



An
Bord
Pleanála

Inspector's Report

ABP-312457-22

Development	Construction of a fully serviced dwelling house and domestic garage.
Location	Coolcots, Wexford, Co. Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20211376
Applicant(s)	Gary and Noirin Kinsella
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Martin Ryan
Observer(s)	None
Date of Site Inspection	2 nd February 2023
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.46 ha is located on a cul de sac off Coolcots Lane within the built up area of Wexford town. The site is accessed off an established private road that serves 6 No. dwellings known as Carrig Ard. The site is accessed between the 4th and 5th houses along this private road.
- 1.2. The existing dwellings at this location are substantial dwellings on large sites with varying designs. The appeal site is presently in agricultural use.
- 1.3. A set of photographs of the site and its environs taken during the course of my site inspection is attached. These serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a house, domestic garage, connection to mains water supply, installation of a sewerage treatment plant and a polishing filter area and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Permission recommended subject to 13 No. Conditions. Condition No. 4 required that the applicant shall enter into a Section 47 agreement with the Planning Authority. Condition No. 5 required that the dwelling be used as a permanent residence only. All other conditions are of a standard nature for a development of this type.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planner's report notes that the site has a land use zoning of 'Residential Medium Density' under the Wexford Town and Environs Development Plan 2009-2015 (extended). It is noted that although the density requirements are not met, the pattern of development at this location within Carrig Ard is large houses on large sites and the proposal is considered to be acceptable in principle.

3.2.2. Other Technical Reports

- **Roads:** Permission recommended subject to conditions.
- **Environment:** Further Information recommended.

3.3. Prescribed Bodies

3.3.1. No reports.

3.4. Third Party Observations

A total of 3 No. observations were submitted to the Planning Authority. Two of these were in support of the application and the third raises similar concerns to those raised in the appeal.

4.0 Planning History

4.1.1. No relevant history on site.

4.1.2. I refer the Board to ABP 302583, c. 200m to east of the site on Coolcots Lane where permission was refused by the Board on a fully serviced site for a housing development on grounds relating to inadequate density. This site has recently been developed by a housing agency.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. There is no current Development Plan for Wexford Town and Environs. I note that the Wexford Town and Environs Development Plan 2009-2015 was the most recent plan for the area and it was extended up till the 22nd of July 2022 when the County Development Plan was adopted.

5.2. Wexford County Council Development Plan 2022-2028

- Core Strategy – Section 3.5 Table 3-2 Wexford Town and Gorey are identified as Level 1 Key Towns.
- Objective CS15 - To prepare new local area plans for Wexford Town, Enniscorthy Town and New Ross Town and to ensure all future local area plans are prepared in accordance with the relevant aspects of the Development Plan Guidelines for Planning Authorities (2007), the Local Area Plan Guidelines for the Planning Authorities (2012) and all other relevant Section 28 Guidelines or any updated version of these guidelines.
- Objective SHO6 - To prioritise the provision of new housing in existing settlements and at an appropriate scale and density relative to the location in accordance with the National Planning Framework, the Regional Spatial and Economic Strategy for the Southern Region and the Core Strategy and the Settlement Strategy in the Plan.
- Section 4.7.2.1 Density of Residential Developments.
- Table 4-5 Indicative Density and Scale for Cities and Town Centres - Outer Suburban/ Greenfield Sites- developments at net densities of less than 20 dwellings per hectare should generally be discouraged.

5.3. Natural Heritage Designations

- 5.3.1. The site is not located within a designated Natura 2000 site. The site is proximate to the Slaney River Valley SAC (c. 0.5km), Wexford Harbour and Slob NHA (c.0.5km)

and Wexford Harbour and Slobs SPA (Site Code 004076) (c. 1.3km) and Slaney River Valley NHA (c. 1.3km).

5.4. EIA Screening

- 5.4.1. Having regard to the nature and scale of the proposed development comprising of a dwelling and associated works in an urban area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal can be summarised as follows:
- Landownership issue.
 - Discrepancy between site area on application form and site layout drawings.
 - The site location map does not mark the wayleave/right of way in yellow.
 - Zoning: The site is classified as medium density in Wexford Town and Environs Development Plan 2009-2015. Ministerial Guidelines indicate that net densities of less than thirty dwellings per hectare should generally be discouraged in the interest of land efficiency.

6.2. Applicant Response

- 6.2.1. The response from the applicant can be summarised as follows:
- Clarification in relation to land ownership issue and right of way and site size.
 - In relation to density, it is considered that the backland nature of the site limits the potential for higher density in the interests of preserving the residential amenities of existing properties along Carrig Ard.
 - The requirement for a treatment system also limits density.

- The comments of the planner in relation to the existing pattern of development in the area are also noted.
- A family dispute is referred to in relation to land ownership and a letter is attached to the appeal response in this regard.

6.3. Planning Authority Response

- No response.

6.4. Observations

- None.

7.0 Assessment

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle of Development
- Density
- Land Ownership
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The access road to the site was zoned as 'Residential Super Low' and the main part of the site was zoned as 'Residential Medium' under the Wexford Town and Environs 2009-2015 Development Plan. This plan has now expired but was in place until the Wexford County Development Plan was adopted on the 22nd of July 2022. It is an objective under CS15 to prepare a new Local Area Plan for Wexford. Whilst the land is currently unzoned, having regard to the most recent zoning and the proximity to

Wexford Town, and the nature of development in the area, I am satisfied that the principle of development is acceptable at this location.

7.3. Density

- 7.3.1. It is an objective under SHO6 of the Wexford County Council Development Plan 'To prioritise the provision of new housing in existing settlements and at an appropriate scale and density relative to the location in accordance with the National Planning Framework, the Regional Spatial and Economic Strategy for the Southern Region and the Core Strategy and the Settlement Strategy in the Plan.' I am of the view that the site could be considered to be an 'Outer Suburban/ Greenfield Site wherein Table 4-5 of the Wexford County Development Plan states that developments at net densities of less than 20 dwelling per hectares should generally be discouraged.
- 7.3.2. I note that it is the policy of the Council to promote higher residential densities at suitable locations, however, I am not convinced that the current site is a suitable location for higher density. In particular, I refer the Board to the planner's report which notes the zoning under the now expired plan (which was in place at the time of the planner's report) and states that 'Although the density requirements are not met, the pattern of development at this location within Carrig Ard is large houses on large sites and, consequently, I consider that this proposal is acceptable in principle.' I concur with this view.
- 7.3.3. In addition, I note that the area is not served by mains sewerage and as such an individual treatment plant is proposed. I consider that it would be difficult to achieve higher densities on these lands having regard to the constraints in the current infrastructure in this area.
- 7.3.4. I noted that at the time of inspection, there were 'For Sale' signs on both this side of the road and the opposite side of the road advertising the land as 'Zoned Lands'. I noted also that a new housing estate has recently been constructed on lands which are served by mains water and sewerage within 200m of the site on Coolcots Lane. As such, the Board may wish to take the view that the development is premature until such time as the issue of infrastructure has been addressed and a Local Area Plan has been adopted for the area.

- 7.3.5. It is in the interests of sustainability and the efficient use of infrastructure that higher densities are encouraged on appropriate sites. However, I am not convinced that this is an appropriate site for higher density, having regard to its location on a narrow private cul de sac without footpaths, the existing pattern of development in the area, the absence of zoning on the lands, and constraints in the current infrastructure in the area including the absence of mains sewerage. As such, I consider that the density proposed is acceptable.

7.4. Land Ownership

- 7.4.1. Concern is raised in the appeal that the site is incorrectly outlined and an incorrect site area is stated which is different on both the application form and the site layout drawings. Furthermore, it is stated that there is no consent from the owner of the additional land area.
- 7.4.2. These matters are clarified in the response to the appeal wherein it is stated that the site edged red does not refer to land ownership but to the subject area of the planning application. It is stated that the site edged red which forms part of the application is 0.462 hectares and the associated right of way is included in this area. It is acknowledged that the appellant is not the sole owner of folio WX53899F. Ownership is shared with the appellants brother Anthony Ryan, who it is stated is also the applicant's uncle. A letter is included in the appeal response which clarifies matters and also refers to a family dispute in relation to the lands.
- 7.4.3. I am satisfied that the applicant has provided adequate information to submit the planning application and that this is a civil matter. I would be satisfied that the provision of Section 34(13) of the Planning and Development Act, 2000 as amended, which states 'A person shall not be entitled solely by reason of a permission under this section to carry out any development' is sufficient to ensure that the civil issue is addressed prior to commencement of development on the site.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not

considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to the following reasons and considerations and subject to conditions as set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Wexford County Council Development Plan 2022-2028, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the character of the area or the amenities of property in the vicinity and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received on the 15th day of November 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning

authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed 2m wide footpath shall be omitted from the development.

Reason: In the interest of visual amenity.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

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

Reason: To ensure adequate servicing of the development, and to prevent pollution.

6. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 15th day of November, 2021, and in accordance with the requirements of the document entitled "Code of Practice Domestic Waste Water Treatment Systems (P.E. ≤ 10)" – Environmental Protection Agency, 2021. No system

other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.

(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.

(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.

(d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.

(e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details

and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

7. The landscaping of the development shall incorporate a continuous hedge of indigenous species (e.g. holly, hawthorn or beech), which shall be planted for the full length / eastern side of the proposed accessway.

Reason: In order to screen the development and assimilate it into the surrounding landscape, in the interest of visual amenity.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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.

Emer Doyle
Planning Inspector

6th April 2023