



An
Bord
Pleanála

Inspector's Report ABP 304556-19

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| Development | Demolish commercial buildings and erect 9 residential units (4 one bed apartments, 3 two bed apartments, 2 two bed duplex units). |
| Location | Well Lane/Stanley Street, Wexford, County Wexford. |
| Planning Authority | Wexford County Council |
| Planning Authority Reg. Ref. | 20190359 |
| Applicant(s) | Bawn Developments |
| Type of Application | Permission |
| Planning Authority Decision | Grant permission |
| Type of Appeal | Third Party |
| Appellant(s) | John Fortune Limited |
| Observer(s) | None |
| Date of Site Inspection | 13 th July 2019 |
| Inspector | Hugh Mannion |

1.0 Site Location and Description

- 1.1. The application site has a stated area of 0.037ha and is an irregularly shaped linear site facing onto Well Lane to the southeast and Slaney Street to the northwest at the northern end of the commercial core of Wexford town, County Wexford. An unused two storey office premises (proposed for demolition) faces onto Slaney Street, to the right are two further office uses, to the left is a recruitment agency. Mid way into the site is a further warehouse/commercial premises which opens into an unroofed yard that has a gated access onto Well Lane. To the right of this open yard on Well Lane is a funeral home followed by a residential use before Well Lane's junction with Selskar Street. To the left of the open yard is St Vincent's charity shop.
- 1.2. The block of which the application site form part is predominantly commercial.

2.0 Proposed Development

- 2.1. Demolition of vacant commercial buildings on site and erection of 9 dwellings comprising 4 one bed apartments, 3 two bed apartments and 2 two bed duplex units at Well Lane and Slaney Street, Wexford.

3.0 Planning Authority Decision

3.1. Decision

The planning authority granted permission subject to 13 conditions. Condition 8 required screening for the balconies on apartment units 8 and 9.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report recommended a grant of permission subject to conditions as reflected in the manager's order.

3.2.2. Other Technical Reports

No other technical reports on file.

4.0 Planning History

- 4.1. W2009117 This application for development of the building and open yard facing onto Well Lane for a restaurant with roof terrace was refused because the design would adversely impact on the streetscape and seriously injure the amenity of property in the vicinity.
- 4.2. W2010067 This application also referred to the area of the present site (building and open yard) facing onto Well Lane and proposed a three-storey retail/restaurant use. Permission was granted but not carried out.

5.0 Policy and Context

- 5.1. **The Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (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.
- 5.2. The Guidelines (paragraph 5.9) encourage 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.
- 5.3. The **Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments (2018)** contains several specific requirements with which compliance is mandatory. The minimum floor area for one-bedroom apartments is 45m², for two-bedroom apartments it is 73m² and for three-bedrooms it is 90m². Most apartments in new schemes of more than 10 must exceed the minimum floor areas by at least 10%. Requirements for individual rooms, for storage and for private amenity space are set out in the appendix to the guidelines, including a requirement for 3m² storage for one-bedroom apartments, 6m² for two-bedroom apartments and 9m² for three-bedroom apartments. In suburban locations a minimum of 50% of apartments should be dual aspect. Ground level apartments should have floor to ceiling heights of 2.7m.

5.4. Development Plan

5.5. 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.

5.6. “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 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”.

5.7. The lifetime of this plan has been extended to the end of 2019.

5.8. Natural Heritage Designations

Not relevant.

5.9. EIA Screening

5.10. Having regard to nature of the proposed development comprising 9 residential units on appropriately zoned land where public sewerage 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 application site and the appellant's property share a party wall. The appellant has not given permission for works that would impact on his property.
- The application has not demonstrated how the proposed development would not impact on the party wall which supports a shed on the adjoining site and public services including a town gas supply. The appellants and their tenants will be impacted upon by the proposed development.
- The balconies overlook adjoining yards with consequent impact on privacy.

6.2. Applicant Response

- No response.

6.3. Planning Authority Response

- Conditions 9 and 10 of the decision to grant permission address the concerns of the third-party appellant.

6.4. Observations

- No observations.

7.0 Assessment

7.1. The principal planning issues in the case are the physical impact on adjoining property, overlooking of adjoining property, apartment standards, architectural impacts.

7.2. Physical Impact on Adjoining Property.

7.3. The appellant's property runs along about 2/3 of the north-eastern boundary of the site (see the marked-up landownership map attached to the grounds of appeal) and the appeal raises two separate points; the potential impact on the structural integrity

of the appellant's property and overlooking from the terraces of the proposed apartments into adjoining open yards.

- 7.4. The appellant makes the point that his property and the application site share a party wall which has services attached and that the applicant has not made any proposal to mitigate the impact on this party wall of carrying out the proposed development.
- 7.5. This is essentially an issue of title to land. The Development Management Guidelines for Planning Authorities (DOEHLG 2007) make the point that the planning system is not designed as a mechanism for resolving disputes over title to land or premises or rights over land and that these are rightly matters for the Courts to determine. Furthermore section 34(13) of the Planning and Development Act 2000, as amended, makes provides that a person is not entitled solely by reason of a grant of planning permission to carry out development. In the present case a grant of permission does not relieve the developer of responsibilities to adjoining landowners in relation to potential trespass or damage to property.
- 7.6. I conclude that the Board may not determine how the applicant deals with the interface between the application site and the adjoining lands in the course of construction works.
- 7.7. **Overlooking of on Adjoining Property.**
- 7.8. In recognition of the potential for overlooking from the terraces of apartments 8 and 9 at 2nd floor the planning authority imposed condition number 8 requiring obscure glazing around these terraces to a height of 1.8m. I consider that this requirement is sufficient to ensure against overlooking of adjoining property and recommend attaching a similar condition as set out below (see draft condition 2).
- 7.9. **Apartment Standards.**
- 7.10. The relevant standards for apartment development are set out in the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments (2018).
- 7.11. There are 2 one bed units and 1 two bed unit at ground floor. All three meet the standards for apartment size, private open space and internal storage set out in the Guidelines. The site is irregularly shaped and the direct sunlight to the open spaces will be limited, however the courtyard at ground floor will augment the amenity of the

terrace attached to units 2 and 7. The private open space for unit 1 opens onto Well Lane and will offer satisfactory amenity to future residents. Units 3, 4, 8 and 9 comprise the first floor. Unit 3 is a two-bed apartment where floor area, terrace and storage provision meet the standards. Unit 4 is a single bedroom unit which likewise meets the standards. Units 8 and 9 are two storey units with bedrooms, bathrooms and storage at first floor and the kitchen, living rooms at second floor. The private open space in the form of two terraces is accessible from the living rooms of these units and meets the New Apartment Guidelines standards and overlooks the internal courtyard.

7.12. Finally, units 5 and 6 are on the second floor. Unit number 5 is two bed with storage and private open space in the form of a terrace accessible from the living room. Unit 6 is a one bed unit with internal storage and a terrace accessible from the living room overlooking the internal court yard.

7.13. I consider that the mix of apartment sizes is acceptable.

7.14. In summary, the site is irregularly shaped within a built-up area which adds to the complexity of developing it for residential uses. The planning authority's policy as set out in the Town Development Plan is to maintain residential uses in the town centre and especially at upper floor levels. I conclude that the proposed development meets the standards set out in the apartment guidelines, is an appropriate use for the site and will support the residential amenity of future residents.

7.15. **Parking**

7.16. Design Standards for New Apartments (paragraph 4.18 – 4.20) make the point that in certain circumstances (city/town centre locations and on sites close to public transport infrastructure) it is appropriate to minimise or omit private car parking provision. The current application provides no on-site private car parking spaces and having regard to the town centre location of the proposed development I consider that this is acceptable.

7.17. **Architectural Conservation**

7.18. The Wexford Town and Environs Plan has designated 7 ACAs within the town and the Well Lane end of the site is included in the ACA Number 1. Policy ACA2 is to preserve the special character of the Architectural Conservation Areas and to ensure that all future development will enhance this character and contribute to the creation

of a distinctive sense of place. Drawing A2.4 illustrates the proposed elevation onto Well Lane.

- 7.19. To the left is a building (St Vincent's Charity Shop) which adjoins the site, continues to the corner of West Gate/Temperance Row. The elevation is faced in random stone work with redbrick surrounds to the two large windows onto Well Lane. To the right of the proposed new building is the rendered façade of a funeral home. The proposed development takes advantage of the fall in Well Lane towards Selskar Street to provide a three-storey elevation a little lower than the St Vincent's charity shop elevation and higher than the single storey with parapet funeral home. Opposite the application site on the other side of Well Lane is a reddish/brown three storey building.
- 7.20. The proposed elevation is a mix of rendered plaster on the upper two floors and brick at street level. The windows on this elevation have a vertical emphasis. Having regard to the palette of materials and the pattern of development in the area these aspects of the proposed development are acceptable, and I conclude that the proposed development will not detract from the architectural quality of the area or contravene the policy objectives set out in the town development plan in relation to Architectural Conservation Areas.
- 7.21. **Appropriate Assessment.**
- 7.22. 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 a grant of permission.

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. 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 seriously injure the amenity of property in the vicinity through overshadowing or 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

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| 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>Reason: In the interest of clarity.</p> |
| 2. | <p>The balconies of apartments 8 and 9 shall be fitted with obscure glazing to a height of 1.8m. 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> |

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| | Reason: In the interests of residential amenity. |
| 3. | <p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p>Reason: 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>Reason: In the interests of public health.</p> |
| 5. | <p>Lighting of the internal courtyard 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 apartment.</p> <p>Reason: 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. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p> |
| 7. | <p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -</p> <p style="padding-left: 40px;">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,</p> |

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| | <p>b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p> |
| 8. | <p>An 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>Reason: In the interests of urban legibility.</p> |
| 9. | <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.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p> |
| 10. | <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>Reason: To provide for the appropriate management of waste and, in</p> |

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| | particular recyclable materials, in the interest of protecting the environment. |
| 11. | <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>Reason: In the interests of public safety and residential amenity.</p> |
| 12. | <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 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

12th August 2019