



An
Bord
Pleanála

Inspector's Report ABP-302752-18

Development	Demolition of dwelling and erection of 4 bed dormer detached dwelling, and detached shed
Location	Walsheslough, Rosslare Strand, Co Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20181015
Applicant(s)	Ian & Sinead O'Doherty
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Ian & Sinead O'Doherty
Observer(s)	Aileen & Mathew Murphy & Others
Date of Site Inspection	17 th December 2018
Inspector	Mary Crowley

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	4
3.4. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations	6
6.0 The Appeal	6
6.1. Grounds of Appeal	6
6.2. Planning Authority Response	7
6.3. Observations.....	8
7.0 Assessment.....	8
8.0 Recommendation.....	Error! Bookmark not defined.
9.0 Reasons and Considerations.....	13
10.0 Conditions	Error! Bookmark not defined.

1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.0723 ha is located in Rosslare on Enfield Terrace, a residential cul de sac which is accessed from Station Road (R736) to the north. There is a pedestrian laneway connecting the cul de sac to Strand Road to the east. The site is elevated relative to Strand Road and the surrounding properties to the northwest, north and east. The immediate area is characterised by a mix of detached, semi-detached and terraced housing comprising single storey and two storey houses.
- 1.2. The site accommodates a single storey detached bungalow that appeared to be vacant for some time on day of site inspection. The garden is overgrown and unkempt. 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. Permission is sought for the demolition of an existing 3 bed dwelling (100.9 sqm) and construction of a 4 bed dormer type detached dwelling (231.9 sqm), detached shed and ancillary site works. The application was accompanied by Architecturally Rendered 3D Images and a cover letter setting out the amendments to the current scheme form that previously refused.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Wexford County Council issued a notification of decision to **REFUSE** permission for two reasons relating to loss of residential amenity and visual impact as follows:

1) The proposed development by virtue of its height and scale would be visually overbearing and would unduly impact on the residential amenity of adjoining properties in terms of loss of privacy due to overlooking and the potential for overshadowing. The proposed development would seriously injure the

amenities or depreciate the value, of property in the vicinity and would therefore be contrary to the proposed planning and sustainable development of the area.

2) *The proposed development by virtue of its height, scale and position in the context of surrounding properties would be visually obtrusive and visually incongruous with the existing pattern of development in the area. The proposed development would be contrary to Objectives CZM07 and CZM17 of the County Development Plan 2013 – 2019 and would therefore be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

- **Case Planner** – Stated that the *applicant has failed to address the Planning Authority's concerns in relation to the height and scale of development on site.* Overall it is considered that the proposed development would unduly impact on the amenity of the neighbouring properties. Further stated that the contemporary design does not adequately address the subject sites sensitivities. The Case Planner recommended that permission be refused for two reasons (residential amenity and visual impact). The notification of decision to refuse permission issued by Wexford County Council reflects this recommendation.

3.2.2. Other Technical Reports

- **Chief Fire Officer** – No objection subject to compliance with the Building Regulations.
- **Area Engineer** – No objection

3.3. Prescribed Bodies

3.4. There are no reports from any prescribed bodies recorded on the appeal file.

3.5. Third Party Observations

- 3.5.1. There are seven observations recorded on the planning file from (1) Brian Carolan, (2) John & Margaret Heney, (3) Aileen & Matthew Murphy, (4) Reginald & Liz Spelman, (5) Raymond & Margaret Doyle, (6) John Cleary and (7) Mick Dunne. The issues raised may be summarised as follows; No issue to the principle of a replacement house, height, dwelling is a two storey and not a dormer as described, overlooking of adjoining properties, overshadowing of adjoining properties, first floor window on southern elevation, insufficient detail on the design of the roof section of the single storey living area, depreciation of the value of neighbouring properties, inadequate off-street parking, no regard for pre-planning advice and impact from construction traffic and works. It is also noted that two submissions raised no objection to the proposed scheme.

4.0 Planning History

- 4.1. There was a previous planning application on this site that may be summarised as follows. There is no evidence of any previous appeals at this site.

Reg Ref 20170243 – Wexford County Council refused permission for the demolition of the existing dwelling and erection of a replacement dwelling, domestic store and associated works for the following reason:

- 1) The proposed development by virtue of its height, scale and position in the context of surrounding properties would have detrimental visual impacts on the surrounding area, and would create negative impacts in terms of a loss of privacy due to overlooking, the potential for overshadowing to neighbouring properties and therefore causing a loss of value to those properties. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative plan for the area is the **Wexford County Development Plan 2013-2019. Chapter 18** sets out the **Development Management Standards. Chapter 13** deals with Coastal Zone Management. The following policies are referenced in the planning authority's response to the appeal:

- **Objective CZM07** - *To ensure that developments in the coastal zone are correctly sited and designed having regard to visual impact on the coastal zone and the coastal landscape character unit.*
- **Objective CZM17** - *To ensure that development is in keeping with the scale and character of the coastal settlement, and that the design positively contributes to and enhances the coastal landscape setting.*

5.1.2. Objectives for Rosslare Strand as set out in **Appendix A - Objectives for Rosslare Strand and Castlebridge** include:

- **Objective RSO01** - *"To protect and enhance the distinctive character of Rosslare Strand."*

5.2. Natural Heritage Designations

5.2.1. The site is not located within a designated Natura 2000 site. Wexford Harbour and Slobbs SPA is located approximately 1km to the west of the site.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The **first party appeal** against the decision to refuse permission was prepared and submitted by PCOT Architects on behalf of the applicant Ian & Shane O'Doherty. The appeal may be summarised under the following general headings:

- **History** - The current design addressed all of the issues raised in both the previous refusal (Reg Ref 20170243) and the issues raised in the pre-planning discussions.

- **Visual Impact** - The design is such that it addresses the characteristics of the site and does not impact on the amenity of neighbouring residential properties. Submitted that there is some flexibility, considering the levels on the site to drop the FFL of the proposed house e.g 600mm should the Board deem it necessary. The site sections show that the impact of the height of the proposed dwelling relative to the existing is minimal and the survey carried out clearly show that the ridge heights of the dwellings to the north-west and south east are well in excess of the existing dwelling.
- **Residential Amenity** - There are no windows at first floor level on either the front or gable elevations thus avoiding overlooking of adjoining properties. The appeal was accompanied by Shadow Casting Study.

6.2. Planning Authority Response

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

- Notwithstanding the results of the shadow study submitted with the appeal it is considered that the proposed dwelling does not represent an appropriate design response to the site having regard to the existing pattern of development in the area, the proximity to adjoining properties, the elevation of the site relative to the surrounding area and the potential to be visually obtrusive.
- As is noted in the Planners Report the proposed development is significantly larger and higher than the existing dwelling house on site and is also higher and larger than the dwelling house which was refused permission Reg Ref 20170243.
- The Wexford County Development Plan 2013 – 2019 sets out specific policies, CZM07 and CZM17, to protect Wexford's coastal areas from inappropriate development.
- It is considered that the proposed development would be overbearing and visually obtrusive and would therefore unduly detract from the residential amenity of the adjoining properties.

6.3. Observations

6.3.1. There is one observation recorded on the appeal file from Aileen & Mathew Murphy & Others. The contents of which may be summarised as follows:

- Re-affirms their objections to the proposed development and fully endorses the grounds for refusal. It is unreasonable to assert that their current design addressed all of the issues underpinning the previous reason for refusal.
- There is no negative response to a suitable single storey development provided that any change of location on the site did not compromise the privacy of existing residents through overlooking, overshadowing or visually overbearing which would inter alia depreciate the value of neighbouring properties.
- There is no indication as to the future use of the proposed development i.e. holiday home, permanent home or speculative development.
- The removal of trees at the request of a neighbour was out of necessity since the trees had grown to a height that obstructed natural light to the rear of the neighbour's house.

7.0 Assessment

7.1. 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
- Residential Amenity
- Visual Amenity
- Property Values
- Other Issues

8.0 Principle

- 8.1. Permission is sought for the demolition of an existing 3 bed single storey dwelling (100.9 sqm) and construction of a 4 bed dormer type detached dwelling (231.9 sqm), detached shed and ancillary site works. While there is no land use zoning designation attributed to the appeal site this is a serviced site located within the coastal settlement of Rosslare where residential development is generally considered a permissible use.
- 8.2. The dwelling to be demolished is not listed in the record of protected structures and neither is it located within a designated conservation area. Further, the dwelling does not in my view, have any distinctive architectural merit and I do not consider that it makes any significant contribution to the area in terms of visual amenity, character, or accommodation type. Accordingly, there is no objection to the proposed demolition of this dwelling structure.
 - 8.2.1. Overall I consider the proposed demolition of this dwelling house together with the construction of a new dwelling house at this location to be acceptable in principle subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.

9.0 Residential Amenity

- 9.1. Wexford County Council in their first reason for refusal stated that the development would be visually overbearing and would unduly impact on the residential amenity of adjoining properties in terms of loss of privacy due to overlooking and the potential for overshadowing. It is also noted that the previous planning application on this site for the demolition of the existing dwelling and erection of a replacement dwelling, domestic store and associated works was also refused by Wexford County Council for a similar reason.
- 9.2. In terms of impact on the residential amenity of adjoining properties, for the most part I agree with the comments of the Case Planner in that the capacity of the site to absorb development is restricted by reason of its proximity to surrounding residential development, by the sites height relative to adjoining properties together with the limited separation distances between the proposed development and the adjoining

properties. Further, it would also appear that the proposed house now before the Board is larger than the dwelling house that was refused permission previously.

- 9.3. As part of the planning application it is noted that Land Surveys undertook number of surveys to ascertain the various levels both within the site and of adjoining properties in the immediate vicinity. Detailed levels were also taken at various locations, sectionally, down towards the coast road. It is also noted that as part of the appeal a shadow casting study was submitted indicating a marginal increase in the level of overshadowing onto adjoining properties. I have considered the foregoing reports and surveys and together with my site inspection and I would set out the following.
- 9.4. I consider the design of the proposed house is such that it has due regard for its context and has addressed the difficult characteristics of this site accordingly. For example there are no windows at first floor level on either the front of gable elevations and the only windows at first floor level are on the rear elevation facing towards the sea thus avoiding any significant overlooking of adjoining properties. While this is a site surrounded by dwellings on almost all sides and it is acknowledged that there is limited separation distances between the appeal site and these adjoining properties it also remains that this is a serviced urban site where the principle of a dwelling house is well established. Overall I do not consider that the proposed dwelling would be visually overbearing or would result in overlooking to such an extent to merit a refusal of permission. However, should Board be minded to grant permission and in the interest of clarity it is recommended that a condition be attached restricting access to the flat roof for the purposes of maintenance works only. Further I do not consider that the proposal would result in undue overshadowing of the adjoining properties to such an extent that would of itself merit a refusal of permission. However I o
- 9.5. Overall, I am satisfied that the design, scale, form and positioning of the proposed dwelling strikes a reasonable balance between the protection of the amenities and privacy of the adjoining dwellings, that it will not result in any significant over shadowing of adjoining properties and that it will not result in any unreasonable loss of natural light or overlooking to neighbouring residential properties. Recommended that permission be granted.

10.0 Visual Amenity

10.1. Wexford County Council in their second reason for refusal stated that the development would be visually obtrusive and visually incongruous with the existing pattern of development in the area and would be contrary to Objectives CZM07 and CZM17 of the County Development Plan 2013 – 2019. These objectives state as follows:

- **Objective CZM07** - *To ensure that developments in the coastal zone are correctly sited and designed having regard to visual impact on the coastal zone and the coastal landscape character unit.*
- **Objective CZM17** - *To ensure that development is in keeping with the scale and character of the coastal settlement, and that the design positively contributes to and enhances the coastal landscape setting.*

10.2. The coastal settlement of Rosslare comprises a mix of residential dwellings (detached, semi-detached, apartments etc), holiday parks, commercial developments, social and community facilities all of which combine to create a non-uniform rich urban narrative that collectively gives Rosslare its particular character. As set out in the cover letter accompanying the application the proposed house has been relocated further south within the site to further reduce any impact or visibility it might have on the Coast Road.

10.3. While the appeal site is an elevated site, located on a cul de sac that is surrounded on most sides by existing residential development I am satisfied that this replacement dwelling is appropriately scaled and sited while also respecting the constraints of the site. I do not consider that the height of the scheme would if permitted, form an unduly overbearing or dominant element when viewed from the adjoining properties or surrounding areas. I also consider that the design of the dwelling has had due regard for its context and local character and that the resulting proposal has responded accordingly without detracting from the coastal character or the visual amenities of the area. Recommended that permission be granted.

11.0 Property Values

11.1. Wexford County Council in their first reason for refusal also stated that the proposed development would depreciate the value, of property in the vicinity. The proposal before the Board is for a replacement dwelling house within a serviced urban area where such developments are considered a permissible use and where it is reasonable to expect developments of this kind would normally be located. Therefore the proposed scheme is not considered to be a bad neighbour in this context and I do not therefore consider that to permit this development would lead to a significant devaluation of property values in the vicinity. Accordingly, I am satisfied that this matter is not material to the consideration of this appeal. Recommended that permission be granted.

12.0 Other Issues

12.1. **Appropriate Assessment** - Having regard to the nature and scale of the proposed development comprising the demolition of an existing dwelling and construction of a new detached dwelling 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.

12.2. **EIA Screening** – Having regard to the nature and scale of the proposed development comprising the demolition of an existing dwelling and construction of a new detached dwelling 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.

12.3. **Development Contributions** – 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). Under the section of the scheme entitled “*Incentives (Discounting /Credit)*” it states that *where a habitable house on site is being demolished, or has been destroyed by fire or flood, credit will be given against contributions due for the area (sq. m.) of the demolished dwelling in the event of the*

replacement of the former structure. Evidence to be provided of utility bills to confirm the dwelling has been in continuous use and to confirm the floor area of the existing dwelling. It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000 for the entire building including the new lift shaft.

12.4. **Detached Shed** – It is noted from the public notices that the scheme also includes for the construction of a detached shed. No elevational details of the shed to be constructed were submitted with the application save for its location. In this regard I refer to Site Layout Plan Dwg No PL-01. While the footprint of the shed would appear to be relatively small it remains that this shed was referenced in the public notices and that no details pertaining to same have been provided. Should the Board be minded to grant permission it is recommended in the interest of clarity that a restrictive condition be attached stating that no development falling within Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.

13.0 Recommendation

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

14.0 Reasons and Considerations

14.1. Having regard to the site's location on serviced lands within the coastal settlement of Rosslare and the policy and objective provisions in the Wexford County Development Plan 2013-2019 in respect of residential development, the nature, scale and design of the proposed development, to the pattern of existing and permitted development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

15.0 Conditions

1. The development shall be carried out and completed 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. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.

Reason: In the interest of clarity

3. Access to the flat roof shall be restricted for the purposes of maintenance works only. The flat roof area shall be used as a garden / terrace.

Reason: In the interest of residential amenities

4. Details of the materials, colours and textures of all the external finishes and boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, 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 adjoining property in the vicinity

7. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity

8. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

9. The developer shall pay to the planning authority a financial contribution 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 prior to the commencement of development 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. Details of the application of the terms of the Scheme 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 the proper application of the terms of the Scheme.

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

Mary Crowley

Senior Planning Inspector

29th January 2019