



An
Bord
Pleanála

Inspector's Report

ABP-312204-21

Development	Retention of building as extension to garage and retention of alterations to design of garage.
Location	Ferns Upper, Ferns, Co. Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20210669
Applicant(s)	Thomas Roche.
Type of Application	Permission to retain.
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	James Doyle.
Observer(s)	N/A.
Date of Site Inspection	23 rd of November 2022
Inspector	Stephanie Farrington

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.33ha, is located along the Carnew Road in Ferns village. The site is currently occupied by a dwelling and a workshop/garage to the north east of the site. The shed has a stated floor area of 273.78 sq.m. (129.78m stated for retention) and maximum ridge height of 5.6m.
- 1.2. The sheds are currently used for parking and servicing buses associated with the existing business operating from the site, Roaches Bus Hire. A hardcore area to the front of the shed is used for parking buses. Access to the site is provided via the Carnew Road. The site is adjoined by existing residential properties to the east and west along Carnew Road.

2.0 Proposed Development

- 2.1. The development seeks permission for retention of a steel framed building as an extension to an existing garage and retention of alterations to the design of the existing garage.

3.0 Planning Authority Decision

3.1. Decision

Wexford County Council issued a notification of decision to grant permission for the development in accordance with the following reasons and considerations:

“Having regard to the provisions of the Wexford County Development Plan 2013-2019, the referral responses received and all other material considerations, it is considered that subject to compliance with the following conditions, the proposed development would not seriously injure the amenity of the area and would therefore be in accordance with the proper planning and sustainable development of the area”.

The decision was subject to 6 no. conditions. The following conditions attached to the decision are of note:

- Condition no. 5: No vehicle refinishing/spray painting activity shall be carried out on site. Any wastes generated on site shall be disposed of in a timely

manner in accordance with the Waste Management Act 1996 and ensuing Regulations.

Reason: In the interests of public health.

- Condition no. 6: Noise emanating from the development shall not cause to the measured at the facing elevation (outside) of any dwelling in the area, during the hours of 0700-2100 a noise level of 55 dB(A) (Laeq 1 hour) and during the hours of 2100-0700 and Saturdays from 1300hrs, Sundays and Bank Holidays a noise level of 42 dB(A) (Laeq 1 hour). The noise is also not to be impulsive in nature or have any tonal element which is 5dB(A) above the adjacent frequencies.

Reason: In the interests of public health and residential amenity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Report

The initial planner's report recommends a request for further information in relation to servicing activities carried out on site and access/parking arrangements. The following provides a summary of the points raised:

- It is not apparent that the original shed had the benefit of planning permission, nor would it be considered exempted development. The existing operation is well established and considered statute barred in terms of enforcement of the use being carried out on site.
- No objection is raised within the planner's report in relation to the continuation of the use within the village boundary of Ferns.
- The report refers to the observation on the file and outlines that appropriate conditions can be attached in terms of noise and hours of operation to negate against impact on residential amenity. Noise from vehicles at this location is not considered to result in undue impact as the existing use is primarily for school collections. Hours of operation would be similar to other utilities within the area.

- No information is provided in relation to servicing activities being carried out within the site. Further information is recommended in this regard.
- The shed is positioned to the side of the dwelling with minimal passing views from the public road through a semi-derelict residential site.
- On 2 separate occasions of site inspection no evidence of excessive parking on the public footpath was to the front of the site was noted.
- Further information demonstrating turning movements within the site is recommended together with details of staff car parking.

Further Information Planner's Report

The report provides a summary of the applicants FI response. The following is stated in this regard:

- The applicant has satisfactorily responded to the points raised within the FI request.
- The report recommends a grant of permission subject to conditions.

3.2.2. Other Technical Reports

Environment

- The report from the Environment Section recommends a grant of permission subject to conditions.

Appropriate Assessment Screening Report

- Having regard to the limited extent of the proposed works and the substantial distance to the nearest Natura 2000 sites no element of the proposed project alone or in combination is likely to give rise to any impacts on the Natura 2000 sites.
- Having regard to the precautionary principle, it is considered that significant impacts can be ruled out and a stage 2 AA is not required.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

1 no. observation was received in respect of the applicant from the appellant. The following provides a summary of the main points raised:

- The existing shed is unauthorised. A large scale shed or commercial business was never permitted on site.
- No parking is provided on site for the buses or employee vehicles. Cars parked on the public footpath is creating a traffic hazard.
- Potential for pollution associated with activities on site.
- Noise impact of activities on site.
- The proposed entrance is not suitable for heavy vehicles/commercial use.
- The submission questions the validity of the application.

4.0 Planning History

Planning History

PA Ref: 007780 – permission granted in November 1972 for construction of a bungalow.

Enforcement History

The planner's report which informs the decision of WCC to grant permission for the development cites the following Enforcement History.

- ENF0034/2021- possible unauthorised commercial business.

5.0 Policy Context

5.1. Development Plan

Wexford County Development Plan 2022-2028

- 5.1.1. The site is located within the administrative boundary of Wexford County Council. At the time of the assessment of the application, the Wexford County Development Plan 2013-2019 was the operative development plan for the area. The application

was assessed by Wexford County Council in accordance with the policies and objectives of this plan.

- 5.1.2. The Wexford County Development Plan 2022-2028 was adopted on the 13th of June 2022 and the Plan came into effect on the 25th of July 2022. I have assessed the proposal in accordance with the provisions of the operative development plan.

Settlement Hierarchy

- 5.1.3. Ferns is designated as a Level 3a Service Settlement within the Wexford County Settlement Hierarchy. The Development Plan sets out the following in respect of the role and function of such centres:

Role and Function

“While the size of these settlements varies, the settlements all share a common characteristic of being important service settlements for their local communities and their wider rural hinterlands. Some of the settlements are important contributors to economic activity in the county including Rosslare Harbour and Kilrane (marine and port), Rosslare Strand (tourism) and Courtown and Riverchapel (tourism, marine and fisheries). Others including Bunclody Town and Ferns have potential for tourism related development in particular. All of these settlements perform important functions including retail, commercial, education, residential, service and amenity functions. The location of these settlements, together with targeted growth and investment in services, will contribute to the balanced spatial development of the county”.

- 5.1.4. The Development Approach for Level 3a centres include the following:

“Promote economic and enterprise development appropriate in scale to the settlements, such as expanding the potential of the marine economy and tourism in Courtown and Riverchapel, the port and port-related development in Rosslare Harbour and developing the tourism potential of Rosslare Strand, Bunclody Town and Ferns”.

- 5.1.5. Section 3.6.3 of the Plan outlines that *“the Council intends to vary the Plan to include land use zoning maps for Castlebridge and Rosslare Strand and a Settlement Plan for Ferns within three years of the adoption of the County Development Plan or*

within one year of the adoption of the LAPs for Wexford Town, Enniscorthy Town and New Ross Town, whichever is the sooner”.

Volume 2: Development Management Manual

5.1.6. Volume 2 of the Wexford County Development Plan sets out the Development Management Manual.

5.1.7. Section 2.6 relates to amenity and outlines that *“all developments should be designed to protect the amenities of adjoining properties and properties in the vicinity”*. The following guidance is of relevance to the proposal:

- Noise emanating from any proposed development shall not cause to be measured at the facing elevation (outside) of any dwelling in the area, during the hours 0700 – 2100 a noise level of 55 dB(A) (Laeq 1 hour) and during the hours 2100 – 0700 and Sundays and Bank Holidays a noise level of 42 dB(A) (Laeq 1 hour). The noise shall not be impulsive in nature or have any tonal element which is 4 dB(A) above the adjacent frequencies.

5.1.8. Section 5 relates to Enterprise and Employment Developments and sets out the following requirements for all developments.

- The existing road network must be able to safely cater for the additional vehicular traffic generated by the proposed development. This may include developer-led improvements as part of the proposal to address any identified traffic issues.
- The proposal must provide suitable and safe access arrangements, sufficient car parking for the vehicles using the site, manoeuvring and servicing areas.
- Within towns/villages, it is important to avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones. In dealing with development proposals in these contiguous areas, it will be necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone. For instance, in zones abutting ‘residential areas’ or abutting residential development within mixed-use zones, particular attention must be paid to the use, scale and density of development proposals in order to protect the amenities of these residential properties.

5.1.9. Section 5.1.1 relates to details to be submitted in conjunction with planning applications. This outlines that the following information should be submitted as part of planning applications for employment and enterprise developments:

- Details of the nature and scale of the proposed operation, opening hours and anticipated traffic levels.
- Details of proposed water and wastewater usage and servicing arrangements.
- Details to address potential impacts on water, air and noise quality arising from the development both during the construction phase and/or operational phase.
- Proposals to provide safe access which can cater for the anticipated volume and nature of traffic movements associated with the development. Proposals shall be submitted to provide adequate sightlines at the access.
- Proposals for the provision of adequate parking and circulation areas within the site of the proposed development, unless otherwise agreed with the Council.
- Proposals for the provision of electric vehicle charging points on 20 % of new car parking spaces and infrastructure to provide for the installation of charging points on the remainder of the parking spaces.
- Proposals for the safe storage and disposal of waste in a manner which is visually and environmentally acceptable. Storage shall generally be confined to the rear of the development and should be screened by the building or an alternative method of screening. The location of waste and recycling facilities should be shown on the site layout plan.
- Details of advertising signage shall be submitted. These details shall include the proposed size, scale, design, material and colour of the proposed signage. Proposals shall be submitted to incorporate Sustainable Drainage Systems (SuDS) into the development proposals.
- New developments on greenfield sites will be required to provide a minimum of 10% open space.

- Developments on brownfield/infill sites should make provision for external open space(s) that employees can use during the working day.

5.1.10. Section 6.2.6 relates to the Siting and Design of Access/Egress Points and outlines that the Planning Authority will only permit the formation of a new, or the material intensification of use of an existing, vehicular access/egress to a public road (including to/from a private laneway) where it has been demonstrated that:

“The principle of a new/intensified access point to/from that category of road satisfies the criteria for such as set out in the Roads section of Volume 1 Chapter 8 Transportation Strategy. The detailed siting and design of the access/egress point is acceptable having regard to:

- a) The characteristics and features of the public road and private lane at that location;*
- b) The availability of the required sightlines at the access/egress point to the public road, to allow for safe intervisibility of vehicles, cyclists, motorcyclists and pedestrians;*
- c) The design and construction of the access/egress point;*
- d) Surface water management arrangements;*
- e) Impacts on existing mature trees and existing built features such as stone walls at the road frontage.*

It should be noted that the Planning Authority will assess each application for a proposed new or the material intensification of an existing, access/egress point on its particular merits and will have regard to relevant TII Guidelines (including Rural Road Link Design and Geometric Design of Junctions, as may be updated) in that assessment”.

5.1.11. The Plan relates to the formation of sightlines to all new or materially intensified access/egress points and outlines that the provision of sightlines must comply with the relevant objectives in Chapter 8 Transportation Strategy. The required sightlines shall be formed prior to first use (including by construction traffic) of the new or materially intensified access / egress point to the satisfaction of the Planning Authority and retained thereafter in perpetuity. Nothing shall be constructed or

allowed to grow within the sightline envelope to a height which would obstruct sightlines.

Volume 7: Landscape Character Assessment

5.1.12. The site is located within the Lowlands Character Area as defined within Map 7.1 Landscape Character Assessment of the WCDP. The Plan outlines the following in respect of these areas: *The Lowlands LCU generally has characteristics which have a higher capacity to absorb development without it causing significant visual intrusion although, care still needs to be taken on a site-by-site basis, particularly to minimise the risks of developments being visually intrusive.*

5.2. Natural Heritage Designations

The nearest designated European sites to the appeal site, including SAC's and Special Protection Areas (SPA's) include the following:

- Slaney River Valley SAC- 1.6km east
- Slaney River Valley p NHA – 4.8km west
- Blackstairs Mountains p NHA – 14.1km west
- Blackstairs Mountains SAC – 14.1km west
- Killoughrum Forest p NHA – 13.7km south-west

5.3. EIA Screening

Having regard to the nature and scale of the proposed development it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal has been submitted by Thomas Roche in respect of Wexford County Council's notification of decision to grant permission for the development. The following provides a summary of the issues raised:

- Coaches are being serviced in the existing sheds. No reference is made to the servicing of vehicles within the application.
- The activities on site constitute a serious fire hazard in a residential area.
- The existing entrance is a residential entrance off a narrow road and is insufficient to cater for large vehicles and coaches. The appeal raises concerns in relation to turning movements for large coaches exiting the site which results in vehicles almost having to mount the footpath on the other side of the road. Concerns are raised in relation to the impact on other road users and pedestrians.
- The application does not seek permission for staff parking within the site. At present staff park on the footpaths in the vicinity of the site forcing pedestrians onto the adjoining road network. Photographs of cars parking on the footpath in the vicinity of the site are submitted.
- The existing entrance is not suitable for a commercial use. No planning permission has been sought for a commercial use.
- The buses are not predominately used for school runs. The coaches are also used by local sporting organisations to carry teams and supporters to various venues at different times of the day mostly Sundays. Buses return to the site late at night after long trips.
- The appeal refers to the revised site layout plan which illustrates a bus compound within the existing garden. The provision of a compound would require planning permission as it does not constitute part of the existing situation.
- Concerns are raised in respect of noise impact associated with power washers.
- The appellant intends to modernise their existing property. The appeal raises concern in relation to noise from the operation in early mornings at late evenings.

6.2. Applicant Response

Ennis Martin Architecture provided a response to the third-party appeal on behalf of the applicant. The following provides a summary of the points raised:

- The appeal response provides a history of the existing coach operation on site. This outlines that Roche's Coaches was established 35 years ago by the applicant's father. The appeal response refers to the suburban village location of the site and outlines that the site was used from the outset for parking buses. The shed, which was existing, was renewed and extended to its current size. The shed was and is used for the cleaning of the interior of the buses and for minor repairs. The applicant has remodelled the business in recent years which has resulted in a reduction in bus traffic operating from the premises.
- The appeal response outlines that the appellants reference to two large industrial buildings on site is incorrect. The building is approximately the floor area of a typical two car garage. The shed was and still is used for cleaning of interior of buses and minor repairs.
- In terms of buses parking on site, it is normal practice within the industry for bus drivers to drive their buses home at night. This practice significantly reduces the number of buses parked on site and demand for staff parking. The buses only go to the yard for a deep cleaning of interiors and minor repairs.
- The layout and dimensions of the existing entrance is more than adequate to accommodate the size and number of buses using it. Sight lines are in exceedance of Development Plan requirements.
- The photographs submitted in conjunction with the appeal illustrate commercial vehicles which do not belong to the applicants' employees.
- In terms of the reference to noise impact from power washers it is stated that the buses are not washed in the yard.
- The business is primarily centred on school runs and is currently in contract with Bus Eireann. The buses are also used to transport local sporting teams to and from sporting events which take place during daytime hours.

- The Site Layout Plan does not illustrate a proposal to dig up the garden to provide for a bus compound. Parking is provided within the existing hardstanding area.
- The appellant's dwelling is in ruins and appears as an unsafe structure. No one has lived in the dwelling for over 25 years.
- The appeal is vexatious and includes inaccuracies and untruths.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Access and Parking
- Impact on Residential Amenity
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. The appeal site is located in close proximity to the village of Ferns along the Carnew Road. The site is currently occupied by a residential property and the existing sheds to the northeast are used as part as a commercial operation Roches Bus Hire.

Access to the site is provided via Carnew Road. The proposed development seeks permission for retention of a steel framed building as an extension to an existing garage and retention of alterations to the design of the existing garage. The site is currently use for parking and servicing of buses.

7.2.2. The third-party appeal raises concern in relation to the principle of the development within a residential area, traffic impact associated with the existing use and the impact of the development on the residential amenity of the area. The application documentation and 1st party-appeal response provides a history of the existing coach operation on site. This outlines that the business was established 35 years ago by the applicant's father. The shed, which was existing, was renewed and extended to its current size and is used for the cleaning of the interior of the buses and for minor

repairs. The appeal response outlines that the applicant has remodelled the business in recent years which has resulted in a reduction in bus traffic operating from the premises.

- 7.2.3. The application relates exclusively to retention of works including the steel framed building as an extension to an existing garage and retention of alterations to the design of the existing garage. I refer to the planning history of the site and note that there is no evidence of planning permission for the operation of a bus depot from the site. The existing use is not addressed within the application. I consider that there are significant information deficiencies within the application in relation to the operation of the existing business and activities carried out on site. I note the case made by the applicant that the business has been in operation for c.35 years. However, in this regard I would highlight that the length of time of operation of a use does not authorise the use.
- 7.2.4. On the basis of the information provided in connection with the planning application and appeal, I consider that the development for which retention permission is sought relates to works associated with a use which does not have the benefit of planning permission. I consider that retention of the physical structures would facilitate the consolidation of this unauthorised use and consider that in such instances the Board is precluded from granting planning permission. I recommend that permission to retain the structures is refused on this basis.

7.3. **Access and Parking**

- 7.3.1. The third-party appeal raises a number of concerns in relation to access and parking activities associated with the existing bus hire business on site. Access to the site is provided to the site via an existing residential entrance from the Carnew Road. The appeal outlines that the existing residential access is not suitable for large vehicle movements and turning movements associated with buses results in a traffic hazard. The appellant furthermore outlines that staff and bus parking associated with the development overflows onto the adjoining footpath resulting in a traffic hazard for pedestrians.
- 7.3.2. Notwithstanding the stated existence of the facility for 35 no. years I consider that there are information deficiencies within the application in relation to the operation and associated traffic impact of the existing development including demonstration of

sufficient sight lines at the existing site entrance, auto track movements on site, details of the number and specifications of buses associated with the development, existing staff numbers and parking requirements. Adherence to the Development Management Standards in Volume 2 of the Wexford County Development Plan 2022-2028 has not been demonstrated within the application. In terms of overspill of parking, on-site inspection, I observed 2 staff cars parked on the public footpath adjacent to the site. I accept the point raised by the appellant that such a practice results in the displacement of pedestrians onto the public road.

7.3.3. I refer to Wexford County Council's request for further information which requested the applicant to submit details of turning movements and parking provision within the site. The revised Site Layout Plan illustrates bus parking facilities on site and vehicular turning movements associated with same. However, I note that no auto track movements are shown within the site curtilage and no details of the total number of buses which are accommodated on site are provided. The Revised Site Layout Plan also illustrates the provision of 6no. additional staff parking spaces along the access road. The appellant raises concern in relation to the incorporation of additional parking within the front garden of a residential property and visual impact associated with same. I have concerns in relation to the siting of these spaces along an access road and consider that the provision of additional staff parking spaces is piecemeal in the absence of details of staff nos. and parking requirements.

7.3.4. On an overall basis, I consider that there are information deficiencies within the application in relation to the operation of the existing bus hire business on site and associated traffic, access and parking implications. I consider that an application of this type should clearly detail the nature of the business including an outline of activities undertaken on site, details of fleet numbers and staff numbers, traffic surveys which provide an indication of traffic impact associated with the existing activities on site, demonstration of safe access and egress of vehicles can be achieved from the existing entrance, illustration of sight lines in accordance with Development Plan Standards and demonstration that appropriate space is provided within the site to accommodate parking and maneuvering of vehicles. I recommend that permission is refused for the development on this basis.

7.4. Impact on Residential Amenity

- 7.4.1. The appeal raises concern in relation to the impact of the existing Coach business on site and the impact of this use on the residential amenity of their adjacent property. Concerns relating to noise impact associated with power washing of vehicles and coaches entering and egressing the site on night-time hours are raised in this regard.
- 7.4.2. In general, I consider that the application is vague in relation to activities carried out on site and any potential amenity impact on surrounding residential properties associated with activities on site. The site is located within a residential area and the compatibility of the development with adjoining developments has not been demonstrated within the application.
- 7.4.3. I refer to the guidance set out within the Wexford County Development Plan 2022-2028 which outlines that: *“Within towns/villages, it is important to avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones. In dealing with development proposals in these contiguous areas, it will be necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone. For instance, in zones abutting ‘residential areas’ or abutting residential development within mixed-use zones, particular attention must be paid to the use, scale and density of development proposals in order to protect the amenities of these residential properties”.*
- 7.4.4. I refer to the requirements of Conditions no. 5 and 6 attached to Wexford County Council's notification of decision to grant permission for the development which relates to noise impact and restrictions on the hours of operation. While in general, I consider that compliance with the requirements of these conditions would sufficiently negate against noise impact on adjoining residential properties, I consider that compliance with the noise limits should be demonstrated.

7.5. Other

Site Servicing

- 7.5.1. I refer to Wexford County Council's request for further information which requested further details in relation to activities carried out on site. The applicant's response to the FI request outlines that the existing garages on site are used for overnight

parking, storage of dry goods and carrying out minor repairs to buses. It is stated that the exterior of the buses are generally washed off site and there is no waste generated other than packaging and waste that can be recycled. I consider that the information in relation to activities carried out on site and associated waste and servicing requirements is vague and should be addressed within any revised application.

7.6. Appropriate Assessment Screening

Having regard to the nature and scale of the proposed development and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on any European site.

8.0 Recommendation

8.1. I recommend that permission is refused to retain the existing the existing steel framed building in accordance with the following reasons and considerations.

9.0 Reasons and Considerations

1. On the basis of the information provided in connection with the planning application and appeal, it appears to the Board that the development for which retention permission is sought including a steel framed building as an extension to an existing garage relates to an unauthorised commercial use. It is considered, therefore, that a grant of permission in this instance would relate to and facilitate a development which does not have the benefit of planning permission. Accordingly, it is considered that it would be inappropriate for the Board to consider the grant of a permission for the proposed development and the development for which retention is sought in such circumstances.
2. On review of the application documentation, the Board considers that there are significant information deficiencies in relation to the nature and operation

of the existing commercial business on site, servicing activities associated with same, and potential traffic and residential amenity impacts. The Board is not satisfied therefore that the proposed development would be in accordance with the proper planning and sustainable development of the area.

Stephanie Farrington
Senior Planning Inspector

3rd of February 2023