



An
Bord
Pleanála

Inspector's Report

ABP-310624-21

Development	Demolition of existing structures and construction of 49 houses and 10 apartments.
Location	Clonatin Lower & Goreybridge, Gorey Rural, Co. Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20201465
Applicant(s)	Unicorn Real Estate Two Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Unicorn Real Estate Two Limited
Observer(s)	1. Clare and Kevin Doyle 2. Eamon and Ailbhe Doyle
Date of Site Inspection	22 nd October 2021
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The subject site with a stated area of 1.7 hectares is located in the townlands of Clonattin Lower and Goreybridge to the north-east of the town of Gorey, Co. Wexford. The site is located on the R772 (Arklow Road) within the 100 km/hr speed limit zone.
- 1.2. Existing development on the site includes a number of sheds and an unoccupied dwelling. The site slopes uphill from the road and consists of two agricultural fields in addition to the existing house and sheds.
- 1.3. Immediate land uses surrounding the site are mainly agricultural and residential.

2.0 Proposed Development

- 2.1. The proposed residential development would consist of demolition of an existing dwelling and construction of 59 No. residential units as follows:
 - 30 No. 3 bed two and three storey terraced units
 - 19 No. 3 bed two storey semi-detached units
 - 10 No. apartment/ duplex units comprising 3 No. 1 bed, 5 No. 2 bed, and 2 No. three bed units in two and three storey blocks
 - Car parking – 117 spaces
 - The application is accompanied by the following:
 - Public Lighting Report
 - Construction and Demolition Waste Management Plan
 - Construction Plan
 - Transportation Assessment Report
 - Design Statement
 - Quality Audit
 - Engineering Services Report

- Additional details were submitted to the Planning Authority dated the 4th of May 2021 including details in relation to drainage, roads design, bicycle parking and an additional house design - D2.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority refused permission for 5 No. reasons relating to sequential planning, uncertainty regarding the timing of development lands to the south, inadequate detail in relation to surface water attenuation, impacts on residential amenity, and inadequate drawings for house type D2.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The first planning report dated the 29th of January 2021 required Further Information. It was noted that the site was somewhat segregated and isolated from the town centre.
- The second planning report dated the 25th of May 2021 noted an issue with the separation distance between unit 39 and the adjoining dwelling and the design of unit 38 which did not reflect the footprint of the proposed new house type D2. Whilst it was noted that the applicant was proposing cycleways and footpaths to address the previous reason for refusal, it was noted that there was one pocket of land which was outside the applicant's control.
- Comments from the Senior Executive Planner indicated that the applicant was advised at pre-planning meetings that the proposed development may be premature having regard to the sequential approach and the lack of infrastructure to provide connectivity to the built up area of Gorey.

3.2.2. Other Technical Reports

Fire Officer: No objection subject to conditions.

Drainage: The applicant is required to install a new sewer to service the site.

Roads: The first report required further information. The second report recommended refusal.

3.3. **Prescribed Bodies**

Irish Water: Sewer extension is required to service this development. Irish Water should ensure that the sewer connection is sized to take the development from all zoned lands.

3.4. **Third Party Observations**

- 3.4.1. A total of 3 No. third party observations were submitted to the Planning Authority. The issues raised are similar to the observations submitted to the Board.

3.5. **Planning History**

PA Reg. Ref. 2020/0003

Permission refused by PA for a 61 No. unit housing development for three reasons relating to sequential planning, uncertainty regarding the timing of development lands to the south and poor design and layout.

4.0 **Policy Context**

4.1. **Section 28 Ministerial Guidelines**

- 4.1.1. The following list of Section 28 Ministerial Guidelines are considered to be of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)

- Urban Development and Building Height Guidelines for Planning Authorities (December, 2018)
- Design Manual for Urban Roads and Streets (December 2013) and as amended
- Architectural Heritage Protection – Guidelines for Planning Authorities (2011)
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)

4.2. National Policy

4.2.1. Project Ireland 2040 - National Planning Framework (2018)

- National Policy Objective 3a, b and c relates to Compact, Smart, Sustainable Growth. One of the key national strategic outcomes of the NPF is to deliver more compact growth in the development of settlements of all sizes across the regions, moving away from development sprawl. The NPF states that getting the physical form and location of future development right offers the best prospects for unlocking regional potential.
- NPO 13: In urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- NPO 27: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.
- NPO 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

- NPO 71: City/county development plan core strategies will be further developed and standardised methodologies introduced to ensure a co-ordinated and balanced approach

4.3. Development Plan

4.3.1. Wexford County Development Plan 2013-2019

- Gorey is designated as a larger town. The development approach for Gorey is to accommodate more measured growth in the town, consolidating the existing pattern of development.
- Chapter 3 deals with the core strategy for the County. It notes that there has been substantial residential development in Gorey and this needs to be carefully controlled.
- Chapter 17 of the plan relates to Design and Chapter 18 relates to Development Management Standards.

4.3.2. Draft Wexford County Council Development Plan 2021-2027

- The towns of Wexford and Gorey are designated as a Level 1 Category key towns.
- Table 3.3 relates to the allocation of population to the settlements.
- Table 3.4 relates to the core strategy population allocation and housing land 2016-2027. It notes that there is currently 99 hectares of zoned land in Gorey and 40 hectares is required for the housing units required.

4.3.3. Gorey Town and Environs Local Area Plan 2017-2023

- The site is zoned under land Use objective 'R' Residential with an objective 'to protect and enhance the residential amenity of existing and developed communities and to provide for new residential development, associated residential services and community facilities'.

- Section 2 relates to Housing and Social Infrastructure Delivery.
- Section 3 sets out the Urban Design Strategy for the town and environs.
- Section 4 relates to the Access and Movement Strategy.
- The site is located within the Clonattin Neighbourhood Framework Plan Area. (NFP).

4.4. Natural Heritage Designations

- 4.4.1. The application is not located within a European site. The nearest European site is the Slaney River Valley SAC Site Code 000781 c. 4km to the west of the site.

4.5. EIA Screening

- 4.5.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, 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 stage, and a screening determination is not required.

5.0 The Appeal

5.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The site is zoned 'R' for residential development and needs to be developed so that other lands surrounding the site zoned as 'LR'- long term residential development can be developed to facilitate a sequential approach.
- A sequential test shows that the subject site is the next available site for development along the R772.

- There are similar residential precedents in similar proximity to Gorey.
- The application seeks to provide footpaths and cycle infrastructure connecting the site to existing infrastructure further south along the R772. As such, the application is not premature.
- The original application showed a bus stop, however this was removed at the request of the local authority.
- Survey work was carried out and it is submitted that there is adequate space to provide footpaths and cycle tracks without encroaching on third party lands.
- Detailed drainage calculations were not requested by the Planning Authority. These calculations have been submitted with the appeal response in order to address refusal reason No. 3.
- In order to assess the impact of the surface water discharge on the existing watercourse, it would be necessary to prepare a flood risk assessment which would include modelling of the existing watercourse and culvert. Based on time constraints as a result of the appeals period, it is not possible to commission and undertake such a study in the four week statutory appeals period but this requirement could have been commissioned and undertaken prior to development.
- The separation distances between units 6, 39, and 40 and the dwelling on the adjacent site are more than adequate to protect residential amenity as the adjacent dwelling is single storey at this location and the 22m distance referred to in the Development Plan relates to opposing first floor windows.
- The Planning Authority has accused the applicant and design team of submitting misleading drawings. It is abhorrent to make such accusations against a well-respected architectural practice that has completed projects not only in Ireland but in London and South Africa as well. It was noted that the drawing submitted for House Type 2 was laid out in the wrong direction in error. This matter has been corrected in revised drawings submitted with the appeal.

5.2. Planning Authority Response

- The Planning Authority considers that the subject site does not comply with the principles of sequential planning.
- The only linkage between the proposed site and the urban area of Gorey town is along the R722 (former N11) which is an extremely busy road carrying large volumes of fast moving traffic. The Planning Authority does not accept that the pedestrian and cycle lanes proposed along this busy road provide for adequate, safe or sustainable connection to Gorey town. It is considered desirable that linkages should be provided through the lands to the east of the site which are zoned for long term development and as such will not be developed during the lifetime of the Gorey LAP.
- Lack of detail regarding drainage.
- There are a number of instances where separation distances would lead to loss of residential amenity.
- The Planning Authority is not accusing the applicant or their agent of intentionally submitting misleading drawings, rather errors in some of the drawings have resulted in a situation where the planning authority are unable to make a full assessment.

5.3. Observations

The observations submitted can be summarised as follows:

- The proposal fails to provide strong active frontages on both sides of Clonattin Lower Avenue as envisaged by the Plan.
- The site is located on the periphery of lands zoned for development and is defined as 'outer suburban greenfield.'
- It should not be prioritised for development over more sequentially preferential infill and brownfield sites located closer to the town.
- The provision of the proposed footpath and cycleway does not satisfy section 2.4 of the Plan and would still result in leapfrogging greenfield lands located closer to the town centre.

- The precedents mentioned in the appeal are not ‘like for like’ comparisons.
- The Clonattin Framework Plan envisages the development of Clonattin Lower Avenue as the main distributor route for pedestrians and cyclists. The proposed linkages along the regional road are not consistent with the intentions of the Gorey LAP and associated Clonattin Framework Plan.
- Concern regarding overlooking.
- Table 3.4 of the Draft County Development Plan states that the current Gorey LAP has 99 ha of existing lands zoned for residential development whilst only 40 ha is required.
- It is proposed to divert surface water into a culvert in the property of Kevin and Clare Doyle- a photo of this culvert is attached to the observation which shows it in flood and the existing drainage system cannot cope with the existing load.
- Traffic Survey was carried out during a covid lockdown which renders it null and void.
- Concern regarding traffic impacts.

6.0 **Assessment**

6.1. The main issues that arise for assessment in relation to this appeal can be summarised as follows:

- Sequential Planning
- Impact on Residential Amenity
- Other Issues
- Appropriate Assessment

6.2. **Sequential Planning**

6.2.1. The lands are zoned as ‘residential’ in the Gorey Town and Environs Local Area Plan 2017-2023. The site is surrounded on three sides by lands zoned for long term

residential development and on the other side by R772 (former N11). There are two residential zonings in the plan- residential and long term residential. There is approximately 101 hectares of residential zoned lands for development during the lifetime of the plan. There is a further 34 hectares of long term residential land which is reserved for future residential development beyond the period of the plan.

- 6.2.2. Section 2.4 of the Gorey LAP requires that residential land should be developed in a sequential manner linked with and in tandem with the delivery of necessary infrastructure such as roads, footpaths, cycleways, open space, education and recreational amenities.
- 6.2.3. Chapter 3 of the Wexford County Council Development plan sets out the Core Strategy. Gorey is identified as a 'Larger Town'. Table 10 sets out the Core Strategy Population Allocation and Housing Land. It is an objective of the Council to encourage new residential development in accordance with the Core Strategy and Settlement Strategy and subject to compliance with normal planning and environmental criteria including the availability of adequate waste water treatment capacity and drinking water capacity and the development management standards contained in Chapter 16.
- 6.2.4. Table 3.3 of the Draft Wexford County Council Development Plan identifies that the population of Gorey will increase by approximately 2,406 people between 2021 and 2027. Table 3.4 of the Draft Plan equates this to a requirement for 998 residential units over the lifetime of the plan. Table 3.4 states that the current Gorey LAP has 99 hectares of existing land zoned for residential development whilst only 40 hectares is required. Therefore, there is a current overprovision of 59 hectares zoned for residential development.
- 6.2.5. The sequential approach to development is based on settlement expanding outwards from the centre through the development of physically adjoining lands in a coherent manner. This approach allows for new development of physically adjoining lands to integrate successfully with the existing settlement.
- 6.2.6. This site is located on the periphery of the town of Gorey. Residential development in the immediate vicinity of the site consists of one off rural houses including a new one off house directly adjacent to the site. Residential development in and around the town of Gorey has taken the form of housing estates, one off dwellings and linear

development, much of it is at a significant distance from the town. The effect of this pattern of development is that there are significant areas of undeveloped land around the historic core. It is clear from the Draft Wexford Development Plan that there are significant areas of undeveloped land banks that are zoned as 'residential' that have not yet been developed. Whilst the applicant has carried out a sequential test which indicates that this is the 'next available site for development along the R772', I am not convinced that the analysis is sufficiently robust as only a limited number of sites along the R772 were examined rather than an examination of the whole town of Gorey. This is particularly important against the background of a significant overprovision of zoned lands in the town of Gorey.

- 6.2.7. I note that examples have been given in the appeal of sites that have been developed, a similar distance from the town of Gorey. I am not convinced that these are 'like for like' comparisons in terms of the types of surrounding development and the existing links to the town. Of particular concern in this case is that this site is surrounded by lands zoned for long term residential and according to the appeal response from the planning authority, these lands will not be developed during the lifetime of the Gorey LAP. I also refer the Board to the observation submitted on behalf of Eamon and Ailbhe Doyle which states that the lands around the subject site are in the family ownership and the family 'have no intention of selling or developing these lands and will continue to farm them for the foreseeable future.'
- 6.2.8. The 'leapfrogging' of development, whereby new development takes place at a remote location from the existing contiguous town/ village, is discouraged within Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities. This is reflected in Objective HO3 of the Gorey Local Area Plan to facilitate new residential development in accordance with the Core Strategy and to require physical, social and community infrastructure to be provided either prior to or in tandem with new residential development. I also note that Objective SS14 of the Wexford County Development Plan encourages new residential development to occur in the Larger Towns in accordance with the Core Strategy and Settlement Strategy. NPO 33 of the National Development Plan prioritises the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to the location.

- 6.2.9. The subject site is substantially removed from the town of Gorey in a 100km/hr speed limit zone and is currently not connected in terms of safe pedestrian/ cycle routes. Pedestrian and cycle linkages are of critical importance for the sequential planning approach in order for new development to successfully integrate with existing development in a sustainable and appropriate manner. I note that an application on this site was previously refused under PA 2020003. Reason No. 2 of the refusal reason related to the uncertainty of the development lands to the south and the provision of suitable and safe pedestrian and cycle linkages to the built up area of Gorey. In order to address this reason for refusal, the current application provides for a cycle lane and footpath. The second reason for refusal in the current application is the same as the second reason for refusal in the history file. I consider that the issue regarding the timing of development of the long term lands remains a concern. In addition, I also note that the site is located within the Clonattin Neighbourhood Plan Area. The Clonattin Framework Plan area includes a combination of developed and undeveloped lands immediately east of the town centre of Gorey. It envisages the development of Clonattin Lower Avenue as the main street and road proposed for the Clonattin Lower area including the subject site. This is reflected in Figure 19 of the plan- route concept. A key component of the plan is the provision of new connecting avenues for the area with a connection through this site. This route would be linked to the lands zoned as long term residential on both sides of the site and would link up with the R772 closer to the town of Gorey. I am of the view that the development of a pedestrian and cycle linkage adjacent to the proposed main street and road would be considerably safer and more practical for future occupants. I note that Objective H04 of the Gorey Local Area Plan requires new applications to demonstrate how the scheme complies with the Neighbourhood Framework Plan which the subject lands are located in. Where a deviation is proposed, the application must demonstrate that this deviation would not compromise the delivery of the Framework and is equally permeable and proposes a positive relationship with existing and proposed development, including public open space and linkages. Objective UD01 also requires new planning applications to demonstrate compliance with the Neighbourhood Framework Plan.
- 6.2.10. Whilst the current layout does indicate a future zone for a possible road/vehicular connection in accordance with the plan, I consider the appropriate location for a

pedestrian and cycle linkage would be in accordance with the main route envisaged by the plan rather than alongside the existing R772. As such I consider that the pedestrian and cycle linkage proposed is contrary to the plan and premature in terms of future connections to the lands zoned for long term residential. These lands need to be considered in tandem with the current site so that the concepts set out in the Neighbourhood Framework Plan can be developed in future.

6.2.11. Having regard to the above, I consider that the proposed development will have adverse consequences for the proper planning and sustainable development of the area. The subject site is substantially removed from the town core of Gorey and is currently not connected in terms of safe pedestrian/ cycle route. This would appear to have been acknowledged in the car dependent layout of the proposed scheme with priority and ease of circulation for motorists at the expense of the internal pedestrian environment. I also note that the original proposal provided for a bus stop adjacent to the R772, but the applicants were requested to remove this in item 5 of the Further Information Request and revised drawings were submitted in response to this.

6.2.12. I therefore recommend refusal on the basis that the proposal would be contrary to the sequential approach and contrary to the Clonattin Neighbourhood Framework Plan.

6.3. Impact on Residential Amenity

6.3.1. The main concern raised regarding the impact on residential amenity related to overlooking from dwelling Nos. 6, 39, and 40 to the residential property to the north. I note that the observation submitted on behalf of the owners of this property expresses concern in relation to overlooking of their front and rear gardens and large bi-folding doors in the single storey element of their property.

6.3.2. Figure 26 of the appeal response illustrates that the section of the property to the north closest to these proposed dwellings is single storey at this location and therefore the Development Plan policy which requires in general a minimum distance of 22m between opposing first floor windows does not apply in this instance.

6.3.3. I examined this location together with the existing dwelling on the site inspection and can verify that the section of the adjoining house concerned is single storey only at this location. As such policy 18.10.8 of the Development Plan in relation to overlooking first floor windows does not apply in this instance. Having regard to the separation distance and the design of the existing property, I am satisfied that it would not result in undue overlooking. In conclusion, I am satisfied that the proposed design or location of the proposed dwellings would not impinge on the residential amenity or privacy on the adjoining property.

6.4. Other Issues

Drainage

6.4.1. I note that the third reason for refusal considered that insufficient information had been provided in relation to the impact on surface water drainage from the proposed cycleway and pedestrian footpath adjacent to the R772. I note that the applicant has submitted detailed drainage calculations in the appeal response. Notwithstanding this submission, I strongly consider that the development of a cyclepath and footpath servicing an isolated site geographically removed from the town of Gorey would be unsustainable. I also note the Planning Authority's response to the appeal which states that the R772 (former N11) is an extremely busy road carrying large volumes of fast moving traffic and it does not accept that the pedestrian and cycle lanes proposed along this busy road provides for adequate, safe or sustainable connection to Gorey town. It is considered desirable that linkages should be provided through the lands to the east of the site which are zoned for long term development and as such will not be developed during the lifetime of the Gorey LAP.

6.4.2. I share the concerns of the Planning Authority in this regard. As such, if the Board is minded to grant permission, I consider that the footpath and cycleway proposed along the R772 should be omitted and the linkages proposed under the Clonattin Neighbourhood Development Plan could be developed in a more sustainable manner in the future.

Inaccurate Drawings

- 6.4.3. The fifth reason for refusal stated that 'inaccurate and misleading drawings have been submitted for the proposed house type D2 for unit No. 38 and therefore the planning authority were unable to fully assess the impacts of the proposed development'.
- 6.4.4. Revised drawings of house type 2 were submitted with the appeal response. The response notes that house type 2 was laid out in the wrong direction in error. I am satisfied that the revised drawing is satisfactory and addresses the reason for refusal.

6.5. Appropriate Assessment

- 6.5.1. Having regard to the nature and scale of the proposed development and to the nature of the receiving environment, namely an urban and fully serviced location, 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 permission be refused for the following reasons:

8.0 Reasons and Considerations

1. The Ministerial Guidelines 'Sustainable Residential Development in Urban Areas-Guidelines for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government in May 2009 recommends a sequential and co-ordinated approach to residential development, whereby undeveloped lands closest to the core and public transport routes be given preference. Notwithstanding the residential zoning objective of the site in the Gorey Local Area Plan 2017-2013, it is considered that the site is located in an area that is remote and isolated from the town core and its development would not be in line with the orderly expansion of the town of Gorey and would therefore be contrary to Objective H03 of the plan. Having regard to the lack of adequate pedestrian or cycle linkages and the excessive

walking distance to the centre of Gorey, the absence of public transport to the town centre and the lack of social and community facilities in the vicinity, it is considered that the proposed development would be excessively car dependent and would, therefore, be contrary to the Ministerial Guidance and to the proper planning and sustainable development of the area.

2. It is considered that the development of a pedestrian and cycle linkage adjacent to the main street proposed at Clonattin Lower Avenue in the Clonattin Neighbourhood Framework plan would be a safer and more sustainable linkage than the linkage proposed adjacent to the R772. The cycle and pedestrian linkage proposed would undermine future development in the Clonattin Neighbourhood Framework Plan Area and would be contrary to Objective UD01 and Objective H04 of the Gorey Local Area Plan 2017- 2013. The proposed development would, therefore, result in an unsatisfactory standard of development, would be detrimental to the amenities of future residents of the development, and would, therefore, be contrary to the proper planning and sustainable development of the area.

Emer Doyle
Planning Inspector

13th December 2021