amendments or lack there off the scheme. As set out in the Development Management Guidelines for Planning Authorities (2007) *the carrying out of consultations cannot, however, prejudice the performance by a planning authority of any other of its functions under the Planning Act or under ancillary regulations.* In this regard I refer to Article 247 (3) of the Local Government

(Planning and Development) Act, 2000 (as amended) states that “*the carrying out of consultations shall not prejudice the performance by a Planning Authority of any other of its functions under this Act, or any regulations made under this Act and cannot be relied upon in the formal planning process or in legal proceedings.*”

- 15.4. **Section 48 Development Contribution** – Condition No 2 & 3 of the notification of decision to grant permission issued by Wexford County Council required the payment of Development Contribution in respect of works consisting of the provision or improvement of the public roads (€38,934.00) and community facilities (€22,248.000). The matter of the development contribution was not raised in any submissions to the Board. Wexford County Council has adopted a Development Contribution scheme; *Wexford County Council Planning Authority Area Development Contribution Scheme 2018*, under Section 48 of the Planning and Development Act 2000 (as amended). The proposed development does not fall under the exemptions listed in the Scheme. It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition, similar to Conditions No 2 and 3 requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000 (as amended) be attached.
- 15.4.1. **Section 48(2)(c) Special Development Contribution** - Section 48(2)(c) of the Planning and Development Act 2000 states that a planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by the General Development Contribution Scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development. Condition No 5 of the notification of decision to grant permission issued by Wexford County Council required the payment of a special development contribution in the amount of €40,000.00 in respect of works consisting of augmentation and improvement works to Coolcots Lane that will facilitate the development. The Wexford County Council District Engineer recommended that a special site specific contribution in the amount of €40,000 be applied for improvement works on Coolcots Lane to support the above development. The applicants response to the appeal was accompanied by an internal Wexford County Council email dated 22nd August 2018 from Craig Innes to James Lavin re the Site

Specific Planning Levy for the scheme setting out the following expenditure for the €40,000 levy:

- Public lighting provision for the circa 200m of Coolcots Lane (Upper) to Newtown Road €20,000
- Provision of Table Top ramp at road junction €8,000
- Provision of kerbed road side islands, complete with signage and bollards €8,000
- Upgrade of junction of Coolcots Lane (Upper) with Newtown Road €4,000

The matter of the development contribution was not raised in any submissions to the Board and the applicant has stated that they accept the levy. It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition, similar to Conditions No 5 requiring the payment of a Section 48(2)(c) Development Contribution in the amount of €40,000.00 in accordance with the Planning and Development Act 2000 (as amended) be attached. However I would recommend that as a point of detail that the specific works outlined above be set out in the condition to ensure that a clear determination can be made as to whether the Planning Authority has spent any of the money collected under this condition.

16.0 Recommendation

16.1. It is recommended that permission be **REFUSED** for the reasons and considerations set out below.

17.0 Reasons and Considerations

1. The Board considers that the density proposed is contrary to the provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009). The site of the proposed development is on serviceable Outer Suburban / 'Greenfield' lands, within the development boundary of Wexford, in an area identified for residential development. Having regard to the proposed density of development, it is considered that the proposed development would not be developed at a sufficiently high

density to provide for an acceptable efficiency in serviceable land usage given the proximity of the site to the built-up area of Wexford Town Centre and to the established social and community services in the immediate vicinity. Furthermore, it is considered that such a low density would be contrary to these aforementioned Ministerial Guidelines, which indicate that net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency. The proposed development would therefore be contrary to the proper planning and sustainable development of the area

Mary Crowley,
Senior Planning Inspector,
7th February 2019