



An  
Bord  
Pleanála

## Inspector's Report

**ABP-304595-19**

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<b>Development</b>	Retention of internal stairs and rooflights and part habitable / ancillary storage accommodation. Permission for installation of additional rooflights on units 1-5.
<b>Location</b>	Crosstown, Ardcahan, Co. Wexford.
<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20190381
<b>Applicant(s)</b>	LHM Properties Holdings Limited
<b>Type of Application</b>	Retention
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	John Molloy Edel Nolan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	30 <sup>th</sup> July 2019
<b>Inspector</b>	Mary Crowley

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## 1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.47ha is located approximately 1km north of Wexford Bridge and 3km south of Castlebridge, on a local road off the R471. The site forms part of a near completed housing development of 9 no dwellings. The 5 dwellings to the front / roadside are the subject of this appeal.
- 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. This is an application seeking the retention of internal stairs and 2 no. rooflights and part habitable/ancillary storage accommodation within the first floor of units 1-5 along with full planning for installation of additional rooflights on units 1-5 together with all associated alterations and site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Wexford County Council issued a notification of decision to grant planning permission subject to 4 no conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- The Case Planner recommend that permission be granted subject to conditions. The notification of decision to grant permission issued by Wexford County Council reflects this recommendation.

#### 3.2.2. Other Technical Reports

- **Chief Fire Officer** – No stated objection

### 3.3. Prescribed Bodies

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

### 3.4. Third Party Observations

- 3.4.1. There are two observations recorded on the planning file from (1) John Molloy and (2) Edel Nolan. The issues raised relate to validity and location of the public notice and the incompatibility of the scheme with good planning practise.

## 4.0 Planning History

- 4.1. There is no evidence of any previous planning appeal on this site. The following planning history has been provided with the appeal file as summarised:

**Reg Ref 20171338** – In January 2018 Wexford County Council granted permission for a residential development of 9 no. fully serviced dwelling houses comprising of 5 no. single storey 4 bedroom detached units and 4 no. two storey 4 bedroom detached units together with landscaping/communal public open spaces and connection to existing local public mains services and all associated site works subject to 18 no generally standard conditions.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The operative plan for the area is the **Wexford Town & Environs Development Plan 2009-15** (extended to 2019) and should be read together with the Wexford County Development Plan 2013-2019). The site is zoned 'Neighbourhood Centre / Mixed Use' where the objective is *to provide for a new Neighbourhood Centre and associated facilities.*

### 5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site. It is noted that the following Natura 2000 sites are located in the immediate vicinity of the appeal site:

- The Slaney River Valley Special Area of Conservation (Site Code 000781)
- The Wexford Harbour and Slobbs Special Protection Area (Site Code 004076)

### **5.3. EIA Screening**

- 5.3.1. Having regard to the nature and scale of the proposed development comprising the retention of internal stairs and 2 no. rooflights and part habitable/ancillary storage accommodation within the first floor of units 1-5 together with the installation of additional rooflights on units 1-5 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. There are two third party appeals on file form (1) John Molloy and (2) Edel Nolan. The issues raised may be summarised as follows:
- Extent of “site works” is undefined
  - Granting permission for retention would set a precedent
  - Pollution risk on site from large amount of excavated spoil on site
  - Possible risk of the excavated material that is stored uphill of the surface ater attenuation system silting up the system
  - Non-compliance with planning permission
  - Location and validity of site notice
  - There are serious environmental issues such as water pollution entering the EU Natura 2000 site form this development

### **6.2. Applicant Response**

- 6.2.1. There is no response from the applicant recorded on the appeal file.

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

- 6.3.1. Wexford County Council in their response to the appeal state that they have no comment to make on this application.

### **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
- Other Issues

## **8.0 Principle**

- 8.1. Planning permission is sought for the retention of internal stairs and 2 no. rooflights and part habitable/ancillary storage accommodation within the first floor of units 1-5 along with full planning for installation of additional rooflights on units 1-5 in order to comply with Part B Section B1 “means of escape” within Building Regulations together with all associated alterations and site works.
- 8.2. As set out in Section 4.0 Planning History above planning permission was granted in January 2018 for a residential development of 9 no. fully serviced dwelling houses comprising of 5 no. single storey 4 bedroom detached units and 4 no. two storey 4 bedroom detached units together with landscaping/communal public open spaces and connection to existing local public mains services and all associated site works subject

to 18 no generally standard conditions. The overall scheme is substantially complete. The 5 dwellings to the front / roadside are the subject of this appeal.

- 8.3. It was noted on day of site inspection that the rooflights and internal stair case the subject of retention permission have been removed. Site photos refer. Notwithstanding there removal I am generally satisfied that the scale and design of the works to be retained as set out in the plans and particulars submitted with the appeal do not overwhelm or dominate the original form or appearance of the parent building. Further I do not consider that the proposed works comprising additional rooflights on units 1-5 in order to comply with Part B Section B1 “means of escape” within Building Regulations would have a significant negative impact on the parent building, established character or visual amenities of the area or the overall streetscape. Accordingly the design and scale of both the proposed works to be retained and the new works proposed is acceptable at this location. Recommended that permission be granted.

## 9.0 Other Issues

- 9.1. **Public Notices** – I note the concerns raised by the appellants with regard to the extent of “site works” proposed together with the location and validity of the public notices. I am satisfied that together with my site inspection that there is adequate information available on the file to consider the issues raised in the appeal and to determine this application. Matters pertaining to compliance with the Planning Regulations (as amended) are matters for the Local Authority and not An Bord Pleanála
- 9.2. **Pollution** – I note the concerns raised by the appellants with regard to the possible pollution risk on site from large amount of excavated spoil on site that is stored uphill of the surface water attenuation system. These are matters pertaining to the overall scheme; Reg Ref 20171338 and is therefore a matter for Wexford County Council.
- 9.3. **Appropriate Assessment** - Having regard to the nature and scale of the proposed development comprising the retention of internal stairs and 2 no. rooflights and part habitable/ancillary storage accommodation within the first floor of units 1-5 together with the installation of additional rooflights on units 1-5 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.

9.4. **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.

## 10.0 Recommendation

10.1. It is recommended that permission be **granted** subject to the reasons and considerations set out below.

## 11.0 Reasons and Considerations

11.1. Having regard to the site’s location on serviced urban lands and the policy and objective provisions in the Wexford Town & Environs Development Plan 2009 (extended to 2019) in respect of residential development, the nature, scale and design of the proposed development to retained, 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. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

## 12.0 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
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	<p>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>Where appropriate the development shall comply with the conditions attached to the previous grant of planning permission on this site issued by Wexford County Council at this site; Reg Ref 20171338 refers.</p> <p><b>Reason:</b> In the interest of proper planning and sustainable development of the area.</p>
3.	<p>The part habitable/ancillary storage accommodation within the first floor of units 1-5 shall not be used as a habitable room.</p> <p><b>Reason:</b> In the interest of proper planning and sustainable development of the area.</p>
4.	<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, 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.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the</p>

	Development Contribution Scheme made under section 48 of the Act be applied to the permission
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**Mary Crowley**

**Senior Planning Inspector**

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