



An
Bord
Pleanála

Inspector's Report ABP-307840-20

Development	1) Planning permission to construct an extension to existing dwelling house including attached garage, 2) Retention planning permission for existing garden room with all associated site works.
Location	Tory Cottage, Bearlough, Rosslare Strand, Co. Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20200423
Applicant(s)	Nick & Anne Rackard
Type of Application	Permission & Permission for Retention
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party v. Decision
Appellant(s)	Martin Scott Bob Etchingham
Observer(s)	Mary Moore
Date of Site Inspection	8 th October & 22 nd December, 2020
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located within the built-up area of the village of Rosslare, Co. Wexford, where it occupies a position to the east of Strand Road between a small infill scheme of 4 No. detached dwelling houses known as 'Summercove' to the north and a minor roadway / laneway to the south which provides access to a terrace of housing (with a further detached residence to the southeast) and a doctor's surgery. The surrounding area is characterised by a mix of land uses and building styles, including permanent residential, holiday chalets, a doctor's surgery, and a sports & recreation centre with tennis courts etc.
- 1.2. The site itself has a stated site area of 0.0703 hectares, is rectangular in shape, and is presently occupied by a single-storey bungalow known as 'Tory Cottage' with a small, galvanised shed to the rear and a free-standing, timber-clad 'garden room' to the front of the property. Vehicular access is obtained from the adjacent laneway to the immediate south with the primary access point situated in the south-western corner alongside Strand Road whilst a secondary entrance further east onto the laneway provides access to the rear of the site. The roadside site boundaries to the south and east are defined by c. 1.8m high walling whereas the remainder of the site perimeter comprises a combination of walling, assorted fencing, and some mature vegetation.

2.0 Proposed Development

- 2.1. The proposed development consists of the following:
 - Permission to construct a two-storey extension to the rear of the existing dwelling house, including an attached garage and a first-floor study / office area, with all associated site works.
 - The retention of an existing single-storey, free-standing 'garden room', which accommodates a sitting / living room area (with sink facilities) and a separate W.C., to the front of the property.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 14th July, 2020 the Planning Authority issued a notification of a decision to grant permission & permission for retention of the proposed development subject to 5 No. conditions which can be summarised as follows:

Condition No. 1 – Refers to the submitted plans and particulars.

Condition No. 2 – Requires the payment of a development contribution in the amount of €300 towards the provision or improvement of public roads.

Condition No. 3 - Requires the payment of a development contribution in the amount of €176 towards the provision or improvement of community facilities.

Condition No. 4 – Prohibits the discharge of surface water from roofs and paved areas etc. onto the public road.

Condition No. 5 – States that the garden room is not to be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses or for any other purpose other than a purpose incidental to the enjoyment of the dwelling house.

3.2. Planning Authority Reports

3.2.1. *Planning Reports:*

Details the site context, planning history, and the applicable policy considerations before concluding that the proposal will not seriously injure the residential amenity of neighbouring properties and will not significantly detract from the character of the area. The report subsequently recommends that the entirety of the proposed development be granted permission / permission for retention, subject to conditions.

3.2.2. *Other Technical Reports:*

None.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

3.4.1. A total of 4 No. submissions were received from interested third parties and the principle grounds of objection / areas of concern raised therein can be summarised as follows:

- There are assorted instances of unauthorised development having been carried out on site including the opening of a pedestrian entrance onto the adjacent footpath, the raising of the boundary wall alongside Strand Road, and the provision of a new vehicular entrance onto the laneway to the south of the site (which is not within the applicant's ownership).
- There are concerns that the proposed 'garden room' will be used for commercial purposes.
- Traffic safety concerns arising from any commercial use of the property.
- The proposed extension will have a detrimental impact on the residential amenity of neighbouring housing by reason of its excessive scale / massing / height and associated overshadowing / loss of natural light.
- The proposal represents an overdevelopment of the application site.
- Concerns that the proposed development could be utilised as a second dwelling / independent living unit.

3.4.2. A further submission was received from an elected representative in support of the application.

4.0 Planning History

4.1. *On Site:*

4.1.1. PA Ref. No. 20100349 / ABP Ref. No. PL26.237037. Was granted on appeal on 1st November, 2010 permitting Niamh Malone permission for a development comprising (a) demolition of existing single storey dwelling house and associated structures and (b) construction of a three-storey terrace of 3 No. (four bed) dwelling houses with single storey to rear, with all boundary walls, on-site parking, landscaping, solar

panels, roof lights, new public footpath, new metal railing fence, connections to drainage system and associated works.

4.1.2. PA Ref. No. 20090274 / ABP Ref. No. PL26.233708. Was refused on appeal on 9th December, 2009 refusing Niamh Malone permission for a development consisting of (a) demolition of existing single-storey dwelling house and associated structures and (b) construction of a two and three-storey terrace of 4 No. (three-bed) dwelling houses with single storey to side and rear, with all boundary walls, on-site parking, landscaping, balconies, solar panels, roof lights, new public footpath, connections to drainage system and associated works.

- The site of the proposed development is restricted in depth and served by a narrow access lane. It is considered that the proposed development of four number elongated dwelling houses, notwithstanding the quality of the design, would constitute overdevelopment of the site, add to the traffic congestion on the lane and would result in unsafe traffic movements to access the proposed dwellings. The proposed development would, therefore, seriously injure the amenities of the area and of properties in the vicinity, and would be contrary to the proper planning and sustainable development of the area.

4.1.3. PA Ref. No. 20082523. Was refused on 10th December, 2008 refusing Niamh Malone permission for (a) demolition of existing single storey dwelling house and associated structures, b) construction of a 2 & 3 storey terrace of 4 No. (four-bed) dwelling houses with single storey to side and rear, with all boundary walls, parking garages within houses, landscaping, balcony, solar panels, rooflights, new public footpath, connections to drainage system and associated site works.

- The proposed development, by virtue of the lack of adequate private amenity space, proposed access and car parking arrangements, would result in overdevelopment of the site. The proposed development would be contrary to the proper planning and sustainable development of the area.
- Access to the application site is along a private lane, no details of ownership or improvements have been submitted and as such the Planning Authority has insufficient information to determine the acceptability of the proposed access arrangements.

4.2. *On Adjacent Sites (to the north / northwest):*

- 4.2.1. PA Ref. No. 20073649. Was granted on 11th January, 2008 permitting Michael Wright permission for the retention and completion of attic conversions to House Nos. 02, 03 & 04 and associated alterations from that granted under PA Ref. No. 20052032 together with all associated site works at Bearlough, Rosslare, Co. Wexford.
- 4.2.2. PA Ref. No. 20060594. Was granted on 25th May, 2006 permitting Michael Wright permission for the retention and completion of alterations to House Type 01 granted under previous PI. Reg. No. 20052032, together with all ancillary and associated site works at Bearlough, Rosslare, Co. Wexford.
- 4.2.3. PA Ref. No. 20052032. Was granted on 14th October, 2005 permitting Michael Wright permission for the demolition of 2 No. derelict buildings and the erection of 4 No. fully serviced dwelling houses consisting of 3 No. three-bedroom dwellings and 1 No. four-bedroom dwelling, with on-site parking and all ancillary site works at Bearlough, Rosslare, Co. Wexford.

4.3. *On Adjacent Sites (to the south / southeast):*

- 4.3.1. PA Ref. No. 20071476. Was granted on 20th July, 2007 permitting Elizabeth O'Sullivan permission for the erection of alterations and extensions to an existing doctor's surgery consisting of change of existing adjoining dwelling house to doctor's surgery and incorporating into existing, together with associated and ancillary site works at Bearlough, Rosslare, Co. Wexford.

5.0 **Policy and Context**

5.1. **Development Plan**

5.1.1. ***Wexford County Development Plan, 2013-2019:***

Chapter 3: Core Strategy:

Section 3.4: Settlement Strategy:

Section 3.4.8: Strong Villages (incl. Rosslare Strand)

Chapter 13: Coastal Zone Management:

Section 13.4: *Managing the Coastal Zone:*

Section 13.6: *Development within Existing Settlements in the Coastal Zone*

Chapter 14: Heritage:

Section 14.4.2: *Landscape Character Assessment:*

Landscape Character Unit No. 4. Coastal:

The county's coastal landscape has a character that often overlaps with the Lowland landscape. The east coast is generally characterised by long, relatively straight coasts of sand and shingle backed up by low cliffs and sand dunes. The south coast has long beaches and dune systems.

The coastal landscape is punctuated by prominent features such as promontories, water bodies, slob lands and the Hook Peninsula which add interesting dimensions to the qualities of the landscape. It includes major urban areas such as Courtown, Wexford, Rosslare Strand and Rosslare Harbour.

The coastal landscape is sensitive to development in some locations. It has experienced great pressure from tourism and residential development.

Chapter 17: Design:

Section 17.6: *Urban Design Guide*

Chapter 18: Development Management Standards:

Section 18.10: *Residential Development in Towns and Villages*

Section 18.13.1: *House Extensions:*

The adaptation and extension of existing homes to meet changing circumstances, aspirations and technological requirements will, in general, be facilitated by the Council. Extensions to a dwelling house shall not be used, sold, let or otherwise transferred or conveyed separately to the main dwelling unless this was expressly authorised in the planning permission.

Each planning application will be considered on its merits having regard to the site's context and having regard to the following:

- The proposed extension should be of a scale and position which would not be unduly incongruous with its context.

- The design and finish of the proposed extension need not necessarily replicate or imitate the design and finish of the existing dwelling. More contemporary designs and finishes often represent a more architecturally honest approach to the extension of a property and can better achieve other objectives, such as enhancing internal natural light.
- The proposed extension should not have an adverse impact on the amenities of adjoining properties through undue overlooking, undue overshadowing and/or an over dominant visual impact.
- The proposed extension should not impinge on the ability of adjoining properties to construct a similar extension.
- Site coverage should be carefully considered to avoid unacceptable loss of private open space.
- The degree to which the size, position and design of the extension is necessary to meet a specific family need, for example, adaptations to provide accommodation for people with disabilities.

The Council will consider exemptions to the above in the case of adaptations required to provide accommodation for people with disabilities. This will be assessed on a case-by-case basis.

Section 18.13.2: *Domestic Garages/Stores:*

The development of a domestic garage/store for use ancillary to the enjoyment of the dwelling house will be considered subject to the following standards:

- The garage/store shall have a maximum floor area of 80m² and a maximum height of 5m.
- The design and external finishes of the domestic garage/store shall be in keeping with that of the dwelling house.
- The garage/store shall only be used for purposes ancillary to the enjoyment of the dwelling house.

The Council may consider exceptions to these criteria having regard to the need for the development and the characteristics of the site.

Appendix A: Objectives for Rosslare Strand

5.2. Natural Heritage Designations

5.2.1. The following natural heritage designations are in the general vicinity of the proposed development site:

- The Wexford Harbour and Slobs Special Protection Area (Site Code: 004076), approximately 700m north-northwest of the site.
- The Wexford Harbour and Slobs Proposed Natural Heritage Area (Site Code: 000712), approximately 700m north-northwest of the site.

5.3. EIA Screening

5.3.1. Having regard to the limited nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, 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

6.1.1. *Martin Scott:*

- The proposed two-storey extension will result in severe overshadowing of the appellant's property with a consequent loss of natural light. This impact will primarily affect the garden area and internal spaces to the rear of the property.
- The subject proposal represents an overdevelopment of the application site which will seriously injure the residential amenity of neighbouring properties and the surrounding area.
- The overall scale, bulk and massing of the proposed extension is out of character with the surrounding pattern of development and will be visually

overbearing / aesthetically damaging when viewed from within neighbouring properties.

- No details have been provided of the external finish of the blank two-storey construction which will adjoin the appellant's property.

6.1.2. *Bob Etchingham:*

- It is the appellant's understanding that the unauthorised garden room is to be used as a business premises and thus Condition No. 5 of the notification of the decision to grant permission is not considered to be sufficiently clear. While the condition would seem to suggest that the structure can only be used for purposes incidental to the use of the existing dwelling, it does not expressly state that it cannot be used by the occupants of the dwelling to operate a commercial business and, therefore, further clarity is required.
- The overall height and two-storey nature of the proposed extension is not in keeping with the existing single storey dwelling house and will appear visually incongruous.
- Whilst the proposed extension has been described as a garage, the first-floor construction includes for a substantial expanse of south-facing glazing and will presumably be used for residential or business purposes. The submitted drawings do not detail the intended use of this aspect of the proposed development.
- The height, massing and proximity of the proposed extension will have a detrimental impact on the residential amenity of those neighbouring properties to the immediate north (i.e. Summercove) by reason of overshadowing and a loss of daylight / sunlight. Moreover, no shadow impact analysis or sunlight / daylight report has been provided to support the application.
- An unauthorised entrance has recently been opened within the north-eastern corner of the front garden area and there are concerns that this is intended to facilitate pedestrian access to a business premises operating on site.
- The western (front) and southern site boundaries have been raised to a height in excess of that allowable as exempted development by reference to the Planning and Development Regulations, 2001, as amended, without the

benefit of planning permission. In this respect, it is submitted that the extension of the existing footpath at Summercove along the site frontage onto Strand Road would be of significant benefit to the local community and, therefore, consideration should be given to the provision of same as a condition of any grant of permission.

- The submitted drawings clearly contemplate vehicular access to the rear of the site by way of a new entrance arrangement opened onto the roadway to the immediate south without the benefit of planning permission. Moreover, the lands that will be traversed in order to access the proposed garage by any such route are not in the ownership of the applicant.
- It is clear that the application site has been repeatedly modified without the benefit of planning permission and that any approval of the subject proposal would serve to consolidate this unauthorised and unacceptable series of amendments.

6.2. Applicant Response

- The proposal is considerably more modest than other developments previously approved in the surrounding area.
- The appellants have objected to and / or appealed all of the planning applications recently lodged on site (i.e. PA Ref. Nos. 20082523, 20090247 & 20100349).
- Older Ordnance Survey mapping and PA Ref. No. 933901 may be of relevance in the consideration of the subject appeal.

6.3. Planning Authority Response

None.

6.4. Observations

6.4.1. Mary Moore:

- The applicants have increased the height of the roadside (western and southern) boundary walls without the benefit of planning permission and have

also installed new gates and entrance piers. These works have had a severe impact on the safety of traffic exiting the accessway to the side of the adjacent doctor's surgery onto the public road as well as that of pedestrians (with particular reference to children walking to the nearby community centre) given the absence of a footpath alongside the existing wall.

- The 'Garden Room' proposed for retention was constructed without planning permission and is used for commercial purposes as a treatment room.
- The subject application does not include for the retention of the existing walls, piers and entrance gates.
- An unauthorised pedestrian gate has been opened onto the footpath of the adjoining property which is not shown on the submitted drawings and does not form part of the subject application. This gateway would appear to have been purposely installed to facilitate customer access to the existing unauthorised business premises on site given that the property is already served by two other vehicular accesses.
- The application has not been accompanied by an analysis of the overshadowing impact of the proposed development on Nos. 1 - 4 Summercove to the immediate north, with particular reference to the rear sunrooms, kitchens, and garden areas of those properties.

Previous studies have established the overshadowing impact of earlier development proposals on site which were at a greater separation from neighbouring residences.

- The overall scale and massing of the proposed two-storey extension alongside the shared site boundary is excessive and will interfere with the amenity of the neighbouring housing at Summercove.
- The raising of the roadside boundary walls and piers etc. obstructs visibility and gives rise to traffic safety concerns.
- There are multiple instances of unauthorised development having been carried out on site, including the opening of a pedestrian entrance onto the adjacent footpath, the raising of the boundary wall alongside Strand Road, and the construction of the 'garden room'.

- The applicants did not discuss the proposed development with any of the adjoining property owners.
- The potential overshadowing impact of the proposal has not been given adequate consideration.
- The submission made by an elected representative in support of the application is misleading and contains a number of inaccuracies.
- There are concerns that the proposed garage and 'garden room' will be used for commercial purposes to the detriment of the residential amenity of neighbouring properties.

6.5. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- Impact on residential amenity
- Alleged instances of unauthorised development
- Appropriate assessment

These are assessed as follows:

7.2. Impact on Residential Amenity:

7.2.1. Concerns have been raised in the grounds of appeal that the proposed extension will have a detrimental impact on the residential amenity of those neighbouring dwelling houses to the immediate north (within the adjacent development of 'Summercove') by reason of the overall scale, height, massing, and proximity of the new construction. More specifically, it has been suggested that (in the absence of any studies to the contrary) the proposal will result in significant overshadowing of the internal accommodation (i.e. sunrooms & kitchens) and amenity / garden areas to the rear of those properties and that the construction will be visually overbearing and incongruous when viewed from within those neighbouring residences.

- 7.2.2. The two-storey element of the proposed extension will extend to a height of 5.45m across a width of c. 5.5m to the immediate rear of No. 2 Summercove (with the mono-pitched roof construction increasing to an overall height of 5.75m further south) and will present a blank expanse of wall set back approximately 0.6m from the shared site boundary (as per the submitted site layout plan). Whilst I would accept that the height of the proposed extension is broadly comparable to that of the existing dwelling house on site, given the increased scale and massing of the two-storey construction and its positioning relative to No. 2 Summercove (with particular reference to its siting immediately south of that property and the limited separation proposed), I would have serious reservations as regards the potential for the proposed development to result in significantly increased overshadowing of the only area of usable amenity space to the rear of that dwelling. The significance of any such overshadowing impact is particularly pertinent in light of the limited rear garden depth serving No. 2 Summercove and the fact that said property was approved as a dwelling house as opposed to a holiday home (notwithstanding its usage in practice). Furthermore, in the absence of any shadow impact analysis, the possibility that the proposal would also impinge on the levels of sunlight / daylight received by the ground floor accommodation to the rear of those properties with Summercove cannot be discounted, although I would concede that the glazed roofing over the kitchen areas would likely alleviate the severity of any such impacts.
- 7.2.3. With respect to the overall scale, design and height of the two-storey extension, and its proximity to neighbouring residences, I would also accept that the construction could be considered as having a somewhat visually overbearing and domineering appearance when viewed from within the limited garden area of No. 2 Summercove.
- 7.2.4. Therefore, on the basis of the foregoing, I am of the opinion that the proposed extension, by reason of its overall scale, height, massing and positioning, would constitute an unacceptably visually dominant and overbearing form of development relative to the adjacent residential property to the north and would lead to excessive overshadowing of that property. The proposed development would, therefore, seriously injure the residential amenities of that property and would be contrary to the proper planning and sustainable development of the area.
- 7.2.5. With regard to the 'garden room' proposed for retention, this structure is situated forward of the main dwelling house and comprises a timber-clad building which

houses a small living / sitting area served by a plumbed sink and a separate W.C. The overall construction is in a reasonable condition, is screened in part by the existing site boundaries, and is generally comparable in terms of its overall appearance to a conventional domestic shed / outbuilding. Accordingly, given the site context, I am amenable to the retention of this structure for purposes incidental to the enjoyment of the existing house as such, subject to the imposition of a suitable condition clarifying its use in the interests of residential amenity.

7.3. Alleged Instances of Unauthorised Development:

- 7.3.1. In relation to the alleged instances of unauthorised development on site, including the opening of a pedestrian entrance onto the adjacent footpath bounding No. 4 Summercove, the raising of the roadside (western and southern) boundary walls and entrance piers etc., and the provision of a new vehicular access onto the private laneway to the immediate south of the site, it should be noted that the Board has no function in respect of enforcement and the investigation of such matters is generally the responsibility of the Planning Authority. It is also of relevance to note that the subject application would appear to have been purposively lodged in an effort to regularise certain unauthorised works on site i.e. the construction of the existing 'garden room' proposed for retention.
- 7.3.2. With respect to the assertion that both the proposed extension (including the garage and the first floor study / office area) and the existing 'garden room' are / will be used for commercial purposes in connection with the applicant's respective business ventures / occupations, in my opinion, any such concerns can be satisfactorily addressed by way of condition in the event of a grant of permission by requiring the development to be used solely for purposes incidental to the enjoyment of the existing dwelling house as such and by prohibiting its use for human habitation or for any business or commercial purpose.

7.4. Appropriate Assessment:

- 7.4.1. Having regard to the minor nature and scale of the development under consideration, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development

would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

8.1. Having considered the contents of the application, the decision of the planning authority, the grounds of appeal, and my assessment of the planning issues, I recommend that a split decision be issued as follows:

- **GRANT** permission for the retention of the existing garden room, for the reasons and considerations, and subject to the conditions, marked (1) hereunder.
- **REFUSE** permission to construct an extension to the existing dwelling house including attached garage with all associated site works, based on the reasons and considerations marked (2) hereunder.

Reasons and Considerations (1):

Having regard to the provisions of the Wexford County Development Plan, 2013-2019 (as extended), and to the nature, scale, form and design of the development proposed to be retained, it is considered that, subject to compliance with the conditions set out below, the development to be retained would not seriously injure the visual or residential amenities of property in the vicinity, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be retained, 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 within three months of the date of this grant of permission and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or

replacing them, the garden room shall be used solely for purposes ancillary to the enjoyment of the dwelling house as such and shall not be used for human habitation or for any business or commercial purpose, unless otherwise authorised by a prior grant of planning permission.

Reason: To protect the amenities of property in the vicinity and in the interest of clarity.

3. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. This permission relates solely to the retention of the garden room as outlined in the submitted notices and shall not be construed as giving assent to any other development on the subject site.

Reason: In the interest of clarity.

5. 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 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.

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.

Reasons and Considerations (2):

1. Having regard to the scale, height, massing and siting of the proposed extension, it is considered that the proposed development would be overbearing in relation to the adjacent residential property to the north and would lead to excessive overshadowing of that property. The proposed development would, therefore, seriously injure the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

31st December, 2020