



**Development**

Planning permission and permission for retention is sought for the open fronted shed as constructed on site (reference is building c floor area of 75.2 m/sq) and for change of elevation and roof material on an adjoining steel portal framed shed and all associated site works.

**Location**

Main Street, Clonroche County Wexford

**Planning Authority**

Wexford County Council

**Planning Authority Reg. Ref.**

20190214

**Applicant(s)**

Flood Iron Works

**Type of Application**

Permission & Retention Permission

**Planning Authority Decision**

Grant with Conditions

**Type of Appeal**

Third Party

**Appellant(s)**

Mary Tobin

**Observer(s)**

None

**Date of Site Inspection**

30<sup>th</sup> July 2019

**Inspector**

Mary Crowley

## Contents

1.0 Site Location and Description .....	5
2.0 Proposed Development .....	5
3.0 Planning Authority Decision .....	6
3.1. Decision .....	6
3.2. Planning Authority Reports .....	7
3.3. Prescribed Bodies .....	8
3.4. Third Party Observations .....	8
4.0 Planning History.....	8
5.0 Policy Context.....	9
5.1. Development Plan.....	9
5.2. Natural Heritage Designations .....	9
5.3. EIA Screening .....	9
6.0 The Appeal .....	10
6.1. Grounds of Appeal .....	10
6.2. Applicant Response .....	11
6.3. Planning Authority Response .....	12
6.4. Observations .....	12
6.5. Further Responses.....	12
7.0 Assessment.....	13
8.0 Principle.....	13
9.0 Residential Amenity .....	16
10.0 Traffic Safety .....	16
11.0 Other Issues.....	17

12.0	Recommendation .....	18
13.0	Reasons and Considerations .....	18

## 1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.33ha is located at Main Street, Clonroche, Enniscorthy. It presently contains a number of sheds and buildings associated with the business Flood Iron Works. There are a number of dwellings to the south of the site. There is also a housing development of 18 dwellings to the north east; Woodlands.
- 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. I refer to the public notices together with the plans and particulars submitted with the planning application.
- 2.2. Permission for retention is sought for the existing open fronted spraying shed as constructed on site (building c floor area of 75.2 sqm) and for change of elevation and roof material on an adjoining steel portal framed shed. Stated that the old rusted corrugated sheeting was removed and replaced with an insulated double skin Kingspan grey panel.
- 2.3. Planning permission is sought for the proposed construction of a new steel portal framed building (storage and maintenance of 185 sqm) connected to the existing shed located along the western boundary of the site. It is noted from the plans and particulars that this building also includes proposals for an additional main office and canteen (c41 sqm) fronting onto the public road. This element of the proposal is not referenced in the public notices.
- 2.4. Proposals also include the demolition of 2 no "old buildings" (15 sqm and 30sqm) proximate to the public road in order to provide designated staff car parking for 12 cars. It is also proposed to demolish a section of the proposed front boundary wall at this location and construct of a new front boundary wall together with all associated site works. No details of the proposed front boundary wall has been provided with the application other than to say it will "*match ex boundary wall in height ad finishes*".

2.5. The site will be served by an existing public water supply and an existing public sewer.

2.6. The following is set out in the application:

- The gross floor area of the existing building is 494 sqm.
- The gross floor area of proposed works is 185sqm.
- The gross floor area to be retained is 75.2 sqm.
- The gross for area to be demolished is 45 sqm (old sheds).
- The stated commercial floor area is 184 sqm.

2.7. Please note that the foregoing does not appear to include the proposed new main office and canteen (c41 sqm).

2.8. The application was accompanied by a certificate of incorporation and a cover letter setting out the following as summarised:

- A company has been in situ at this location since the 1950's
- Flood Iron Works Ltd was incorporated on 5<sup>th</sup> October 2004 and has continued to grow. The company employs 14 staff.
- The company aims to continue developing further each year.

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. Wexford County Council issued a notification of decision to grant permission subject to 10 no conditions. Conditions of relevance are set out below:

***Condition No 2 - The use of the development shall be confined to the following hours:***

*Monday to Friday 08.00am to 18.00pm*

*Saturdays 08.00am to 13.00pm*

*No work shall take place on the site on Sundays and Bank holidays*

***Reason: To protect the amenities of the adjoining properties***

**Condition No 3** - *The noise level from this development shall not exceed 55dB(A), leq(A) when measured at the boundaries of the site, between the hours of 08.00am and 18.00pm, Monday to Friday and 08.00am to 13.00pm hours on Saturdays. The noise level shall not exceed 45dB(A), leq(A) at any other time.*

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

**Condition No 4** – *No spraying shall take place in the open shed (Shed Ref C per Drawing No 12-77/2).*

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

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- The **Case Planner** set out the following as summarised:
  - 1) The existing use is well established on the site as the permission issued in 2006 regularised this activity / use at this location. Therefore there is no issue with the use.
  - 2) This is a simple lean-to type structure onto an existing shed. The scale and form of the buildings for retention and the new building proposed is considered suitable for this village centre location.
  - 3) The use should not include spraying as it is open fronted.
  - 4) The proposed 12 no car parking spaces is acceptable giving its village centre location.
  - 5) The impact on the residential amenity will be minimised, and the addition of a number of conditions and activity to the rear of dwellings will not increase from what was already permitted in 2006.
- Having considered the scheme the Case Planner recommended that permission be granted permission subject to 10 conditions. The notification of decision to grant permission issued by Wexford County Council reflects this recommendation.

3.2.2. Other Technical Reports – There are no reports recorded on the appeal file. The following reports are recorded on the Case Planners report:

- **Disability Access Officer** – Stated that a DAC is required
- **Chief Fire Officer** – Stated that a Fire Safety Certificate is required

### 3.3. Prescribed Bodies

3.3.1. There are no reports from any prescribed bodies on the planning file.

### 3.4. Third Party Observations

3.4.1. There are three observations recorded on the planning file from (1) Mary Tobin (appellant), (2) Nicola Kirwan and (3) Stephanie Moran. The issues raised relate to the location of the development in a residential area, constant industrial noise, toxic fumes, visual impact, traffic impact and lack of privacy. Further stated that an enforcement order issued to Flood Iron Works was not adhered to.

## 4.0 Planning History

4.1. It is set out in the current Case Planners report that there was a *possible unauthorised development of workshops and extension of hardcore area* at this site (complaint number 0015/2018 refers). It is further stated that an **Enforcement Notice** issued with court date fixed for 17<sup>th</sup> April 2019.

4.2. There is no evidence of any previous planning appeal at this site. There was a previous planning application on this site that may be summarised as follows. Please note that no plans and particulars accompanied the planning history provided with the appeal:

- **Reg Ref 20062308** – Planning permission was granted in 2007 subject to 12 conditions to Tom Flood for the retention of existing one and part two storey light industrial building and associated site works and permission for a development comprising of an extension (125sqm additional ground floor area) to existing one and part two storey light industrial building, also including associated site.



## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The operative plan for the county is the **Wexford County Development Plan 2013-2019** and the **Clonroche Local Area Plan 2009-2015 (as extended)**.
- 5.1.2. Chapter 18 of the **Wexford County Development Plan 2013-2019** sets out the Development Management Standards. Relevant Section of the Development Plan are as follows:
- Section 3.4.9 – Smaller Villages
  - Section 6.4.1 – Industry, Manufacturing, Research, Technology and Innovation
  - Objective ED03 – It is an objective of the Council *to permit the extension of an existing industry or enterprise facility within towns or villages provided the resultant and form of the enterprise is compatible with the character and scale of the area and subject to compliance with normal planning and environmental criteria and the development management standards contained in Chapter 18.*
- 5.1.3. The zoning map accompanying the **Clonroche Local Area Plan 2009-2015 (as extended)** designates the appeal site as “residential” where the Zoning Objective is *to protect and improve residential amenities. This zoning provides for the protection and improvement of the residential amenity and the provision of new and improved ancillary services.* I refer to Figure 4.1 Land Use Zoning Matrix. Neither General Industry nor Light Industry are permitted within this zoning. It is noted that there is a large swath of lands zoned for Industry at the other side of Clonroche to the north east.

### 5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site.

### 5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed commercial development comprising retention of the existing open fronted spraying shed, the construction of a new steel portal framed building (storage, maintenance, main office and canteen) and

the demolition of 2 no “old buildings” and provision of staff car parking together with all associated site 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.

## **6.0 The Appeal**

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

6.1.1. The third party appeal has been prepared and submitted by Mary Tobin who is appealing the decision to grant permission. The appeal site is situated to the rear of the appellant’s home. The issues raised may be summarised as follows:

- Noted that there was legal proceeding issued against the applicant due to non-compliance of an enforcements order.
- The business is operating in a residential area. It is not zoned for industrial use.
- The appellant’s home has to endure constant noise due to steel handling and toxic fumes due to spraying in an open shed. Stated that the appellant cannot open their back window due to fumes.
- There is a lack of privacy due to the elevated nature of the yard. There are stacks of steel frames piles up opposite the appellants kitchen window on a regular basis with a view straight into the open spray shed.
- The appellant’s rear fence has been damaged due to the volume of the steel frames stacked behind it.
- Submitted that in the last few years a high wall was built without permission or consideration for the people in the immediate area.
- Wexford County Council are allowing a business to operate which has serious environmental issues and have not adhered to an enforcement order.
- The applicants home has been devalued

6.1.2. The appeal was accompanied by copies of correspondence sent to Wexford County Council regarding unauthorised development at the appeal site and responses to

same together with site photos. The correspondence includes letters from Wexford County Council stating that legal proceedings have been instigated in relation to non-compliance with the enforcement notice issued on 12<sup>th</sup> September 2018.

## **6.2. Applicant Response**

6.2.1. The first party response to the appeal has been prepared and submitted by Capital Survey Ltd on behalf of the applicant Tom Flood and may be summarised as follows:

- 1) The site is located within the confines of Clonroche village. There are 12 local people currently employed at Flood Iron works; a family run business. If the company cannot continue to grow and expand it will have knock on effects for staff and employment. Submitted that it is evident from the aerial photo dating back to the early 1960s that there has always been a fabricating business on site
- 2) Flood Ironworks were successfully awarded an accreditation up to execution class 3 by a notified body which has led to additional contracts. Over the last 3 years Flood Iron Works have purchased new machines which has also led to further employment. As a result Flood Ironworks has entered into a hefty financial investment with the banks. All of which is leading to additional contracts being awarded.
- 3) It is stated that the works carried out are classed as light engineering. Minimal paint jobs are carried out. This was proven where it was deemed not necessary to apply for a VOC license. However it was recommended by Environmental Department, Wexford County Council that changes were made to the area in question. These changes cannot be made to this small space, hence the need for planning permission.
- 4) As part of the application the applicant intends to construct a new shed to the front of the site and give it an elevational context in keeping with its village surroundings. A retention application was submitted for the existing re clad shed and for the shed / building to the rear of the site. The application included some landscaping. The dwelling house to the front has been demolished. The majority of the site is located to the rear of residential

houses and there is no other objection from any other resident other than the objector.

- 5) The applicant had a number of consultations with Wexford County Council prior to submission.

6.2.2. The response was accompanied by 3 affidavits prepared by the applicant's solicitor, John A Sinnott of John A Sinnott Solicitors together with site aerial photos of the premises that *show that the yard / site was being used as an engineering business since 1960's and clearly show steel fabrication and other engineering works:*

- 1) Affidavit from Joseph Carton, Coolroe, Clonroche who stated that he was engaged in employment by the applicants father (Sean Flood) as a welder circa 1960.
- 2) Affidavit from Helen Murphy who's dwelling house is constructed and attached to the property of Mary Tobin and who has lived at the proposed for approx. 20 years and has never had any trouble or difficulty with any of the work being carried on there. Stated that she is aware of the Flood Engineering works from a very early age
- 3) Affidavit from Tom Flood giving an outline of his working within the family business since the age of 16 in 1987.

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

6.3.1. Wexford County Council state that *conditions were attached to the permission issued in relation to hours of operation, noise limits and control of spraying.*

### 6.4. **Observations**

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

### 6.5. **Further Responses**

6.5.1. There are no further responses recorded on the appeal file.

## 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
- Traffic Safety
- Other Issues

## 8.0 Principle

8.1. This is an application for the retention of the existing open fronted spraying shed as constructed on site (building c floor area of 75.2 sqm) and for change of elevation and roof material on an adjoining steel portal framed shed and for permission for the construction of a new steel portal framed building (storage and maintenance of 185 sqm) connected to the existing shed to include an additional main office and canteen. Proposals also include the demolition of 2 no “old buildings” (15 sqm and 30sqm) proximate to the public road in order to provide designated staff car parking for 12 cars. Wexford County Council issued a notification of decision to grant permission subject to 10 generally standard conditions.

8.2. In 2007 Wexford County Council granted permission for the retention of an existing one and part two storey light industrial building and associated site works and permission for a development comprising of an extension (125sqm additional ground floor area) to existing one and part two storey light industrial building, including associated site works subject to 12 no generally standard conditions. Section 4.0 Planning History above refers.

8.3. I note from the current Case Planners report that they were satisfied that the existing use was well established on the site as the permission issued above regularised the activity / use. It was further stated that the impact on the residential amenity would not

increase from that already permitted. I disagree with this assertion in relation to the use on site and the impact on residential amenity.

- 8.4. In this regard I refer to the Planning and Development Regulations 2001 – 2019 where it states that *“light industrial building” means an industrial building in which the processes carried on or the plant or machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.*
- 8.5. The permitted 2007 “light industry building” aligns, in my view, with the current residential zoning objective for the site. I refer to the zoning map accompanying the Clonroche Local Area Plan 2009-2015 (as extended) that zones the appeal site as “residential” and where the objective is *to protect and improve residential amenities.* It is further stated that *this zoning provides for the protection and improvement of the residential amenity and the provision of new and improved ancillary services.* I also refer to Figure 4.1 Land Use Zoning Matrix where it states that neither General Industry nor Light Industry are permitted within this residential zoning.
- 8.6. I note from the applicant’s response to the appeal that the works carried out on the site are described as light engineering / fabrication with minimal painting jobs. No further details of the extent and nature of these uses on site has been provided. It was observed on day of site inspection that there was spray painting being carried out within the existing open fronted spraying shed and that the associated smell was pungent. It was also observed that the other sheds on site, together with the proposed new shed could be also be characterised as open fronted i.e. the large openings that were wide open (site photos refer) and that there was a degree of vehicular movement across the site between these sheds. The open nature of these sheds is in all likelihood to facilitate the movement of materials unimpeded across the site as part of the processes carried out on the site. It is also noted from the appeal response that new machines have been acquired for the business that may have a noise nuisance element. Again no information in this regard has been provided.
- 8.7. Given the processes carried out on site including painting, the machinery associated with same together with the vehicular movements across the site I am concerned with the proximity of same to existing housing and their impact on residential amenity by

reason of noise and smell. I do not consider that the current uses on site can be described as light industry,

- 8.8. It is accepted that this is a successful family run business employing 12 local people that is growing year on year. It is also accepted that there has been a business on this site since the 1960's that has been expanding exponentially in recent years and that in tandem there has been substantial financial investment in new machinery, buildings etc in order to grow the business. While there is no objection to the principle of the plans proposed a difficulty arises in the uses that have evolved at the site and those now proposed to be retained. In my view the uses now on site can no longer be described as light industry with reference to the Planning and Development Regulations 2001 – 2019.
- 8.9. It is my view this is an industrial development on lands zoned for residential that is proximate to established residential houses (site photos refer). Wexford County Council determined in 2009 that these appeal lands were suitable for residential development and not for light industry or general industry. The zoning of this site has been through the rigours of the Development Plan process whereby it was determined that the amenity of adjoining residents takes precedent as it is now zoned residential. The intention of the Development Plan is not to stifle development such as this but rather to ensure that such developments are appropriately located and where expansion can be accommodated. In this regard it is noted that a large swath of land is zoned for Industry to the north of the town.
- 8.10. The use now established on the appeal site is not compatible with the adjoining sensitive residential uses. Having regard to the residential zoning objective for the site together with the industrial nature of the business being carried out at this location it is my view that the matters of concern cannot be dealt with by condition in this instance. The scheme now before the Board is an intensification and expansion of a non-conforming use. However the nature of the business together with its location on lands zoned residential means that the intensification now proposed is incompatible and to permit same would contravene the Development Plan. Refusal is recommended.

## 9.0 Residential Amenity

- 9.1. I have noted the appellants concerns. This matter is implicitly addressed in Section 8.0 Principle above. A development of this nature is not acceptable on lands zoned residential and proximate to existing residential houses. Refusal is recommended.

## 10.0 Traffic Safety

- 10.1. It was noted on day of site inspection that there are 3 no entrance points from the site onto the public road (N30). While the site is within the speed limit of Clonroche I am concerned with the multiplicity of access points servicing the site at this location.
- 10.2. The principal site access appears to be located between the proposed staff car park and the proposed new storage, maintenance, main office and canteen building. This is a wide splayed entrance that affords adequate sight at location that is removed from existing residential units. I am satisfied that this entrance is sufficient to accommodate all traffic associated with the development at this site.
- 10.3. There is second entrance located on the town side of the site between two residential units (site photos refer). While this entrance is out with the red line boundary of the site it appears to be well utilised by the development on site. I am concerned with regard to the nature and potential volume of traffic using this entrance having regard to its proximity to the adjoining houses. Given the adequacy of the primary entrance and the provision of adequate turning facilities within the site I consider that in the interest of residential amenity and traffic safety that the use of this entrance be restricted to emergency vehicles only. I am satisfied that this matter can be dealt with by way of a suitably worded condition with the details of same to be agreed prior to commencement of work on site.
- 10.4. There is a third entrance located to the south of the main entrance (site photo refer). This entrance is gated and was closed on day of site inspection. Further it was observed on day of site inspection that the area within the appeal site and adjoining this gate is used for storage and therefore making regular use of this entrance difficult. Further, as can be seen from the site plans it is proposed to position the new storage, maintenance, main office and canteen building in front of this gate. While there are no explicit proposals on the plans to close this entrance it is evident that its function



and use post construction may be limited. Therefore given the current lack of use together with the location of the proposed new building it is recommended that a condition be attached requiring that this entrance is permanently closed and that the front boundary wall is extended across the entrance with details to be agreed with the Planning Authority.

- 10.5. **NOTE:** The matter of traffic safety and access to the site was not raised in the appeal nor was it raised in the planning application. Accordingly the Board may wish to seek comment from the relevant parties prior to making its decision.

## 11.0 Other Issues

- 11.1. **Public Notices** – As indicated in Section 2.0 Proposed development of this report there appears to be some shortcomings in the public notices with reference to the plans and particulars submitted with the planning application in setting out clearly the extent of the works proposed. While this is not a matter for An Bord Pleanála it is recommended that any future application at this location would clearly set out the nature and extent of the development in line with the plans and particulars proposed.
- 11.2. **Surface Water** – I note from the planning application that the site will be served by an existing public water supply and an existing public sewer. It is further noted that surface water will be disposed of by means of the public sewer / drain. I refer to the submitted site plan in this regard. Surface water disposal at this location is of some concern as it is unclear how surface water is being treated and where it is ultimately going. I consider the application to be deficient in detail in this regard and that same may require further detailed consideration prior to any grant of permission at this location.
- 11.3. **Conditions** – I refer to the decision by Wexford County Council to grant permission and the conditions attached with particular reference to Condition No 2 (days and hours of operation), Condition No 3 (noise level restrictions) and Condition No 4 (no spraying shall take place in the open shed). I refer to Section 3.1 above for further details on these conditions. While these conditions are ultimately negated by the foregoing recommendation to refuse planning permission it is suggested that should the Board be minded to grant permission that similar conditions be attached.

- 11.4. In addition, where the Board is considering a grant permission, it is recommended that two further conditions be attached. The first should request the details of the proposed new front boundary wall to be submitted and agreed in writing prior to commencement of work on site. Secondly that no signage or advertising structures/advertisements be erected within the site unless authorised by a further grant of planning permission.
- 11.5. **Appropriate Assessment** – On the basis of the plans and particulars submitted with the application a hydrological connection between the appeal site and the Slaney River SAC (Site Code 000781) and the River Barrow & river Nore SAC (Site Code 002162) cannot be ruled out. It may therefore be prudent that any future planning application at this site would be accompanied by an AA Screening Report.
- 11.6. **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). I have considered the sections entitled “Exemptions” and “Incentives (Discounting / Credit)”. The proposed development does not fall under the exemptions / incentives listed in this scheme. Accordingly, it is 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.

## 12.0 Recommendation

- 12.1. It is recommended that permission be **REFUSED** subject to the reasons and considerations set out below

## 13.0 Reasons and Considerations

1. The operative plan for the area is the Clonroche Local Area Plan 2009-2015 (as extended). The appeal site is located within area zoned “residential” where the Zoning Objective is *to protect and improve residential amenities. This zoning provides for the protection and improvement of the residential amenity.....* This objective is considered reasonable. Under the Land Use Zoning Matrix neither General Industry nor Light Industry are permitted on

residentially zoned lands. Having regard to the zoning of the site it is considered that the proposed industrial development to be retained would seriously injure the residential amenities of property in the vicinity and would therefore contravene materially the said zoning objective and would be contrary to the proper planning and sustainable development of the area.

---

**Mary Crowley**

**Senior Planning Inspector**

**7<sup>th</sup> August 2019**