



An  
Bord  
Pleanála

## Inspector's Report ABP304397-19

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<b>Development</b>	Demolish house, construct an apartment and two houses at the rear.
<b>Location</b>	73 John Street Upper, Wexford, County Wexford.
<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20190199
<b>Applicant(s)</b>	Mark Takacs
<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>	Lucy Morris
<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 0.057ha and is located in a residential street in the commercial core of Wexford town at 73 Upper John Street, Wexford, County Wexford. The site accommodates a two-storey terraced house, a rear garden with a shed and a larger undeveloped rectangular area running along the rear of house 73 to 83 Upper John Street. There are no trees on site. There are boundary walls in good repair along the site boundaries.
- 1.2. Upper John Street near the application site is residential in character. There is some variation in plot widths, the houses are two and three storeys and there is a variation in roof ridge height. The houses on the northern side of the street appear to be almost uniformly 19<sup>th</sup> century whereas there is a greater variety of dates on the southern side of the street.
- 1.3. **Proposed Development**
- 1.4. Demolish an existing house and erect an apartment overhead with access from the street to two new houses in the backlands at 73 Upper John Street, Wexford, County Wexford.

## 2.0 Planning Authority Decision

### 2.1. Decision

Grant permission with conditions.

Condition 2 required an open balcony to the rear of the proposed apartment.

### 2.2. Planning Authority Reports

#### 2.2.1. Planning Reports

The planner's report recommended a grant of planning permission.

#### 2.2.2. Other Technical Reports

No other technical reports on file.

### 3.0 Planning History

- 3.1. Under reference 2015026 permission was refused for demolition of the existing house and erection of a new house because (1) the proposed access was not justified by a single house and (2) the proposed development would give rise to overlooking of adjoining property.

### 4.0 Policy and Context

- 4.1. **The Sustainable Residential Development in Urban Areas (DOEH&LG 2009)** seeks to encourage more sustainable forms of development in cities and towns through achieving higher residential densities in areas served by transport infrastructure, public services and community facilities.
- 4.2. The Guidelines (paragraph 5.9) encourages the provision of additional houses in inner suburban areas of towns and cities which are close to public transport and where development will revitalise these areas and make better use of existing social and physical infrastructure.
- 4.3. **Smarter Travel – A Sustainable Transport Future 2009-2020** sets out key goals to reduce the environmental impact of transport and private car use. These include maximising the efficiency of the transport system and alleviation of bottle necks, minimising the local and global environmental impacts of greenhouse gas emissions, reducing travel demand and distances travelled by private car and accommodation of car drivers on other modes such as walking, cycling, public transport so that private cars will account for lowered kilometres of travel and other modes should grow to 55% by 2020.
- 4.4. **Development Plan**
- 4.5. 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.
- 4.6. “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 compliment 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”.

4.7. The lifetime of this plan has been extended.

#### 4.8. **Natural Heritage Designations**

Not relevant.

#### 4.9. **EIA Screening**

4.10. Having regard to nature of the proposed development comprising three residential units on appropriately zoned land where sewerage 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.

### 5.0 **The Appeal**

#### 5.1. **Grounds of Appeal**

- Permission was previously refused on this site under reference 20150206.
- There is insufficient car parking provision which will lead to on-street parking and injury to the amenity of nearby property.
- The proposed development is too close to the boundaries and will overlook/overshadow adjoining property at 75, 77, 79 and 81 Upper John Street.
- The proposed development will lead to traffic congestion.
- Another archway duplicating the adjoining one will negatively impact on the visual amenity of the streetscape.

- The proposed development comprises backland development which will contravene section 11.8.12 of the town development plan.
- The proposed development may destabilise the structural integrity of adjoining property.

## 5.2. Applicant Response

- There is no alternative access to the site. The planning authority omitted two proposed on-site car spaces so 4 are now permitted.
- There are no protected structures in Upper John Street.
- The objection to the previous permission has been addressed in the current application.
- The proposed development will not interfere with traffic management in the area.
- There will be no overshadowing/overlooking of adjoining property.
- The adjoining house at 75 Upper John Street is a new construction following a demolition and rebuild under application reference W0005568.

## 5.3. Planning Authority Response

- No comment

## 5.4. Observations

- No observations.

## 5.5. Further Responses

None

## 6.0 Assessment

6.1. The main issues in this case are, zoning/principle of development, parking, traffic safety, residential amenity standards, impact on adjoining uses.

### 6.2. Zoning/principle of development.

6.3. The Sustainable Residential Development in Urban Areas makes the point that brownfield sites in city and town centres may provide an opportunity for higher residential density. The proposed development comprises redevelopment of an urban site with an existing residential use to provide 3 residential units in place of one. The Town Development Plan encourages the retention of residential uses within the town centre and in particular at first floor.

6.4. The appeal makes the point that the proposed entrance will detract from the street scape value of the existing house. It may be preferable, but it is improbable that access could be achieved over the adjoining site. The Town Development Plan specifically encourages development of backlands which inevitably creates changes in the streetscape. I conclude that the proposed access is acceptable from a streetscape point of view.

6.5. Having regard to these factors I conclude that the proposed development accords with the Town Development Plan policy for the area.

### 6.6. Parking

6.7. The town development plan (Table 4) requires the provision of 2 car parking space per house and 1.5 per apartment. The proposed development provided 6 spaces including a disabled space. The planning authority's decision required the omission of 2 spaces leaving 3 ordinary spaces and a single disabled parking space. While noting the town development standards and decision of the planning authority another factor which should be considered are the overall policy aim set out in the Smarter Travel policy to encourage a switch from private car-based transport to walking, cycling and public transport. The application site is a town centre site where there is easy access on foot or by bike to shops, schools, entertainment and other community uses. Rearranging the site layout to provide three spaces along the northern boundary and pulling the houses forwards would increase the private

amenity space available to future residents and encourage more sustainable forms of transport.

- 6.8. Having regard to the foregoing I recommend an amended condition number 2 as set out below.
- 6.9. **Traffic safety.**
- 6.10. The appeal makes the point the proposed development is close to a signal-controlled junction and that the proposed development would give rise to traffic hazard through disruption of traffic flow in the area. It may be noted in this regard that there are no planning authority engineering reports on file.
- 6.11. The speed limit on Upper John Street is 50kms per hour, the street is two way for vehicular traffic, there is a single yellow line and associated signage on the opposite side of the street banning parking between 8.30am and 6.30pm Monday to Saturday. The adjoining site at 71 Upper John Street has been redeveloped for housing with a street level access and there is a yellow box allowing movements into/out of that development. About 70m west of the application site is a signal-controlled junction at the intersection of Upper John Street and Upper Georges Street.
- 6.12. There is on street car parking in the area along the northern side of John Street and the proposed development would lead to the loss of one on street parking space. Nevertheless, I consider that the proposed development is very modest and does not have the capacity to materially impact on traffic patterns in the area. I conclude that the proposed development will not give rise to congestion or endanger public safety by reason of traffic hazard.
- 6.13. **Residential Amenity Standards.**
- 6.14. The two proposed houses are three-bedroom units. The rear gardens are stated to be 40m<sup>2</sup>. The County Development Plan (section 18.10.8) requires that three bed units have a minimum 75m<sup>2</sup> of private open space. Private opens space should, as far as possible, be open to sunlight, should not be narrow or awkwardly shaped and in general a 22m separation distance between upper floor opposing windows should be maintained.
- 6.15. This is a restricted urban site where the overall zoning objective of encouraging residential development and the Council's objective to encourage backland and infill

development (see section 18.10) and the application of other development standards can be difficult to reconcile. In the present case the proposed rear gardens are unacceptably short. I consider that moving the houses about 3m west would give rise to longer rear gardens (about 8m), maintain a reasonable distance (about 11m) from the western boundary of the application site and can be achieved by reducing the number of car parking spaces. Therefore, I recommend draft condition 2 as set out below.

6.16. The planning authority imposed a condition (see planning authority condition 2) which required that the amenity space/terrace for the first-floor apartment be open to air with no window. The Sustainable Urban Housing Design Standards for New Apartments requires 6m<sup>2</sup> private open space a for 2 bed unit and the proposed development provides 6.8m<sup>2</sup>. I consider that the planning authority's condition is reasonable in the context and I recommend a similar condition - see draft condition number 2 below.

**6.17. Impact on adjoining property.**

6.18. The appeal makes the point that the proposed development will impact negatively on adjoining property, in particular through overlooking of the rear gardens of 75, 77, 79 and 81 Upper John Street.

6.19. The proposed development is orientated so that the southern elevation will address the rear gardens of 75, 77, 79 and 81 Upper John Street however there is a single small wide (550mm) bathroom window on this southern elevation which I consider will not impact materially on the privacy or amenity value of the rear gardens of these houses. Furthermore, this orientation relative to these houses will mean that there is no loss of sunlight/daylight to the rear gardens of 75, 77, 79 and 81 Upper John Street.

6.20. The area adjoining the site to the north is a parking/service area associated with a nearby residential development – Melrose Court. I consider that the overlooking of this area will be negligible. The front first floor windows will overlook the parking area within the application site, the boundary wall and parking/circulation area to the front of the houses built in the backlands of 71 Upper John Street and I consider this impact is acceptable. The rear windows of the proposed houses face the south-eastern boundary along the rear garden of 85 Upper John Street which has a large



storage shed. Having regard to the built-up urban context and the nature of these rooms as bedrooms which will not be in use throughout the day I consider that the overlooking impacts will not seriously injure the amenity of adjoining property to the southeast.

- 6.21. The appeal makes the further point that the proposed development has the potential to impact on the fabric and structural stability of adjoining property. Part of the development will require works where the existing house is part of a terrace. It may be noted in this regard that the developer has other responsibility outside the planning/development management system in relation to impacts on property not under the developer's ownership/control. A grant of planning permission does not relieve an applicant/developer of these responsibilities.
- 6.22. Having regard to the foregoing I conclude that the proposed development will not seriously injure the amenity of residential property in the vicinity.
- 6.23. **Appropriate Assessment.**
- 6.24. 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.

## 7.0 Recommendation

- 7.1. I recommend a grant of planning permission.

## 8.0 Reasons and Considerations

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. In particular backland development is encouraged as are residential uses including on first floors. Having regard to the modest scale of the proposed development, its relationship with nearby property and subject to the conditions set out below it is considered that the proposed development would not

give rise to traffic hazard or 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.

## 9.0 Conditions

1.	<p>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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows;</p> <p>(1) Three no. car parking spaces (including one disabled space) shall be provided within the site.</p> <p>(2) The two proposed dwelling houses shall be repositioned approximately 3m towards the western boundary so as to provide a rear garden depth of approximately 7.5m.</p> <p>(3) The terrace for the apartment shall not be enclosed and the rear elevation of the apartment shall be amended accordingly.</p> <p>Prior to commencement of development plans and particulars providing for these amendments shall be submitted to and agreed in writing with the planning authority. In default of agreement the matter may be referred to An Board Pleanála for determination.</p> <p><b>Reason:</b> In the interests of residential amenity.</p>

3.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
4.	<p>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.</p> <p><b>Reason:</b> In the interests of public health.</p>
5.	<p>Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.</p> <p><b>Reason:</b> In the interests of amenity and public safety.</p>
6.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals for this shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> To ensure the satisfactory completion and maintenance of this development.</p>
7.	<p>A house/apartment naming/numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interests of urban legibility.</p>
8.	<p>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</p>

	<p>circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
9.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p><b>Reason:</b> To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
10.	<p>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.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
11.	<p>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</p>

	<p>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.</p> <p>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.</p>

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Hugh Mannion  
Senior Planning Inspector

23<sup>rd</sup> July 2019