



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316185-23

#### Development

Change of use from commercial to residential on ground and first floors, change of use from storage to residential on second floor, retention of dormer to rear and roof windows to front, permission for extension and alterations to rear and associated site works

#### Location

44 High Street, Wexford.

#### Planning Authority

Wexford County Council

#### Planning Authority Reg. Ref.

20230054

#### Applicant(s)

Michael Tohill

#### Type of Application

Permission

#### Planning Authority Decision

Grant

#### Type of Appeal

Third Party

#### Appellant(s)

Anita Gaul

#### Observer(s)

None

**Date of Site Inspection**

7<sup>th</sup> July 2023

**Inspector**

Catherine Dillon

## 1.0 Site Location and Description

- 1.1. The site is occupied by a two-storey mid terrace property on the western side of the High Street within Wexford Town centre. The property has an existing two-storey rear projection and a recently constructed rear dormer window in the roof. There is a small rear yard area enclosed by a high wall. The gross floor space of the building is stated as 99.91m<sup>2</sup>, with a site area of 0.078 hectares.
- 1.2. No. 42 High Street adjoining the subject site to the north is a two-storey residential property in use as 3 separate units. The southern elevation to this property abuts the subject site and has 1 bedroom window at first floor level and a window in the roof serving another bedroom along this boundary.
- 1.3. The subject site abuts another property on its western boundary, known as Clarence House a two storey protected structure (Ref: WBC 0172) currently vacant but was formerly in commercial use. This property has an obscure glazed window at first floor level on its eastern elevation which abuts the rear western boundary of the subject site.
- 1.4. The site is located within a terrace primarily comprising residential houses. There is a Municipal car park on the eastern side of the High Street opposite the site.
- 1.5. The subject property is not a protected structure and the site is not within a Conservation Area, but lies within the Wexford Town Zone of Archaeology (WX037-032). The Town wall is to the west of the site.
- 1.6. Although the site is within the Town Centre there is an established residential character to this side of the street. Wexford Opera House is to the northeast of the site beyond the public car park.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the change of use of the property from a commercial/shop on the ground and first floor and storage use on the second floor to a three bedroom residential unit.
- 2.2. The development includes the retention of a dormer to the rear and three rooflight windows on the front elevation serving the second floor. The rear dormer projects

2.5m beyond the rear roof plane and is set below the ridge height with a width of 2.5m. The dormer window has a double glazed door (indicated as a fire exit) to be enclosed by a 1m high railing. This dormer provides light to a third bedroom on the second floor. A single width glazed door in the rear first floor elevation with a railing is indicated to serve as a fire exit to the first floor. This door had not been installed on the day of the site inspection.

- 2.3. The proposal would include an infill extension on the ground floor with a monopitch roof with a maximum height of 3.7m. This extension would infill part of the courtyard area to accommodate a bedroom on the ground floor. A small courtyard area c.2m<sup>2</sup> would be retained to the rear.
- 2.4. The development would connect to the existing public sewer and water mains.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

On 16th March 2023, Wexford County Council granted planning permission for the proposed development. Of relevance to this permission is condition 2 which states:

The dwelling shall be used as a single dwelling only and not be used as studio apartments.

Reason: In the interest of clarity and to ensure that effective control is maintained.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Report**

The planner's report refers to the third-party submission and notes the existing arrangement for the various properties at the rear at this location is typical for long established town centre locations where property conversions and extensions have been developed over time. The dormer window does not include a balcony and there is no direct overlooking from the dormer window and no loss of privacy. The balcony does not extend rearwards and is effectively a guardrail.

The report states that from the plans the property could be converted into three separate studio apartments. However, this is not what is sought via the planning application.

### 3.2.2. Other Technical Reports

Heritage Officer: No report received

Executive technician- Wexford MD: No technical observation

Housing Department: No report received

Chief Fire Officer: No report received

### 3.3. Prescribed Bodies

Dept. of Housing, Local Government & Heritage: No report received.

### 3.4. Third Party Observations

A submission was received from the Anita Gaul, the Appellant at No.42 High Street, to the planning application on the following grounds:

- Loss of light and privacy from balcony to bedroom window.

## 4.0 Planning History

4.1.1. **P.A.Ref: No: 6120:** Planning permission was granted to Mr. Seamus Carter in 2005, by Wexford Borough Council, for the change of use from residential to commercial/retail, permission also sought to erect an extension and carry out alterations to same (including alterations to the existing façade and associated signage) and for all necessary works at 44 High Street, Wexford, subject to 9 conditions.

4.1.2. **P.A.Ref: W2008 092:** Planning permission was granted to Seamus Carter in 2008, by Wexford Borough Council, for the change of use of approved commercial/retail unit at 44 High Street, Wexford to wine bar and tea shop and to carry out alterations to same (Planning Ref: No.6120 refers) subject to 8 conditions at 44 High Street, Wexford.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The Wexford County Development Plan 2022-2028, is the operative plan for the site. The lands are not zoned and the Wexford Town Plan is pending.

5.1.2. Objective TV46 Volume 1 of the Plan promotes and encourages residential uses on upper floors of appropriate buildings located in town centres.

5.1.3. In Volume 2 'Development Management Manual' Section 2 sets out common principles for all developments. Section 2.6 sets out that all development should ensure that it would not give rise to undue overshadowing, loss of daylight and sunlight or undue overlooking of properties in the vicinity. In general, a minimum distance of 22m between opposing above ground floor windows will be required for habitable rooms. In cases where an innovative design solution is proposed, this standard may be relaxed.

5.1.4. Section 3.4 of Volume 2 specifically relates to extensions to Dwelling Houses. Although the previous use of the appeal property was commercial, it was formerly a dwelling and the need for people to extend and renovate their dwelling houses is recognised and encouraged. Accordingly, appropriate extensions to existing dwelling houses will be considered subject to compliance with the following criteria:

- The proposed extension must be of a scale and position on the site which would not be unduly incongruous with its context.
- The design and external finishes of the extension need not necessarily replicate or imitate the design and finish of the existing dwelling. Contemporary designs and finishes often represent a more architecturally honest approach to the extension of a property and can better achieve other objectives such as enhancing natural light. It should be noted that a different approach may apply in the case of a Protected Structure or within an Architectural Conservation Area.
- The extension should not have an adverse impact on the amenities of adjoining properties through undue overlooking, undue overshadowing and/or an over dominant visual impact.

- The extension should not impinge on the ability of adjoining properties to develop a similar extension.
- Site coverage should be carefully considered to avoid unacceptable loss of private open space.
- The degree to which the size, position and design of the extension is necessary to meet a specific family need, for example, adaptations to provide accommodation for persons with a disability.
- Where required, it will be necessary to demonstrate that the existing on-site wastewater treatment facilities serving the main dwelling house are adequate and can facilitate the additional loading from the extension. Where this cannot be demonstrated, it will be necessary for the on-site wastewater facilities to be upgraded as part of the development proposal.

5.1.5. Table 3-4 of Volume 2 specifies a three-bedroom house would be required to have a floor area of 92m<sup>2</sup> with a private open space of 60m<sup>2</sup>.

## 5.2. **Natural Heritage Designations**

5.2.1. None relevant

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

6.1.1. The appellant owns and lives in the converted property at No.42 High Street abutting the northern boundary of the appeal premises and the grounds of Appeal are as follows:

- The ground and first floor extension is blocking sunlight into bedroom of adjoining property which is used by children.
- Dormer extension with double doors and balcony are blocking sunlight into bedroom and invading privacy.
- Extension has been built without planning permission.

- Large windows provide light into bedrooms to enable them to be apartments and provide a greater return to owner to sell.

## 6.2. Applicant Response

None

## 6.3. Planning Authority Response

None

## 7.0 Assessment

7.1. Having examined the file and the planning history, considered all policies and guidance, the submission of the appellant and inspected the site, I consider the key planning issues to be considered in this appeal are:

- The impact of the rear extensions on the residential amenity of the adjoining property, No.42 and Appropriate Assessment.

### 7.2. Impact on adjoining residential amenity of No.42 High Street

7.2.1. The development includes the retention of 3 rooflights in the front elevation and one in the rear elevation. From my site inspection these windows would not give rise to undue overlooking and there is a precedent for similar roof windows in the vicinity. These rooflights are therefore considered acceptable and would not impact on residential amenity or the character of the area.

7.2.2. The remainder of the proposed development includes a single storey rear infill extension, a second-floor rear dormer and a window at first floor level to the rear, which will be assessed in turn regarding the impact on the adjoining residential amenities of the neighbouring properties.

#### 7.2.3. Single storey infill extension

This extension would be located on the ground floor to provide a bedroom, which would be served by a glazed door onto the rear courtyard area facing south. The extension would be stepped in c2.1m from the property to the north (No.42) as it would be attached to an existing extension along this boundary. There are no windows in the southern elevation of the property to the north at ground floor level.



The courtyard is currently enclosed by a high wall and the proposed door would not overlook the accessway to the south. A bedroom served by a glazed door is not however considered an ideal environment for future occupiers of the property. Nevertheless, this infill extension would not impact on the residential amenities of the existing properties to the north or west, in terms of loss of privacy, outlook, or loss of light.

7.2.4. Second floor rear dormer window

This dormer has already been constructed to the rear of the appeal premises. The dormer is set back 2.9m from the shared boundary with No.42 and projects 2.5m beyond the roof plane.

7.2.5. On the day of the site inspection, it was possible to see the bedroom window on the southern elevation of No.42 High Street from behind the glazed door of the dormer extension. However, the dormer is at an oblique angle to this window, and it was only possible to directly look into the bedroom window by standing on the scaffolding on the roof (i.e beyond the window pane). The second window on the adjoining property is a rooflight window and given its size it was not possible to look into this window from the dormer.

7.2.6. I viewed the dormer extension from the first-floor bedroom window and rooflights in the second floor in No.42 High Street and was therefore able to assess the impact of the dormer in terms of light and overlooking to both rooms. The dormer does not project beyond either window, and does not reduce the daylight to these rooms. Furthermore, given the deep inner cills to the first floor window it was only possible to see the dormer window from No.42 High Street by standing close to the window and looking up towards the subject property's roof. I am satisfied there is no loss of privacy or light from the dormer window into both the bedroom at first floor level and second floor level in No.42 High Street, as a result of the dormer window.

7.2.7. The drawings specify the glazed door serving the dormer is for a fire exit to the second-floor accommodation. However, given the size of the glazing I can appreciate there is a perception of being overlooked. The property is to be used as a single dwelling and I can see no reason for the door/glazing to be so large. I noted there was not a precedent for this type of dormer in the adjoining properties. If the Board are minded to grant planning permission I would recommend this glazed door

is replaced by a window (1mx1m), which is more in keeping with a dormer extension and would not prejudice development of the lands to the rear.

7.2.8. New glazed door in rear first floor elevation

This door would replace an existing window and is indicated as providing a fire escape to the first-floor accommodation. It was not installed on the day of the site inspection, and from the drawings submitted it would serve a shower. I can see no reason why this window would have to be the same size as a door to serve a bathroom. I would recommend if the Board are minded to grant planning permission that this glazed door remains as a window, so as not to prejudice the future development of the lands to the rear.

7.2.9. The drawings as submitted indicate the glazed door in the dormer window and glazed door at first floor level would have handrails and are required for a fire exit. This would be a Building Regulation matter and is outside the remit of this planning appeal.

7.2.10. The third party has raised concerns about the property being converted into 3 separate units. The layout of the development would suggest the property would be used as a single dwelling house rather than 3 separate units as the upper floors have no kitchen or dining area. The property would not meet the requirements for a flat conversion and as such it is recommended should the Board consider a grant of planning permission a condition is attached restricting the property to be used as a single dwellinghouse only.

### 7.3. **Appropriate Assessment**

7.3.1. Having regard to the nature and small scale of the proposed development in a fully serviced built-up urban area, it is my opinion the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

## 8.0 **Recommendation**

8.1. I recommend permission be GRANTED subject to conditions.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the nature and location of the development and pattern of development in the vicinity, it is considered that subject to the conditions set out below, the proposed development would not seriously injure the amenities of residential property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

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| 1. | <p>The development shall be retained and completed in accordance with the plans and particulars lodged with the application, 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 completion of the development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p> |
| 2. | <p>The development shall be amended as follows:</p> <p>(a) The glazed door to the rear second floor dormer shall be replaced by a window which shall be 1m x1m in size.</p> <p>(b) The proposed glazed door in the rear first floor elevation shall be retained as a window.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority within 3 months of this order.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>  |
| 3. | <p>The property shall be occupied as a single residential dwelling only and shall not be sold, let or otherwise transferred or conveyed save as a dwelling.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>   |

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| 4. | That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on the adjoining roads during the course of the works.<br><br><b>Reason:</b> To protect the amenities of the area. |
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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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Catherine Dillon  
Planning Inspector

8<sup>th</sup> August 2023