



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315341-22

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<b>Development</b>	Demolition of 5 houses, construction of 7 houses and all associated site works
<b>Location</b>	Walsheslough, Rosslare, Co. Wexford
<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20221266
<b>Applicant</b>	Stephen Lambe.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First
<b>Appellant(s)</b>	Stephen Lambe.
<b>Observer(s)</b>	Dr Finian Gallagher
<b>Date of Site Inspection</b>	28 <sup>th</sup> June 2023.
<b>Inspector</b>	Peter Nelson

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## 1.0 Site Location and Description

- 1.1. The rectangular application site has a stated area of 0.3ha and stretches northwest from the edge of the R740 about 400m from Rosslare village centre at Walsheslough, Rosslare, County Wexford. The R740 links Rosslare village to the east of the site to the N25, about 4 km to the west of the site. The site contains five houses which have been subject to vandalism and are boarded up. There is also a large mobile home parked on the site. There are two access points from the site to the R740, and there is a footpath on the roadside along the site but not on the opposite side of the public road. There is a dormer bungalow on the adjoining site to the northeast and 2no. two-storey houses on the adjoining site to the southwest. Immediately beside these two houses is the Seabury residential development, which has a single access onto the R740, and immediately adjoining that development is the Rosslare Harbour to Dublin rail line. The train station is c.130 meters west of the site. The rear boundary of the site backs onto the Sally Park mobile home park and is bounded by a palisade fence.
- 1.2. Rosslare Strand village has a mix of retail and commercial uses which serve a tourist trade. There is ribbon development along the coast road north and south of the village centre. West of the application site and between it and the N25 is a mix of houses on individual sites and suburban housing developments.

## 2.0 Proposed Development

- 2.1. Permission is sought for the demolition of five dwellings and the development of seven dwellings to include 2, 3 and four-bedroom, two-story semi-detached and detached homes. The proposed development will be accessed off Station Road.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Wexford County Council issued a decision to refuse on 16th November 2022 for three reasons relating to the emerging capacity constraints in the wastewater treatment plant, the proposed lack of future permeability provision and the proposed

timber fencing for the west and east boundaries and between the proposed rear gardens.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The planning report dated 15th November 2022 reflects the decision to refuse. The main points can be summarised as follows:

- The principle of residential development is acceptable at this location, close to the village centre, high-quality public open space and public transport.
- The proposed density is acceptable for this location.
- The proposed layout and design are acceptable.
- There is a lack of permeability in the village, and the proposed development does not provide any possibility for future permeability.
- No public open space has been provided, but this is acceptable given the size of the gardens and the beach's proximity.
- The proposed concrete post and timber fencing between gardens are contrary to development plan standards.
- Adequate sightlines are achieved in the proposed development.
- The setting back of the front boundary will improve pedestrian connectivity.
- The EPA has issued a warning to Wexford County Council that the Rosslare Strand treatment system is at capacity with additional loading over the summer months.
- Any additional loading of the treatment system would be inappropriate, and the development should be refused.

#### 3.2.2. Other Technical Reports

- Roads Report (dated 27<sup>th</sup> October 2022) stated that there was no objection to development subject to compliance with recommended conditions.

### 3.3. Prescribed Bodies

Irish Water Report (dated 23<sup>rd</sup> September 2022) recommend that the applicant submit, as further information, a Confirmation of Feasibility, which shall include confirmation from Irish Water that they, as the Water Authority and WWDL licensee, have confirmation from Irish Water that they completed an assessment under the "Combined Approach" of the Wastewater Discharge Authorisation (Regulation 43).

### 3.4. Third Party Observations

3.4.1. Three submissions were received. The main points raised in the observation can be summarised as follows:

Submission by Martin & Kate Nolan

- The western boundary is not indicated correctly on the submitted drawings.
- The centre line of the Griselinia hedge is the party line and, therefore the boundary of the site.
- The reduction of the height of the hedge would increase overlooking.
- The window in bedroom 1 of house type C2 overlooks their house and garden.
- The Griselinia hedge needs to be supplemented with a wall on the inner side.

Submission by Dr Finnian & Valerie Gallagher

- The density remains the same as the previous application, with inadequate amenity open space for residents.
- The water supply and wastewater facilities are not adequate and require upgrading.
- A wall needs to be constructed inside the hedgerow on the western boundary of the site in order to protect privacy.
- The proposed carport of house type B2 should be enclosed to prevent light and noise pollution to No.60 Seabury.

- The proposed Silver Birch trees are unsuitable for small urban gardens as they will grow to a height of 20-30 meters with a spread of 10 meters and will block sunlight.

Submission by Eddie and Elizabeth Cullen

- The application has a disregard for regulations and standards.
- The application does not address infrastructural and environmental obstacles such as inadequate sight lines, the impact of any railway bridge upgrade and the capacity for wastewater.
- There has been a planning history of refusals on this site.
- The development will overshadow and overlook adjoining properties.

## 4.0 Planning History

### 4.1. The Site

#### **P.A. Ref: 20220001**

Permission was refused on the 25<sup>th</sup> February 2022, for the demolition of 5 dwellings and the construction of 7no. dwellings for three reasons relating to the overdevelopment of the site, the lack of regard to future permeability provision to the lands to the north of the site and the provision/ retention of timber fencing along the west and east boundaries of the site and between the proposed rear gardens.

#### **ABP. Ref: 308429-20 (P.A. Reg: 20200850)**

Permission was refused on the 17<sup>th</sup> February 2021 for the demolition of 5 houses and the erection of 8no. dwellings for one reason relating to the failure to deliver a high-quality design in terms of functionality, visual appeal, and non-provision of a high level of residential amenity.

#### **P.A. Ref: 20110520**

Permission was refused on the 26<sup>th</sup> July 2011 for the demolition of 1no. dwelling and 4no. chalets and the construction of 5no. dwellings for two reasons relating to traffic hazards resulting from the proposed entrance and the inadequate layout, poor design, inadequate private open space provision, inadequate boundary treatment details and inadequate provision for internal traffic turning movements.

**P.A. Ref: 20091652**

Permission was refused on the 11<sup>th</sup> February 2010 for the demolition of 1no. dwelling and 4no. chalets and the construction of 6no. dwellings for three reasons relating to a deficiency in the availability of sewerage facilities in the area, inadequate sightlines and poor and inadequate open space, an overdominant turning circle and an inappropriately located pedestrian crossing.

**P.A. Ref: 20073082**

Permission was refused on the 2<sup>nd</sup> October 2007 for the demolition of 2no. dwellings and the construction of 12no. apartments in 3 blocks for three reasons relating to a deficiency in the availability of sewerage facilities in the area, the detrimental impact on the area's visual amenities, and the impact of blocks A&B on the neighbouring amenities through visual impact and potential for overlooking.

## **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 25th July 2022.
- 5.1.2. The site is located within the settlement boundary of Rosslare Strand, which has been designated as a Service Settlement (Level 3 (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 RS24 (Rosslare Strand):**

To require new developments to ensure that permeability is incorporated into the design of all new developments, in particular, opportunities to create local level



linkages between developments and to increase permeability for all users, in particular pedestrians and cyclists in accordance with Objectives TV25 to Objective TV32 in Volume 1 Chapter 5 Design and Place-making in Towns and Villages.

### **Objective RS25**

Map 5 indicates where additional accessible footpaths are required. These are locations where there are currently no footpaths of the road. The long-term objective shall be to provide accessible footpaths on both sides of the road, where feasible. However, there are some places where this will not be feasible due to various constraints.

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

## 5.4. EIA Screening

Having regard to the nature of the application as a modest housing development on a site with an established residential use and the availability of public water supply and sewerage facilities to serve the proposed development it can be concluded that there are no likely significant environment impacts arising from the proposed development and the requirement for the submission of an EIAR and carrying out of an EIA can be excluded at a preliminary stage.

Appendix 1 contains an EIA Pre-Screening form.

Appendix 2 contains an EIA Preliminary Examination form.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The main grounds of the first-party appeal can be summarised as follows:

- The appellant is disappointed and puzzled by the refusal on site given:
  - The historic and long-term residential use of the site.
  - The adverse visual impact of the existing site
  - The visual enhancement of the site which the development will bring.
  - The upgrade to the public road and provision of a footpath.
  - The modest scale of the site imposes constraints on the design and layout of the development.
  - The continuous revisions and amendments to preceding development proposals.
  - Many cited reasons for refusal could have been comprehensively dealt with by way of compliance conditions.
- It is clear from the Development Plan that there is available capacity in the Rosslare Strand Wastewater Treatment Plant, which will facilitate a degree of development in the village.

- Since five dwellings on site have previously been using the water and sewerage facilities, there will only be a marginal increase in loading on the existing mains.
- The appellant was not afforded the opportunity to provide confirmation from Irish Water that they have completed an assessment under the combined approach of the Wastewater Discharge Authorisation.
- Reason for Refusal No.2 does not form a legal basis for refusing permission for development as there is no provision in planning legislation which requires landowners to allow other parties access through their private lands.
- The provision of an access to adjoining lands in the future will effectively require the appellant to permanently sterilise part of the site for an event that may never happen.
- With regard to Reason for Refusal No. 3, it is contended that concrete post and timber fencing are more appropriate than concrete block walls in this seaside location.
- Should the Board consider block walls suitable, this can be dealt with by conditions rather than a reason for refusal.

## 6.2. Planning Authority Response

- No comments received.

## 6.3. Observations

An observation has been received from Finian & Valerie Gallagher. The main points raised can be summarised as follows:

- The provision of an under-croft car parking space with a further space to the rear closer to their dwelling will cause light and noise pollution.
- A wall on the western boundary, which defines the rear boundary with their site is essential to maintain the integrity and privacy of their dwelling.
- Silver birch trees will inevitably block sunlight and overhang the neighbouring gardens.

- In relation to wastewater, there has only been one permanent resident living on the site over the last 20 years. Therefore, it is incorrect to state that there would only be a marginal increase in waste water effluent.

## 7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including the appeal, 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
- Permeability
- Boundaries
- Appropriate Assessment

### 7.2. **Wastewater**

7.2.1. The first reason for refusal had regard to the emerging capacity constraints at the Rosslare Strand Wastewater treatment. Taking the precautionary approach, the planning authority considered that the proposed additional loading into the existing wastewater treatment plant resulting from the proposed development would be prejudicial to public health.

7.2.2. The Uisce Eireann's report on the application stated that the Rosslare Strand Wastewater failed to meet the EPA wastewater Discharge Licence requirements and was therefore given an Amber status on the Wastewater Treatment Capacity Register 2022. It stated that a capital upgrade of the WWTP is not the current capital programme up to 2024 and is also not included in the subsequent capital investment plan for 2024-2028. Uisce Eireann required the applicant to provide an up-to-date Confirmation of Feasibility, including confirmation from Uisce Eireann that they have completed an assessment under the "Combined Approach." The report also highlights that the stated 'available capacity' for the treatment plant is deemed to be

overestimated and does not fully account for the sustained average weekly loading during the summer season when multiple severe breaches of the WWDL limits occur. Uisce Eireann also observes that the aggregate loading of all of the Confirmation of Feasibility's issued in the past two years is greater than the capacity claimed to exist at the Wastewater Treatment Plant.

7.2.3. The current Uisce Eireann's Wastewater treatment capacity register, published June 2023, also classifies the Rosslare Strand Wastewater Treatment Plant as having an Amber Indication of Available Capacity.

7.2.4. Amber designation means that the Wastewater Treatment Plant has potential spare capacity and that applications should be considered on an individual basis considering their specific load requirements. For Rosslare Strand, there is further elaboration, stating that there is potential space capacity. It also states:

7.2.5. *'Connection applications and enquiries currently being processed may impact on capacity availability. Connection applications will be assessed on an individual basis considering their specific load requirements, engagement with Uisce Eireann's Connections and Developer Service Team ahead of planning a project is required.'*

7.2.6. There is no evidence on file that Uisce Eireann or Wexford County Council have carried out the Combined Approach Assessment for Rosslare Strand.

7.2.7. Objective RS22 of the Development Plan requires when assessing planning applications, regard has to be had to the available capacity of the wastewater treatment plant and its seasonal capacity. I consider that, as a Combined Approach Assessment has not been carried out, it has not been demonstrated that there is adequate capacity in the WWTP to serve the proposed development. Therefore, the development would be premature, having regard to the deficiencies in the Rosslare Strand Wastewater Treatment Plant.

### 7.3. **Permeability**

7.3.1. The second reason for refusal relates to a lack of regard for the future permeability provision to the land directly north of the site. The site to the north is a long-established mobile holiday park bounded by a palisade fence.

- 7.3.2. The appellant contends that the requirement to link the subject lands to the adjoining lands to the north falls outside the remit of the planning authority as it requires the appellant to restrict the development at the subject site in order to gain access to already developed private lands. I note the reason for refusal relates to the lack of provision for future permeability provision in the proposed layout only.
- 7.3.3. It is an objective of the Development Plan to ensure that permeability is incorporated into the design of all new developments, in particular, opportunities to create local level linkages between developments and to increase permeability for all users, particularly pedestrians and cyclists. While a link to the adjoining lands would be beneficial for the permeability of the village, the adjoining land is an established use, and there is no evidence that the land will be redeveloped in the future. I consider that any pedestrian or cycle link through the adjoining lands is unlikely to happen in the long term. The proposed extension and upgrading of the footpath in front of the site will improve the pedestrian movement in this section of the village and will contribute to achieving Objective RS 26 of the Wexford County Development Plan 2022-28. Given the narrow width of the site, the established use of the adjoining site and the proposed improvement to pedestrian movement in front of the site, I consider that accommodation for potential permeability provision to the lands directly to the north of the site is not required.

#### **7.4. Residential Amenity**

- 7.4.1. The observer on file refers to the potential impact on the residential amenity on No.60 Seabury from the proposed undercroft car parking space for house type B2. At its closest point, the undercroft car parking space is c.26m from the rear elevation of No.60 Seabury. I also note double doors are proposed to the rear of the undercroft parking space. I do not consider that this car parking space will seriously injure the residential amenity of the house and the private amenity space of No.60 Seabury.
- 7.4.2. The appellant raises concerns relating to the use of *Betula pendula* (Silver Birch) trees proposed along the site boundary. Given the separation distance of c.16m between the proposed trees and the dwelling of No.60 Seabury, I do not consider that there will be undue overshadowing of the dwelling. Given that only two trees are

proposed along the boundary with No.60 Seabury. I believe there will not be significant overshadowing of the rear amenity space of No.60.

## **7.5. Boundaries**

- 7.5.1. The third reason for refusal related to the use of timber fencing along the west and east of the site and between the rear gardens and references Section 3.12.6 of the Wexford County Development Plan 2022-2028. Section 3.12.6 states that for residential development, the side and rear boundaries of gardens shall be 1.8-2 metres in height, formed by concrete block walls, and that wooden fences will not be permitted. It states that where existing hedgerows and/or mature trees are present, these should be retained and complimented with additional boundary treatment where required. On the eastern boundary, there is a substantial existing hedgerow that I consider should be retained.
- 7.5.2. It is proposed to replace the existing timber post and timber panel fence on the western boundary with a new one. To comply with the current development plan, I consider that blockwork walls would be more appropriate in these locations. If the Board is minded to grant permission, I recommend attaching a condition requiring blockwork boundary walls.

## **7.6. Appropriate Assessment**

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.

## 8.0 Recommendation

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

## 9.0 Reason

1. 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.

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Peter Nelson  
Planning Inspector

14th November 2023



## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	315341			
<b>Proposed Development Summary</b>	Demolition of 5 Houses and construction of & houses and all associated site works			
<b>Development Address</b>	Walsheslough, Rosslare, Co.Wexford			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>	<b>Yes</b>	<input checked="" type="checkbox"/>		
	<b>No</b>			
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>				
<b>Yes</b>			EIA Mandatory EIAR required	
<b>No</b>	<input checked="" type="checkbox"/>		Proceed to Q.3	
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>		N/A		No EIAR or Preliminary Examination required
<b>Yes</b>	<input checked="" type="checkbox"/>	Class 10 (b) (i)		Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: *Peter Nelson*

Date: 14<sup>th</sup> November 2023

## Appendix 2 - Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	315341	
<b>Proposed Development Summary</b>	Demolition of 5 houses, construction of 7 houses and all associated site works	
<b>Development Address</b>	Walsheslough, Rosslare, Co.Wexford	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b> Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The site is surrounded by residential development in a village setting. The proposed residential development is not exceptional in the context of the existing environment.</p> <p>The development will not result in the production of any significant waste, emissions or pollutants.</p> <p>Localised construction impacts will be temporary.</p>	NO
<p><b>Size of the Development</b> Is the size of the proposed development</p>	<p>The development of 7 dwellings will not be exceptional in the context of the existing</p>	NO

<p>exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>environment which consist of low-density residential development and a mobile home park.</p> <p>As there are no major projects in the area there are no significant cumulative considerations having regard to other existing and/or permitted projects.</p>	
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>There are no ecologically sensitive locations in the vicinity of the site. The nearest European site, the Wexford Harbour and Slobbs Special Protection Area (Site Code: 004076), is approximately 1.5 km west of the site.</p> <p>The proposed modifications do not introduce any additional potential to significantly affect other significant environmental sensitivities in the area.</p>	<p>NO</p>
<p><b>Conclusion</b></p>		

<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p>		
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Inspector: 

Date: 14<sup>th</sup> November 2023