



An  
Bord  
Pleanála

## Inspector's Report ABP-316268-23

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<b>Development</b>	House
<b>Location</b>	Heavenstown, Cleariestown, Co Wexford
<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20220969
<b>Applicant(s)</b>	Aaron Sinnott
<b>Type of Application</b>	Outline Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Aaron Sinnott
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	17 <sup>th</sup> September 2023
<b>Inspector</b>	Mary Crowley

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## 1.0 Site Location and Description

1.1. The appeal site with a stated area of 0.28ha is located approximately 3.5km southwest of Murntown and 2km southeast of Cleristown. The site is located on a private unsurfaced lane which opens onto a county road. The area is characterised by agricultural fields and one-off rural dwellings. 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. Outline planning permission is sought for the erection of a fully serviced dwelling house, detached garage and all associated site works. The application was accompanied by the following:

- Plan for junction of County Road / Lane
- Site Characterisation Form
- Details of proposed wastewater treatment system (Bio-Crete)
- Report on Drip Dispersal System of Wastewater for on-site system
- SUDs Drainage Report

2.2. Supporting Local Need documentation that includes:

- Letter of consent from Grandfather to make planning application on family land
- Confirmation of attendance at local primary & Secondary school at Bridgetown College.
- Copies of birth & baptism certs
- Amazon receipt (2014) of order and delivery address at Heavenstown, Cleariestown
- Pixmania receipt (2013) of order and delivery address at Heavenstown, Cleariestown
- CAO email (2014) confirming applicants address at Heavenstown, Cleariestown

- HSE vaccine letter (2001) confirming applicants address at Heavenstown, Cleariestown
- Letters from applicant setting out reasons for needing to live at the appeal site

2.3. Further information was submitted on 22<sup>nd</sup> April 2023 comprising the following:

- Letter from landowner consenting to trimming and maintaining the roadside boundary for the purposes of maintaining safe sightlines for access to and from the private lane adjacent to their lands
- Revised site plan at lane / road junction
- Report on Drip Dispersal System of Wastewater form onsite system
- Letter from applicant setting out compliance with rural house policy and accompanying map indicating location of surrounding family houses

2.4. Revised public notices were submitted on 22<sup>nd</sup> February 2023

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. Wexford County Council issued a notification of decision to refuse permission for the following reason:

- 1) *The applicant has failed to adequately demonstrate rural linkage and housing need in accordance with the rural housing policy as set out in Volume 1 Table 4.6 of the Wexford County Development Plan 2022- 2028. The proposal is therefore contrary to the proper planning and the sustainable development of the area.*
- 2) *The application site is located on a County Road where, in accordance with Section 8.7.3 of the Wexford County Development Plan 2022-2028, it is a requirement for sightlines of 65 m minimum in each direction to the nearside road edge be provided at the access/egress point from a 2.0 m setback. It has not been demonstrated that adequate sightlines are available or can be achieved at the proposed access/egress point and can't be achieved without major realignment works in both directions. In the absence of a suitable means of vehicular access to the site, it is considered that the development for which permission is sought would fail to satisfy*

*the requirements of the Wexford County Development Plan 2022-2028, would interfere with the free flow of traffic, would endanger public safety by reason of traffic hazard and would, therefore, be contrary to the proper planning and sustainable development of the area.*

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- The **Case Planner** in their first report requested further information in relation to compliance with rural housing policy for the area, proposals to replace the insitu topsoil with suitable replacement soil and sight lines at the junction with the county road. Further information was requested on 7<sup>th</sup> September 2022. In their second report and having considered the further information submitted recommended that permission be refused for 2 no reasons relating to (1) rural linkage and housing need and (2) inadequate sightlines at the proposed access/egress point. The notification of decision to refuse permission issued by Wexford County Council reflects this recommendation.

### 3.2.2. Other Technical Reports

- **Area Engineer** – In their first report requested revised drawings clearly showing that 65m sightlines are achievable, measured from a point 2m back from the edge of the public road at the centre of the proposed access point to the near edge of the road. In their second report and having considered the further information submitted recommended that permission be refused due to lack of adequate sightlines at the junction of the private lane and the public road.
- **Environment** – In their first report requested proposals to replace the insitu topsoil with suitable replacement soil, or alternatively submit plans for a different suitable wastewater treatment system. In their second report and having considered the further information submitted recommended that permission be granted subject to conditions as set out in their report.

## 3.3. Prescribed Bodies

- None

### 3.4. Third Party Observations

3.4.1. None

### 4.0 Planning History

4.1. There is no evidence of any previous appeal at this location and no planning history has been made available with the appeal.

### 5.0 Policy Context

#### 5.1. Development Plan

5.1.1. The operative plan for the area is the **Wexford County Development Plan 2022 – 2028**. I refer to Volume 1 Map 1 – Rural Area Types. The appeal site is located within an area identified as **Strong Urban Influence**.

5.1.2. Table 4.6 Criteria for One-Off Rural Housing and the accompanying definition and notes as follows:

Rural Area Type	Category A (Social Need)	Category B (Economic Need)
<b>Strong Urban Influence</b>	A person who has lived full-time in a principal residence for a minimum of 7 years (not necessarily concurrently and at any time in their life) in that local rural area and the site is within 7km radius of where the applicant has lived or is living and who has never owned a rural house. (See Point 4 in Definitions and Notes regarding owning a rural house). The dwelling must be the person's permanent place of residence. The person can work from home or commute to work daily.	Persons who by the nature of their work have a functional need to reside permanently in the rural area close to their place of work. Functional economic need must be related to a rural resource based activity such as full-time agriculture or horticulture and the nature of the activity or business must require the person to live at on or in close proximity to the business. Similar part-time occupations can also be considered where it can be demonstrated that it is the predominant occupation. The applicant must be able to provide documentary evidence that the employment is fulltime or predominant employment when part-time. The applicant must be able to

		demonstrate that the landholding is such to support a viable enterprise.
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5.1.3. Relevant Section of **Table 4-6 Definition and Notes:**

- 1) A person with a social functional rural housing need is defined as a person who is an intrinsic member of a local rural community having lived for the specified period of time in their 'local rural area' and who has never owned a rural house. It includes persons who were reared in the local rural area but that local rural area is now within a settlement boundary/zoned land. It also includes a person who has links by virtue of being a long term rural landowner or the son or daughter or successor of such a person. A long term rural landowner is defined as a landholding owned by that person before the 30th April 2007.
- 2) In accordance with Objective TS66 in Chapter 8 Transportation Strategy and regardless of compliance with Category A or B, no individual rural housing proposing either (a) a new direct access to the national road network or (b) the generation of increased traffic from an existing access onto the national road network in a zone where the speed limit is greater than 60kph will be permitted- see Section 8.7.1 National Roads (Chapter 8 Transportation Strategy).
- 3) All permissions for individual rural housing will include an occupancy condition and a permanent residence condition (see Objectives SH41 and SH42).

5.1.4. Objectives relevant to this appeal are as follows:

- **Objective SH41** - *All planning permissions granted for individual rural dwellings in the open countryside will be a subject to a condition which will require the applicant to enter an occupancy agreement for a period of 10 years from the date of first occupation of the dwelling house.*
- **Objective SH42** - *All planning permissions granted for individual rural dwellings in the open countryside will be subject to a condition that the dwelling house be used as a permanent residence only.*

5.1.5. **Section 8.7.3 Local Roads** states that *the Council will consider development proposals for new and intensified access points on local roads on a site-by-site basis having regard to the characteristics of the site and the development proposed, adjacent development, the Primary or Secondary/Tertiary designation of the road, the*



*sight distances available and the condition and the vertical/horizontal alignment of the road, at all times having the utmost regard for public safety and traffic safety issues.*

Objectives relevant to the proposed scheme are as follows:

**Objective TS78** - *To facilitate new accesses, or the intensified use of existing accesses, to the local road network having regard to*

- *The characteristics of the site;*
- *The likely level and characteristics of traffic associated with the development / use proposed;*
- *The Primary or Secondary/Tertiary designation of the road;*
- *The condition, alignment and capacity of the local road at that location;*
- *Public safety and the need to avoid an undue proliferation of access points at that location;*
- *The avoidance of undue loss of significant existing natural and built features at the road edge;*
- *Where the speed limit is less than 60kmh the Design Manual for Urban Roads and Streets (DTTS 2013/2019) and the promotion of convenient, safe and attractive cycling and walking; and*
- *Compliance with all other relevant objectives and development management standards including those relating to the provision of sightlines.*

*This objective also applies where access to the local road is proposed via an existing private lane.*

5.1.6. **Volume 2 – Development Management Manual** sets out the criteria for **Single Dwellings in Rural Areas** in Section 3.1. Table 3-1 sets out the Principles for Siting a house in a rural area and Table 3-2 sets out the Principles for Rural Architecture. Section 3.1.2 lists the Standards for Single Dwellings in Rural Areas. A planning application for the development of a single dwelling in a rural area will be required to demonstrate compliance these development management standards.

5.2. **Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009** – Sets out guidance

on the design, operation and maintenance of on-site wastewater treatment systems for single houses.

### 5.3. **Natural Heritage Designations**

5.3.1. The appeal site is not located in or immediately adjacent to a European Site

### 5.4. **EIA Screening**

5.4.1. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment. The need for Environmental 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 first party appeal has been prepared and submitted by Terry O'Leary Engineers and may be summarised as follows:

- **Refusal Reason No 1** - The dwelling complies with the relevant development plan objectives and policies as set out in the Wexford County Development Plan 2013 – 2019. Policy Objective RH01 when read in conjunction with Table 12 makes provision for rural housing when certain criteria are met. The social and economic requirements have been met.
- **Refusal Reason No 2** – The site is located on a private lane and access to the site is from this lane which in turn meets the County Road some 200m to the south. This private laneway has been occupied by residential dwellings for over 100 years. Furthermore, Wexford County Council have granted a number of similar permissions since 2017. Noted that further information was in relation to sight distance. The applicant was granted permission to undertake works at the junction of the private lane and the County Road to comply with 65-meter sightline requirements (photos provided). The location of the Eircom pole can be addressed. This is an existing junction of a private lane with a public road and as

such the subject planning permission is only utilising infrastructure that already exists and that is used every day. The granting of this planning permission would in essence improve the safety of the junction for all of the other residents that reside on the private lane and be of significant benefit to the wider community.

6.1.2. The appeal was accompanied by (1) copy of the planning decision to refuse and (2) supporting Local Need documentation that includes:

- Letter of consent from Grandfather to make planning application on family land
- Map illustrating family occupying surrounding properties
- Confirmation of attendance at local primary & Secondary schools
- Confirmation of membership of local GAA Club (St. Anne's)
- Copies of birth & baptism certs
- Letters from applicant confirming social and economic reasons for needing to live at the subject location.
- Map Illustrating proximity of family members to appeal site

## 6.2. **Planning Authority Response**

6.2.1. None

## 6.3. **Observations**

6.3.1. None

## 6.4. **Further Responses**

6.4.1. 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
- Traffic Impact
- Other Issues
- Appropriate Assessment

## 7.2. Principle

- 7.2.1. Wexford County Council in their first reason for refusal stated that the applicant had failed to adequately demonstrate rural linkage and housing need in accordance with the rural housing policy as set out in Volume 1 Table 4.6 of the Wexford County Development Plan 2022- 2028.
- 7.2.2. I note that the appeal submission refers to the County Wexford Development Plan 2013 – 2019 as this was the Development Plan referred to in the Case Planners report. However as documented above the Wexford County Development Plan 2022 – 2028 is referenced in the reasons for refusal. In the interest of clarity, I would point out that the operative plan in the consideration of this appeal is the Wexford County Development Plan 2022 – 2028
- 7.2.3. Outline planning permission is sought for the erection of a fully serviced dwelling house, detached garage and all associated site works. While not explicitly stated in the public notices the development is to be served by a wastewater treatment plant and soil polishing filter. Details are provided together with a site characterisation form. This is a standalone development that is self-contained.
- 7.2.4. The rural settlement policy for Wexford County is set out in Chapter 4 of the Wexford County Development Plan 2022 – 2028. Map 1 – Rural Area Types identifies the appeal site as within an area of Strong Urban Influence. I refer to Section 4.9.1 - Single (One-Off) Rural Housing Policy Context where it states that in order to be considered for a single dwelling in the open countryside, an applicant must meet either an economic or social need (subject to other planning criteria). Applicants will also need to demonstrate compliance with the qualifying criteria for that category and the applicable rural area criteria as set out in Table 4.6 and the accompanying definition and notes. Relevant section of the Development Plan is set out in Section 5.1 above.

7.2.1. Having regard to information on file together with the criteria set out in Table 4.6 I consider that the applicant should be assessed under the following Category A (social need) criteria:

- **Lived for 7 years within 7km of the appeal site** – The applicant states that they have *resided next door to the site for practically all of his life*. I refer to the information submitted with the appeal file including the following:
  - The application form that states the applicants address is Heavenstown, Cleariestown
  - Letter of consent from Grandfather to make planning application on family land
  - Confirmation of attendance at local primary & Secondary school at Bridgetown College.
  - Copies of birth & baptism certs
  - Amazon receipt (2014), Pixmania receipt (2013) and CAO email (2014) of order and delivery address at Heavenstown, Cleariestown
  - HSE vaccine letter (2001) confirming applicants address at Heavenstown, Cleariestown
  - Map indicating location of surrounding family houses proximate to the appeal site

Having regard to the foregoing I am satisfied that the applicant has demonstrated that they have lived full-time within 7km of the appeal site for in excess of 7 years and therefore satisfy this criteria.

- **Never owned a rural house** - I refer to the planning application form where it states that the applicant has never owned a dwelling. I am satisfied that the applicants satisfy these criteria.
- **Permanent Place of Residence** - I refer to planning application form where it states that the proposed dwelling will be occupied as a permanent place of residence for a period of 5 years. I am satisfied that the applicants satisfy this criterion. Objective SH41 of the Development Plan requires that all permission granted for rural housing will be subject to an occupancy condition restricting the use of the dwelling to the applicant or members of his/her immediate family as a place of permanent residence for a period of ten years from the date of first

occupancy. It is recommended that should the Board be minded to grant permission that such a condition be attached

- **Working Arrangements** - I refer to the information submitted on file and note that the applicant works from home save for one day a month when they travel to the office in Dublin. I am satisfied that the applicants satisfy this criterion.

7.2.2. Having regard to the foregoing it is recommended that the first reason for refusal is set aside.

7.2.3. Notwithstanding the foregoing I would draw the Boards attention to *Table 4-6 Definition and Notes* where it is stated that in accordance with Objective TS66 in Chapter 8 Transportation Strategy and regardless of compliance with Category A or B, no individual rural housing proposing either (a) a new direct access to the national road network or (b) the generation of increased traffic from an existing access onto the national road network in a zone where the speed limit is greater than 60kph will be permitted-see Section 8.7.1 National Roads (Chapter 8 Transportation Strategy). This criteria is discussed further below.

### 7.3. **Traffic Impact**

7.3.1. Wexford County Council in their first reason for refusal stated that it has not been demonstrated that adequate sightlines are available or can be achieved at the proposed access/egress point and can't be achieved without major realignment works in both directions. Reference is made to Section 8.7.3 of the Wexford County Development Plan 2022-2028.

7.3.2. As documented the proposed access is from a private laneway which directly accesses a county road where sightlines at the access/egress point in both directions are restricted and in particular in a northerly direction. There is also an existing pole at this location.

7.3.3. Section 8.7.3 Local Roads states that the Council will consider development proposals for new and intensified access points on local roads on a site-by-site basis having regard to the characteristics of the site and the development proposed, adjacent development, the Primary or Secondary/Tertiary designation of the road, the sight distances available and the condition and the vertical/horizontal alignment of the road, at all times having the utmost regard for public safety and traffic safety issues.

Objective TS78 is clear and reasonable whereby access to the local road is proposed via an existing private lane will be facilitated having regard to a number of criteria including the characteristics of the site; the likely level and characteristics of traffic associated with the development / use proposed; the condition, alignment and capacity of the local road at that location; public safety and the need to avoid an undue proliferation of access points at that location and compliance with all other relevant objectives and development management standards including those relating to the provision of sightlines.

- 7.3.4. Having regard to the foregoing I agree with the Area Engineer that the proposals to improve sightlines at the existing junction of the private lane and public road are not deemed adequate without major realignment works in both directions. I further agree that in the absence of a suitable means of vehicular access to the site the development would interfere with the free flow of traffic and would endanger public safety by reason of traffic hazard. Refusal is recommended.

#### 7.4. **Other Issues**

- 7.4.1. **Development Contributions** – I refer to the Wexford County Council Development Contribution Scheme. The development is not exempt from the requirement to pay a development contribution. It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000

#### 7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development, the nature of the receiving area (the proposed development has demonstrated that a wastewater treatment plant and surface water soakaway can both be safely accommodated at the site), the physical separation distances to European Sites, and the absence of ecological and/ or hydrological connections, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

## 8.0 Recommendation

- 8.1. Having considered the contents of the application the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **REFUSED** for the following reason.

## 9.0 Reasons and Considerations

- 1) The proposed access is from a private laneway which directly accesses a county road where sightlines at the access / egress point in both directions are restricted and where, in accordance with Section 8.7.3 of the Wexford County Development Plan 2022-2028, it is a requirement for sightlines of 65 m minimum in each direction to the nearside road edge be provided from a 2.0 m setback. It has not been satisfactorily demonstrated that adequate sightlines are available or can be achieved without major realignment works in both directions. In the absence of a suitable means of vehicular access to the appeal site, it is considered that the development for which permission is sought would fail to satisfy the requirements of the Wexford County Development Plan 2022-2028, would interfere with the free flow of traffic, would endanger public safety by reason of traffic hazard and would, therefore, be contrary to the proper planning and sustainable development of the area.

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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**Mary Crowley**

**Senior Planning Inspector**

**17<sup>th</sup> September 2023**