



An
Bord
Pleanála

Inspector's Report

ABP-314789-22

Development	Permission for the proposed erection of a fully serviced dwelling house together with access and parking, and associated and auxiliary site works
Location	Mauritiustown, Rosslare, Co. Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20220731
Applicant(s)	Elanor Nolan & John Touma.
Type of Application	Permission.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant	Elanor and John Touma.
Observer	Ted & Clare Barrington.
Date of Site Inspection	2nd March 2023
Inspector	Peter Nelson

1.0 Site Location and Description

1.1. The site is located on the Mauritiustown Road approximately 140m from the beach. Directly to the northeast of the site is 'The Bay' Pub. To the southwest of the site is the access road to The Bay residential development. The southwestern boundary of the appeal site faces onto Mauritiustown Road. The overall site is flat with block boundary walls on three sides and a lower block wall adjoining the access road to The Bay. There is an existing splayed entrance to the site. The site has a stated site area of 0.8 hectares. The site overlaps the site of two proposed dwellings which are subject to concurrent appeals. (ABP 314793-22, ABP 314794).

2.0 Proposed Development

2.1. A fully serviced three-storey, four-bedroom dwelling with access and parking and ancillary site works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Wexford County Council issued a decision to refuse on the 23rd of September 2022 for one reason relating to emerging capacity constraints in the Rosslare wastewater treatment plant.

3.2. Planning Authority Reports

3.2.1. Planning Reports

It is noted that the Planning Authority assessed this application under the Wexford County Development Plan 2013-2019.

- The planner's initial report, dated the 19th of July 2022, considered that the scale and design of the proposed dwelling was acceptable on this corner site. The planner considered that the proposed development would not give rise to adverse significant adverse amenity. The report also noted that further information was required relating to the proposed access, public sewer and

public water connections, surface water management, a turning area for service vehicles and Part V requirements.

- A request for further information issued. The applicant was requested to submit details of the upgrades required for the public sewer connection, a written agreement from Irish Water confirming necessary upgrades and costs to facilitate connection, a watermain site layout, details of SuDS and storm attenuation design calculations, details of a suitable sized turning area for service vehicles and details of proposals to comply with Part V.
- Following the submission of further information, the Planner's report dated the 22nd of September 2023, noted the comments of Wexford County Council Water Services on the up-to-date capacity issues with the Rosslare Strand Wastewater Treatment Plant (WWTP) and while having no objection in principle recommended refusal.

3.2.2. Other Technical Reports

- Roads Inspection Report dated 7th of September 2022 deemed the further information to be acceptable and recommended a grant of permission subject to conditions.
- Report of the Water Services Operations Engineer dated 13th September 2022, recommend a refusal or a request of clarification of further information relating to the Rosslare Strand WWTP failing to meet the EPA discharge licence requirements.

3.3. **Prescribed Bodies**

- 3.3.1. An Irish Water Report dated the 2nd of July 2022 recommend that the applicant be requested to submit further information.

3.4. **Third Party Observations**

- 3.4.1. The planning authority received one third party observation from Ted and Clare Barrington. The key points raised can be summarised as follows:

- The proposal will have a significant adverse impact on the privacy of their home: 'Sun Villa'.
- The proposed doors and windows on the first and second floor are opposite the window of the main bedroom of 'Sun Villa' and will have a dramatic impact on privacy.
- The relevance of the submitted precedents of planning permission for three storey buildings is not clear.
- Planning permission for a three storey building with balconies have been previously refused on this site
- The proposed dwelling, by virtue of its height and location would be a dominant feature out of scale with this essentially residential area of one and two-storey homes.
- A three-storey structure on this site would constitute a new and significant department for the village and would set a precedent for three storey homes other than in the village centre.

4.0 Planning History

4.1. Subject Site

P.A. Ref: 20220733 (ABP 31494-22)

Permission refused on the 23rd of September 2022 by the Planning Authority for a fully serviced dwelling with access and parking for one reason relating to the emerging capacity constraints at the Rosslare Strand WWTP. Currently on appeal.

P.A. Ref: 20220731 (ABP 314793)

Permission refused on the 23rd of September 2022 by the Planning Authority for a fully serviced dwelling with access and parking for one reason relating to the emerging capacity constraints at the Rosslare Strand WWTP. Currently on appeal.

P.A. Ref: 20073212

Permission granted on the 19th of October 2007 for a 3-storey building consisting of a ground floor shop unit, a second-floor restaurant and one apartment. The appropriate period of this application was extended however permission expired in 2017.

P.A. Ref: 20070817

Permission refused on the 9th of March 2007 for a 3-storey building with ground floor shop unit, a restaurant and 2no. penthouse apartments for two reasons relating to scale and overlooking.

P.A. Ref: 20062257

Permission refused on the 20th of June 2006 for a 3-storey building with ground floor shop unit, a restaurant and 2no. penthouse apartments for three reasons relating to scale, inadequate on-site parking and potential overlooking.

Relevant Sites in Rosslare Strand

P.A. Ref: 0221657

Permission refused on the 10th of February 2023 for the erection of 3 no. residential dwelling houses and all associated site works for 4no. reasons. Reason no.2 related to the emerging capacity constraints at the Rosslare Strand Wastewater Treatment Plant.

P.A. Ref: 20221266 (ABP 315341)

Permission refused by the planning authority on the 23rd of September 2022 for the demolition of 5 no. dwellings and the development of 7 no. dwellings and new vehicular and public access entrance off Station Road. for 3no.reasons which included reason no.1 relating to insufficient information demonstrating sufficient capacity in the wastewater treatment plant.

This application is currently on appeal.

P.A. Ref: 20221003

Permission refused on the 9th of September 2022 for 77 no. residential units, for 5no.reasons which included reason no.1 relating to insufficient information demonstrating sufficient capacity in the wastewater treatment plant.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Wexford County Development Plan 2022-2028 is the operative County Development Plan for the area. This plan came into effect on the 25th of July 2022.
- 5.1.2. The site is located within the settlement boundary of Rosslare Strand which has been designated as a Service Settlement (Level3(a)).
- 5.1.3. Relevant Development Plan objectives include: -

Objective TV43:

To adopt a presumption in favour of the development of infill and brownfield sites and to apply flexibility in the application of development management standards allowing for the achievement of performance standards for issues such as the protection of adjoining residential amenities, privacy, light and amenity.

Objective RS05 (Rosslare Strand):

To ensure that all new developments employ a high standard of urban design, layout and finish and require sensitive and high-quality architectural design for infill and brownfield developments in the village centre. The design and layout of any new development should be respectful of the area's context, streetscape and coastal setting and should provide for a strong and active street edge and sense of enclosure and should comply with the key principles and design approaches outlined in Volume 1 Chapter 5 Design and Place-making in Towns and Villages.

Objective RS08 (Rosslare Strand):

To require new infill developments to maximise opportunities for enclosure by ensuring continuity of existing buildings and forms where it exists and to address weaknesses in building lines through rationalisation as part of the infill development or redevelopment.

Objective RS13 (Rosslare Strand):

To prioritise the development of vacant, infill and under-utilised brownfield sites in the settlement plan area to achieve compact growth and sustainable development.

Objective RS22 (Rosslare Strand):

To have regard to the available capacity of the wastewater treatment plant and its seasonal capacity when assessing planning applications in the area.

Objective RS16 (Rosslare Strand):

To give favourable consideration to buildings higher than the prevailing building heights at the locations in/close to the village centre and main built up areas of the settlement subject to considerations of scale, heritage, amenity and design quality and in accordance with the requirements of Objectives TV52, TV53 and TV54 in Volume 1 Chapter 5 Design and Place-making in Towns and Villages, and to facilitate development incorporating higher buildings (i.e. buildings that exceed the contextual prevailing height) where it has been adequately demonstrated that the development complies with the assessment criteria set out in Section 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities (DHPLG, 2018).

Objective RS17 (Rosslare Strand):

To ensure that building heights within future development make a positive contribution to the built form of the area, are not obtrusive and do not adversely impact on the streetscape, local amenity or views, in particular, when viewed from the sea.

5.2. National Policy

5.2.1. National Planning Framework – Project Ireland 2040 (DoHP&LG 2018)

National Policy Objective 35:

Increase residential density in settlements through a range of measures including reduction in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building height.

5.3. Natural Heritage Designations

- The Wexford Harbour and Slobbs Special Protection Area (Site Code: 004076), approximately 1.5 km west of the site.
- The Wexford Slobbs and Harbour Proposed Natural Heritage Area (Site Code: 000712), approximately 1.0 km southwest of the site.

5.4. EIA Screening

- 5.4.1. Having regard to the nature and scale of the proposed development, comprising of an additional dwelling in a built-up village, 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

The main points can be summarised as follows:

- The proposed development would not seriously injure the visual or residential amenities of the area or be prejudicial to public health.

- The proposed house will be the applicant's permanent and full-time residence.
- Sufficient capacity has been received demonstrated in the Irish Water pre-connection enquiry.
- Following discussion with Irish Water, they confirmed that there is no requirement for an assessment under the combined approach as the proposal is for a single dwelling.
- Irish Water have confirmed that Rosslare only reaches near full capacity during the month of August, during the high holiday and there is no ongoing breach of the Licence limits.

6.2. Planning Authority Response

- None

6.3. Observations

6.3.1. Ted and Clare Barrington made an observation. The main points can be summarised as follows:

- The proposed three-storey will have an adverse impact on their privacy and amenity.
- The extensive use of balconies on the second and third storey will overlook their home.
- Only four or five private dwellings on Rosslare are 3-storeys and these are mainly in the commercial centre of the village.
- The dwellings will be out of character and an incongruous intrusion in this residential area.
- Someone on the third-floor balcony will be able to see into the bedroom.
- As this is a three-storey dwelling the opposing windows should be more than 22m.
- The proposal will have the same impact on their privacy as the two earlier proposals that were previously refused.

- The proposal contravenes the relevant Wexford Development Plan.
- The proposal should be read in conjunction with the two other applications running concurrently with it for the same overall site.
- The three-storey dwelling will set a precedent for three storey homes in areas other than the village centre.

6.4. Further Responses

None

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the appeal, and having inspected the site, and having regard to the relevant national and local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Wastewater.
- Residential Amenity.
- Height and Scale.
- Appropriate Assessment.

7.2. Wastewater

7.2.1. It is noted that the Planning Authority has no objection in principle to the proposed development however permission was refused as it was considered that it had not been demonstrated that the proposed development can be effectively serviced by effective wastewater infrastructure.

7.2.2. Since the original Irish Water Confirmation of Feasibility was submitted the Rosslare Strand Waste Water Treatment Plant (WWTP) has been assigned a 'amber' status on the Irish Water Wastewater Treatment Plant Capacity Register 2022 confirming that it fails to fully comply with its EPA discharge licence. I note that an Amber indication means that the WWTP has potential spare capacity which is to be

considered on a case-by-case basis. I also note from the current Irish Wastewater Capacity register, that there is no improvement project for the Rosslare WWTP underway or planned.

- 7.2.3. The council engineer states that due to the 'amber' status that the proposed development will now be assessed by Irish Water under the 'combined approach' before any grant of permission can be made.
- 7.2.4. I note on other subsequent planning applications for new dwellings in Rosslare that Irish Water have requested the applicants to update the Irish Water Confirmation of Feasibility letters as the Rosslare Strand WWTP now has an amber status, requiring a Combined Approach assessment under Regulation 43 of the Waste Water Treatment Act of 2007 to be carried out. This assessment is to be carried out by the local authority or Irish Water. To date, this has not been carried out.
- 7.2.5. The Irish Water report on planning application P.A. Ref: 20221266 (see section 4.2), states that Wexford Water Services notes that the stated 'available capacity' in the WWTP is deemed to be overestimated and does not take full account of the sustained average loading during the summer season when multiple sever breaches of the Waste Water Discharge Licence limits occur.
- 7.2.6. As an assessment under the combined approach has not yet been carried out, I consider it has not been demonstrated that there is sufficient capacity in Rosslare Wastewater Treatment Plant for the proposed development. I consider, therefore that the proposed development would be premature having regard to the existing deficiencies in the Rosslare Strand Wastewater Treatment Plant and the period within which this constraint may reasonably be expected to cease.

7.3. Residential Amenity

- 7.3.1. I note the concerns raised by the occupants of Sun Villa in relation to potential overlooking from the proposed three storey dwelling. An access road to 'The Bay' residential development with a landscaping strip separates the appeal site and the boundary with Sun Villa. The side gable of Sun Villa faces east. This gable contains a bedroom window. Sun Villa also has three dormer windows facing directly north.

The rear elevation of the proposed dwelling faces south-west. The bedroom window of Sun Villa and the windows of the proposed development are not directly opposing.

7.3.2. There is a distance of approximately 27 meters from the first-floor terrace and the bedroom window of Sun Villa and approximately 28 meters from the proposed glazed doors of the first-floor living/dining room. There is approximately 28 meters from the second-floor terrace and the proposed second floor home office window.

7.3.3. While I acknowledge the planning history on the site, I consider that given the orientation of the proposed development, the location of the windows on the first floor of Sun Villa and the distance between Sun Villa and the proposed development that there will not be significant overlooking of the upper floor rooms of Sun Villa.

7.4. Height and Scale

7.4.1. The observation raises concerns relating to the height and scale of the proposed development and the precedent it might set for similar sites in Rosslare. The site is located at the junction of the Mauritiustown Road and The Bay and Clearwater Cove residential development.

7.4.2. While it is recognised that this site is located in an area of mainly two-storey dwellings I considered a three-storey dwelling on this corner site located at a intersection with three roads would enhance the character of the area and would add a quality of distinctiveness to the urban form. I consider that the dwelling will not have an adverse impact on the streetscape or when viewed from the sea.

7.4.3. I considered that the proposed development would make a positive contribution to the built form of the area and would therefore comply with Objective RS17 of the Wexford County Development Plan 2022-2028.

7.5. Appropriate Assessment

7.5.1. Having regard to the minor nature and scale of the proposed development, the site location within a built-up area outside of any protected site and 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 proposed 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.

7.6.

8.0 Recommendation

8.1. I recommend that the permission be refused for the proposed development for the reason and consideration set out below:

9.0 Reason and Consideration

The proposed development would be premature having regard to the existing deficiencies in the wastewater network in the area, specifically the Rosslare Strand Wastewater Treatment Plant and the period within which this constraint may reasonably be expected to cease.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Peter Nelson
Planning Inspector

5th May 2023