



An  
Bord  
Pleanála

## Inspector's Report ABP304176-19

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<b>Development</b>	Demolish house and build replacement house.
<b>Location</b>	53 John Street Lower, Wexford, County Wexford.
<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20181492
<b>Applicant(s)</b>	Maxim Strimbu
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Karen Browne
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	5 <sup>th</sup> July 2019
<b>Inspector</b>	Hugh Mannion

## 1.0 Site Location and Description

- 1.1. The application site has a stated area of 0.0043ha and comprises a single storey three bay house, a short rear yard and an outhouse/shed. The existing house is part of a terrace of two storey houses fronting onto Lower John Street and bounded by Mary Street to the south and Rowe Street to the north. The house opens directly onto the footpath of Upper John Street and opposite and on the western side of the street is a complex of community use buildings including a Franciscan Friary/Church and a Presentation Secondary School.

## 2.0 Proposed Development

- 2.1. Demolish an existing house and erect a replacement with a raised ground floor level by 450mm, raise roof ridge height to match adjoining house at 51 John Street Lower, new windows to front and rear, erect a two-storey rear extension and a dormer/roof lights to the rear. All at 53 John Street Lower, Wexford, County Wexford.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant permission with conditions.

Condition 7 required archaeological testing before development commences.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- 3.3. Initially the planning authority sought additional information; (a) in relation to re-advertising the application to more accurately describe the application as for demolition of an existing building, and (b) that the potential asbestos on site be properly disposed of.

- 3.4. The applicant responded on both points to the satisfaction of the planning authority.

#### 3.4.1. Other Technical Reports

- 3.5. The Chief Fire Officer recommended conditions.

## 4.0 Planning History

- 4.1. Under 20180885 permission was refused on this site for demolition/renovation because the application was inaccurately advertised and because the proposed development would be out of character with the streetscape in the area.

## 5.0 Policy and Context

### 5.1. County Development Plan

### 5.2. Town Development Plan

- 5.3. The site is zoned for 'to protect and enhance the special physical and social character of the existing town centre and to provide for new and improved Town Centre facilities and uses' in the Wexford and Environs Development Plan 2009-2015.

- 5.4. "The purpose of this zone is to protect and enhance the special character of Wexford Town Centre and to provide for and improve retailing, commercial, office, cultural and other uses appropriate to the Town Centre which complement its historic setting. It will be the objective of the council to encourage the full use of buildings and backlands especially the full use of upper floors, preferably for residential purposes. Certain uses are best located away from the principal shopping streets because of their extensive character and their need for large scale building forms and space requirements".

- 5.5. The lifetime of this plan has been extended.

### 5.6. Natural Heritage Designations

None

### 5.7. EIA Screening

- 5.8. Having regard to nature of the proposed development comprising an amendment to an existing residential use in an appropriately zoned area where foul water and potable water supply is available there is no real likelihood of significant effects on the environment arising from the proposed development. The need for

environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

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

- The garden of the adjoining site at 55 Lower John Street wraps around the application site. This rear garden has special amenity value for the appellant because of the height and proximity of the adjoining house at 57 Lower John Street and the scarcity of open space in Wexford town centre.
- The dormer window will overlook the appellant's back yard and contravene the Town Development Plan in relation to the protection of private amenity space.

### **6.2. Applicant Response**

- The proposed two storey extension will have the same footprint as previously and replicates a pattern of development in the area.
- The ground floor level is below street level and part of the proposal is to raise this to avoid flooding from the street.
- The proposed back windows overlook the application site, not the adjoining property.

### **6.3. Planning Authority Response**

- The proposed development will not give rise to a level of overlooking above that which may be expected in an urban setting.

### **6.4. Observations**

- None

## 7.0 Assessment

### 7.1. Context.

7.2. The existing house is a modest single storey house within a terrace of two-storey houses. It is proposed to demolish and replace with a two-storey house which will replicate the ridge height of the adjoining house to the left (number 51 Lower John Street). There is a fall in street level to the south so there will remain difference in roof ridge height between the new house and that on the adjoining house to the right (55 Lower John Street, the appellant's house). The new elevation is three bays with two storeys and a slate roof. I consider that this arrangement is in keeping with the pattern of development in the area.

7.3. The applicant makes the point that the existing house is 450mm below street level. One of the reasons for raising the finished floor level is to prevent ingress of water storm water which overflows from a grated gutter immediately outside the existing front door into the existing house.

7.4. There is a surface water gutter on the street outside the house where the footpath is barely elevated over the level of this gutter in a manner which would allow water, in times of heavy rain, to enter the application site.

### 7.5. Impact on Adjoining Property.

7.6. The appeal makes the point that the appellant's property (number 55 Upper John Street) has a rear garden which wraps around the application site and that the rear dormer windows will give rise to such overlooking as to seriously injure the amenity value of that space.

7.7. The existing house has a loft area accessible through a narrow stair with a skylight window on the rear plane of the roof. Opening that skylight affords views over the applicant's rear yard, outhouse and outhouse/yard of number 55 Upper John Street. The proposed development will have two rear facing windows; an obscurely glazed bathroom window and a larger dormer window serving a new rear first floor bedroom. The rear yard (after the demolition of the existing outhouse/shed) will be 3.2m deep. In new build situations the general rule of thumb is that individual gardens should be about 11m deep to make for a 22m separation distance between opposing rear windows in order to protect residential amenity. In this urban context

where plot widths and depths are already determined such rear garden depths are sometimes unachievable and rear gardens are often overlooked because of their town centre location. It is reasonable in this context to upgrade the existing accommodation on the site which is poor at present notwithstanding that optimum rear garden depths are not available.

7.8. The application site is due north of the adjoining house at 55 Lower John Street. The relative orientation of the two sites will ensure that the proposed new house will not cast shadow on the adjoining site to the south. Additionally, even allowing for the increase in ridge height of about 0.65m, any additional shadow from evening/western sun should be confined to the application site.

7.9. I conclude that the proposed development will not seriously injure the amenity of property in the vicinity.

#### 7.10. **Private Open Space.**

7.11. The Wexford County Development Plan (table 36) requires a minimum of 60m<sup>2</sup> of private open space for 2-bedroom houses. The proposed provision is 13.5m<sup>2</sup>. Whereas this provision is below the required minimum it may be noted that an existing lean-to shed will be removed and, otherwise, the proposed residential accommodation is of a good standard. Having regard to these circumstances, the town centre location of the proposed replacement house and the overall objective in the Town Development Plan to maintain residential uses in the town centre I conclude that the proposed development will not unreasonably compromise the residential amenity of future residents of the proposed development.

#### 7.12. **Appropriate Assessment.**

7.13. Having regard to modest scale of the proposed development and foreseeable emissions arising therefrom 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.

## 8.0 **Recommendation**

8.1. I recommend that planning permission be granted.

## 9.0 Reasons and Considerations

- 9.1. The proposed development is located in an area zoned to protect and enhance the special physical and social character of the existing town centre and to provide for new and improved Town Centre facilities and uses in the Wexford and Environs Development Plan 2009-2015. Having regard to the nature of the proposed development as a replacement house, its modest scale and subject to the conditions set out below it is considered that the proposed development would not seriously injure the amenity of property in the vicinity through overshadowing to overlooking and would otherwise accord with the provisions of the Wexford and Environs Development Plan 2009-2015 and the proper planning and sustainable development of the area.

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

**Reason:** In the interests of public health.

3. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

4. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

5. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:



- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

6. 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. 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

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Hugh Mannion  
Senior Planning Inspector

22<sup>nd</sup> July 2019