



An
Bord
Pleanála

Inspector's Report

ABP-305783-19

Development	Retention of log cabin for use as domestic store/studio and retention of timber post and panel fence.
Location	Seaview Cottage, Knottown Lane, Adrcavan, Co. Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20191166
Applicant(s)	Shannon White
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Seamus Redmond
Observer(s)	None
Date of Site Inspection	13 th December 2019
Inspector	Mary Crowley

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1.0 Site Location and Description

1.1. The appeal site with a stated area of 0.123ha is located in Ardavan on the northern approach to Wexford Town along the R741 Regional Road. There are a number of dwellings either side and to the rear of the site. In addition, there are a range of commercial uses in the immediate vicinity. The appeal site contains a small single storey dwelling and log cabin (subject of this appeal) with a timber post and rail fence to the road. 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. Permission is sought for the retention of a log cabin (54.34sqm) and concrete base for use as a domestic store/studio and retention of timber post and panel fence together with associated works.

2.2. The application was accompanied by an email from the applicant that may be summarised as follows:

- The applicant has followed all steps in seeking retention permission.
- Any delay is due to waiting for a response from Irish Water re connection.
- Great financial and physical effort in restoring the cottage and providing temporary accommodation in the meantime
- Applicant wants to retain the cabin as it is not possible to extend the cottage due to its position and layout. Cabin to be used for storage and workspace.
- Great effort had been placed in trying to restore the roadside hedge to its natural state, but it was completely rotten and was obstructing the road proving to be a danger to both pedestrians and drivers. Box hedging planted in its place.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Wexford County Council issued a notification of decision to granted temporary permission subject to 9 no generally standard conditions. Conditions of note are summarised as follows:

Condition No 2	Temporary permission for 5 years from the date of final grant of permission
Condition No 3	Within 6 months of the date of final grant, all kitchen appliances, fixtures and fittings, WC facilities shall be removed from the structure. Evidence including photographs to be submitted.
Condition No 4	Within 3 months of the date of final grant of permission, the timber post and panel fence along the roadside boundary shall be reduced in height to 1.2m. Evidence including photographs to be submitted.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Case Planner** recommended that permission be granted submit to conditions. The notification of decision to grant permission issued by WCC reflects this.

3.2.2. Other Technical Reports

- **Chief Fire Officer** – No started planning objection
- **Environment** – No stated objection subject to conditions set out in the report relating to the completion of renovations to the existing cottage the log cabin shall be disconnected from the existing septic tank and the log cabin shall be used as a store and a studio only.

3.3. Prescribed Bodies

- No reports recorded on the planning file.

3.4. Third Party Observations

- 3.4.1. There are two observations recorded on the planning file from (1) Seamus Redmond and (2) Elaine Carberry. The issues raised relates to the roadside boundary, inadequate septic tank to serve two dwellings, surface water, doorway opening onto the observers tarmacadam in front of their house, building regulations, second house on the site is unacceptable, use as a studio is just semantics, the cabin is set up for living as it has laundry facilities, overlooking, road safety, lack of soakaway and the location of gate in fence outside observers house.
- 3.4.2. The observation from Seamus Redmond was accompanied by a letter issued by WCC dated 22nd July 2019 advising the observer that an Enforcement Notices had been issued regarding the unauthorised development at Seaview Cottage, Knottown Lane instructing them to remove the timber chalet; remove the concrete base and remove the timber post and fence.

4.0 Planning History

- 4.1. There is no evidence of any previous planning appeal at this this location. No planning history has been made available with the appeal file.

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** (extended to 2019). The appeal site is zoned “Commercial / Mixed Use” where the objective is *to make provision for commercial & mixed uses*. The purpose of this zoning is to provide commercial and office developments. The Council will consider residential type developments where it can be demonstrated that they do not conflict with commercial / industrial development.

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 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 log cabin for use as domestic store/studio and retention of timber post and panel fence 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 appeal has been prepared and submitted by Seamus Redmond. The issues raised may be summarised as follows:

- Conditions – It is unrealistic to ensure the proposed development accords with the permission and effective control is maintained without continuous inspection by Wexford County Council.
- 5 Years Temporary Permission – WCC failed to address where the soakaway for surface water is as it is not on the plans but referred to in their application. The appellants site is at present flooded with water from the appeal site every time there is heavy rain from a large pipe existing at the edge of the appellants property. Soakaway required.
- Photography is not sufficient to ensure kitchen appliances and WC facilities is sufficient to prove they shall remain removed. Being there is the first is evidence that the structure was / is going to be used as a dwelling

- Having the fence reduced to 1.2m does not address the fact the fence was moved out 1 metre thus restricting the view of on coming traffic. I believe it is reasonably foreseeable that such an obstruction will be a cause of collision that may result in horrific injuries if not worse.
- It is clear that this cabin was set out for domestic habitation, when brought to the attention of WCC was changed to studio / store.

6.2. Applicant Response

6.2.1. The first party response to the appeal (together with photos) has been prepared and submitted by the applicant, Siobhan White and may be summarised as follows:

- Applicant is willing to comply with conditions set out by WCC and submit photographic evidence.
- The soakaway / outfall drain is in existence for over 50 years. The applicant did not create the outfall drain. They replaced the old clay pipe which was broken with a PVC pipe. There is no extra water being diverted from the applicant's property as the cabin roof water is diverted into a stone filled sump. The applicant has planted 22 trees to assist with soakage.
- The kitchen appliances and WC facilities in the log cabin were necessary while the applicant renovated the cottage on site and allowing sufficient time for it to dry out (hemp and lime plaster).
- The use of the log cabin as a residential dwelling is temporary.
- The applicant, an artist, wishes to retain the log cabin as a studio storehouse when no longer required as a dwelling. There is limited scope to extend the existing cottage and the applicant, who is an art and design enthusiast with an avid interest in photography, wants to use the log cabin to store equipment, tools, material etc as well as use it as a workshop.
- The height of the roadside fence does not restrict the view of oncoming traffic. Testaments from neighbours attached. The view of oncoming traffic has improved because the overgrown hedge has been removed. The fence provides much needed protection and privacy and is much safer to road users than what previously existed.

- The log cabin has a low footprint and is completely sustainable and is in keeping with the area as there are several timber structures alongside cottages in the area.

6.3. **Planning Authority Response**

6.3.1. WCC state that they have no further 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
- Surface Water
- Traffic Impact
- Conditions
- Other Issues

7.2. **Principle**

7.2.1. Planning permission is sought for the retention of an existing log cabin for use as domestic store/studio and retention of the roadside timber post and panel fence. There is an existing single storey traditional cottage on the site currently being renovated by the applicant. As documented on the appeal file and as observed on day of site inspection the applicant is living in the log cabin until such time as the

cottage is ready. Having regard to the nature of the proposal I am satisfied that the use of the log cabin as a residential dwelling is temporary.

7.2.2. In retaining the log cabin, the applicant wants to use it for domestic storage and an artists studio. I accept the applicant's position that there appears to be limited scope to extend the existing cottage. I support the Local Authority's approach in this regard and recommend that should permission be granted for a period of 5 years and that a condition be attached restricting the use of the log cabin to domestic storage and that of a private studio (not open to the public).

7.2.3. With regard to the requirement that all kitchen appliances, fixtures and fittings, WC facilities be removed from the log cabin I refer to the report of WCC Environment Section. As set out above the retention of the log cabin as a store / studio is acceptable in principle. However, to ensure that the log cabin is not used as accommodation following the renovation of the cottage, I agree that it must be disconnected from the septic tank and all kitchen and toilet facilities must be removed. It is recommended that should the Board be minded to grant permission that a condition to this effect be attached

7.3. **Surface Water**

7.3.1. I note the concerns raised with regard to the surface water. I am satisfied that the matter can be dealt with by way of suitable condition where by the drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

7.4. **Traffic Impact**

7.4.1. Condition No 4 required that within 3 months of the date of final grant of permission, the timber post and panel fence along the roadside boundary be reduced in height to 1.2m. The plans and particulars submitted with the application indicate that the boundary wall is 2.1m in height within the site but is set well below the level of the road. Further box hedging has been planted between the new fencing and the road edge. The site adjoins a very busy road whereby it is not unreasonable to expect such a boundary treatment to mitigate any perceived overlooking from the public road and noise from associated traffic. I do not consider that the existing timber post

panel fence detracts from the visual amenities of the area. Further I consider the boundary treatment to be acceptable in terms of pedestrian and traffic safety. Recommended that Condition No 4 or any similar such condition be omitted.

7.5. Conditions

- 7.5.1. I note the concerns raised that the requirement for the applicant to submit photographic evidence of compliance with certain conditions such as the removal of kitchen facilities, fixtures and fittings, WC facilities and the reduction in roadside boundary treatment etc is not sufficient to prove they shall be removed. I refer to the Planning Enforcement Guidelines (A Guide to Planning Enforcement in Ireland (2012)) where it states that *the planning system in Ireland is operated on the ground by local planning authorities* and that *the planning authorities are therefore responsible for operating Ireland's planning enforcement regime*. Accordingly, compliance or otherwise with the conditions is a matter for Wexford County Council. I do not therefore consider it necessary to attach a requirement for the submission of photographic evidence demonstrating compliance.

7.6. Other Issues

- 7.6.1. **Appropriate Assessment** - Having regard to the nature and scale of the proposed development comprising the retention of a log cabin for use as domestic store/studio and retention of timber post and panel fence 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.
- 7.6.2. **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.

8.0 Recommendation

- 8.1. It is recommended that permission be **granted** subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the site's location 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 be 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 and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with 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.	(a) Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision

	<p>amending or replacing them, the use of the proposed log cabin shall be restricted to domestic storage and private studio (not open to the public) unless otherwise authorised by a prior grant of planning permission.</p> <p>(b) Within 6 months from the date of grant of permission all kitchen appliances, fixtures and fittings, WC facilities shall be removed.</p> <p>Reason: In the interest of clarity and the proper planning and sustainable development of the area.</p>
3.	<p>The permission shall be for a period of 5 years from the date of the date of grant of permission. The log cabin shall be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.</p> <p>Reason: To enable the planning authority to review the operation of the log cabin over the stated time period, having regard to the circumstances then prevailing, and in the interest of orderly development.</p>
4.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health</p>
5.	<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>

	Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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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Mary Crowley

Senior Planning Inspector

4th February 2020