



An
Bord
Pleanála

Inspector's Report ABP318007-23

Development

Permission for the proposed erection of a fully serviced dwelling, new entrance, together with associated and auxiliary site works. (Curtilage of site contains a Protected Structure).

Location

Bearlough, Rosslare, County Wexford.

Planning Authority

Wexford County Council.

Planning Authority Reg. Ref.

20230715.

Applicant

David Ryan.

Type of Application

Planning permission.

Planning Authority Decision

Refusal of permission.

Type of Appeal

First Party

Appellant

David Ryan.

Observer

Uisce Éireann.

Date of Site Inspection

8th February 2024.

Inspector

Derek Daly.

1.0 Site Location and Description

- 1.1. The proposed site is located within the built up area of the village of Rosslare in County Wexford.
- 1.2. Currently on the site is a two storied dwelling referred to in correspondence as Rosslare Cottage or Shell House which is Protected Structure and which has mature grounds and is centrally located on the site. There is also a chalet located to the rear of the existing dwelling on the site. The overall site has frontage onto two roads Strand Road which defines the western boundary and Grange Road which defines the southern boundary. There are dwellings on adjoining lands to the east and north of the site, on the opposite (western) side of Strand Road and to the south of Grange Road.
- 1.3. The current appeal site is located to the front and northwest of the existing dwelling on the site.
- 1.4. There is no public footpath along the Strand Road frontage which is defined by a wall and trees. There is an access to the site in the northwestern corner of the site.

2.0 Description of Development

- 2.1. The proposed development is for the erection of a fully serviced dwelling, new entrance, together with associated and auxiliary site works which are located within the curtilage of a site which contains a Protected Structure.
- 2.2. There is also a concurrent appeal ABP 318004-23 in relation to another proposed dwelling also located within the curtilage of the same Protected Structure. ABP 318004-23 is located to the south of the subject site and also fronts on the public road.
- 2.3. The proposal provides for a dwelling with a stated area of 150m² located in the west of the overall site. The dwelling is of a contemporary design is two storied with a flat roof, with an overall height of 6519mm and part single storied which also has a flat roof. The external finishes are primarily plaster with large areas of glazing and sections of black aluminium cladding.

- 2.4. The front building line is approximately 2 metres from the inner edge of the footpath. The dwelling will be served by a new shared vehicular entrance located at the northwestern corner of the overall site which will serve the existing dwelling and the two proposed dwellings with shared parking for all the properties. Communal parking indicating 4 parking bays are proposed off this sheared internal road. A further 4 parking bays are indicated on the site of the protected structure. A gated pedestrian entrance is also proposed providing access to the proposed dwelling and the existing dwelling formed in a new roadside boundary.
- 2.5. Private amenity space with a stated area of 100m² is indicated primarily to the north and east of the dwelling. The site has a stated area of 0.1 hectares. The landscape and diversity plan scale 1/250 which refers to an area incorporating the two proposed dwellings and the existing dwelling but excludes the chalet site submitted with the application also indicates a communal amenity space located to the rear and side and front of the existing dwelling.
- 2.6. A conservation report accompanied the application which indicates that the house does not represent an important component of the domestic built heritage in Rosslare, there is no architectural merit for either the external or internal forms, visually this house does not present a visually pleasing statement having not been well maintained and should not have been listed as a protected structure or listed in the Irish Architectural Inventory of Irish Heritage. The report outlines the poor condition of the house and poor structural condition. The report outlines a programme of conservation works in relation to the structure noting extensive maintenance, repair and replacement. The report considers that the proposed development will still protect the visual vista of the house when viewed from the public road.

3.0 Planning History

3.1. P.A. Ref. No. 20220887

Permission refused to appellant for a dwelling on a similar site and reasons for refusal referred to issues of wastewater treatment, traffic hazard, issues in relation to open space and car parking provision and impact on protected structure.

3.2. P.A. Ref. No. 20220888

Permission refused to appellant for a dwelling on a similar site to current appeal ABP 318004-23 site and reasons for refusal referred to issues of wastewater treatment, traffic hazard, issues in relation to open space and car parking provision and impact on protected structure.

3.3. P.A. Ref. No. 20211670

Permission refused on overall site of protected structure for a development comprising alterations and extension to the existing dwelling and conversion to two apartments and three detached dwellings and reasons for refusal referred to issues of wastewater treatment and water supply, issues in relation to open space communal and internal open space and overall design and impact on protected structure.

3.4. P.A. Ref. No. 20081924

Permission refused on overall site of protected structure for a development comprising eight apartments and reasons for refusal referred to issues of wastewater treatment, traffic hazard, over development and impact on properties in the vicinity.

3.5. The grounds of appeal refers to precedence in relation permissions granted in the area.

4.0 **National/Regional/Local Planning Policy**

4.1. Local Policy

The relevant plan is the Wexford County Development Plan 2022-2028.

Rosslare is defined in section in Volume 13.6.3 as a Level 3a service settlement

Chapter 4 refers to sustainable housing and section 4.7 to Future Housing Delivery and to encouraging compact growth and utilisation of existing housing stock and its refurbishment.

Chapter 13 refers to Heritage and Conservation and section 13.4.1 to Protected Structures. Rosslare Cottage, Strand Road, Rosslare which is located on the appeal site is listed in the plan in volume 5 of the plan as a protected structure ref no WCC1372.

Objective BH06 refers to protect the curtilage of Protected Structures or proposed Protected Structures from any works which would cause loss of, or damage to, the special character of the structure and loss of or damage to, any structures of heritage value within the curtilage or attendant grounds of the structure.

Objective BH07 refers to ensure development within the curtilage of a Protected Structure is compatible with its character. This does not preclude putting forward innovative contemporary designs that respect the context of the Protected Structure.

Volume 2 of the plan relates to Development Management and outlines standards for the assessment of development proposals in 6.2.6 Siting and Design of Access/Egress Points and section 8 to connection to infrastructure 8.2

Volume 3 refers to Settlement Plan and Rosslare town is referred to. Reference is made to improving the public realm, encouraging compact growth and in Objective RS15 To encourage and facilitate the reuse of existing vacant properties for appropriate uses subject to normal planning and environmental criteria and the proper planning and sustainable development of the area.

Section 4.3.6 refers to Infrastructure indicating there is a public waste water treatment plant serving Rosslare Strand. It has a capacity of 8,500 P.E and as of April 2020 and there is some available headroom which affords modest scope to develop the settlement. However the current capacity of the system varies significantly due to the seasonal nature of the occupation of the village meaning that there are some limitations to the available capacity.

Section 4.3.8 Built and Natural Heritage and among the structures listed on the Record of Protected Structures in the settlement of Rosslare Strand is WCC1372 Rosslare Cottage.

There is an objective to provide for footpaths and the frontage of the site is outlined in map 5.

4.2. National Guidance.

- 4.2.1. Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht, 2011).

The Architectural Heritage Protection Guidelines for Planning Authorities (2011) provides more detailed and that on the whole, the best way to prolong the life of a protected structure is to keep it in active use, ideally in its original use.

- 4.2.2. Part 2 of the Guidance are more detailed guidance on a range of matters including Conservation Principles (chapter 7) where it is indicated conservation is the process of caring for buildings and places and of managing change to them in such a way as to retain their character and special interest and that it is generally recognised that the best method of conserving a historic building is to keep it in active use, respecting earlier alterations of interest.
- 4.2.3. Section 2.21 indicates a 'protected structure' is defined as any structure or specified part of a structure, which is included in the RPS. In section 2.2.2 a structure is defined by the Act as 'any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure'. In relation to a protected structure or proposed protected structure, the meaning of the term 'structure' is expanded to include: a) the interior of the structure; b) the land lying within the curtilage of the structure; c) any other structures lying within that curtilage and their interiors.
- 4.2.4. In section 3.3.2 it is indicated that many buildings were consciously designed to contribute visually to the character of their setting, beyond the boundaries of the curtilage on which they were built. They respond to the street, road or landscape in which they are situated.
- 4.2.5. Curtilage and Attendant Grounds are referred to in chapter 13 and section 13.5 1 which refers to development within the Curtilage of a Protected Structure indicates that proposals for new development within the curtilage of a protected structure should be carefully scrutinised by the planning authority, as inappropriate development will be detrimental to the character of the structure
- 4.3. The National Inventory of Architectural Heritage refers to the dwelling Reg N15704315 in the inventory and the structure is described and appraised and in an appraisal the NIAH refers to the building *as a house representing an important component of the domestic built heritage of Rosslare with the underlying vernacular basis of the composition suggested by such attributes as the rectilinear lobby entry plan form centred on a shell-encrusted projecting windbreak-like porch; the faint*

battered silhouette; and the somewhat disproportionate bias of solid to void in the massing compounded by the diminishing in scale of the openings on each floor producing a graduated visual effect. Having been well maintained, the elementary form and massing survive intact together with substantial quantities of the historic or original fabric, thus upholding the character or integrity of a house making a pleasing visual statement in a seaside village setting presently (2007) undergoing extensive "suburban" development.

5.0 Natural Heritage Designations

None relevant. The site is not within a Natura Site or directly connected with a Natura Site

6.0 Planning Authority Decision

6.1. The decision of the planning authority was to refuse planning permission and three reasons were stated.

6.1.1. The first reason refers to insufficient capacity is demonstrated for the wastewater treatment plant to cater for the proposed development.

The second reason refers to the proposal having an overbearing impact on the adjacent dwelling which is a protected structure and would be contrary to objectives BH06 and BH07 of the current Wexford County Development Plan 2022-2028

The third reason refers to absence of information supplied in relation surface water drainage and footpaths for assessment of the proposal.

6.2. Planning Authority Reports

6.2.1. Planning Reports

The planning report dated the 14th August 2023 refers to the provisions of the current County Development Plan, refers to other reports of the planning authority and Uisce Éireann. The report assesses the current proposal in the context of previous applications refused on the site and refusal of the development is recommended.

6.2.2. Other Reports

The roads inspections report dated the 21st July March 2023 requests further information in relation to the footpath fronting the site relocation of ESB pole and public lighting on the public road and surface water drainage.

Water Services department report dated 11th July 2023 recommends refusal refers to issues in relation to wastewater discharge and that the application be refused pending a Combined Approach Assessment for Rosslare Strand in relation to its WWTP.

Uisce Éireann in a report dated the 23rd June in an observation indicates that the applicant enter into a Connection Agreement for water and wastewater.

7.0 First Party Appeal

7.1. Grounds of Appeal

The main grounds of appeal can be summarised as follows:

- The appellant refers to the site as located on serviced lands and that the development would not injure the visual or residential amenities of the area.
- Shell House which is a protected structure is in the family ownership for over 80 years and the granting of permission would allow the family to not only invest in a new dwelling but to invest and protect the protected structure and this would not be viable without a grant of planning permission.
- In relation to reason no. 1 of the refusal sufficient capacity has been clearly demonstrated with reference to a pre-connection inquiry with Uisce Éireann details of which are indicated in Appendix B1 of the appeal grounds and the letter of further information request from Uisce Éireann in relation to a connection agreement Appendix B2 is a standard request and nor a recommendation for refusal.

There were extensive pre planning discussions with Uisce Éireann which confirmed significant capacity in the WWTP for the proposed development and Uisce Éireann have confirmed they would not a confirmation of feasibility if there was problem of capacity.

Reference is made to a number of precedence and planning permissions granted.

- In relation to reason no. 2 the issue of overbearing impact is in accordance with objectives BH06 and BH07 two detached dwelling houses are proposed with innovative contemporary design that respects the context of the protected structure.

A new entrance is proposed which provides adequate separation between the two new dwellings and ensures the protected structure is visible from the public road.

A conservation report (Appendix C1) was submitted with the planning application which clearly indicates the structure will be protected and indicates that the property is in extremely poor condition and the applicant proposes a full restoration of the protected structure.

It is noted there is no report from the council's Conservation Officer on the planning file.

- In relation to the third reason for refusal regarding absence of surface water drainage and footpath details the roads section and area engineer recommended further information and did not recommend refusal and the information requested could have been easily supplied or a relevant condition attached to a grant of planning permission.
- The grounds in appendices which includes a letter from the applicant, correspondence from Uisce Éireann, planning precedents, the Conservation report and internal reports from roads.

8.0 Appeal Responses

- 8.1. Uisce Éireann in a response dated the 6th October 2023 indicated that Uisce Éireann issued a confirmation of feasibility to the applicants in March 2023 and was satisfied that connections for water and wastewater could be facilitated subject to a connection agreement with Uisce Éireann however noting capacity was available to service the development but that the proposed development is in an area serviced by a constrained Wastewater treatment plant (WWTP). Wastewater treatment

capacity has been confirmed by Uisce Éireann to service this proposal. The response also notes that Rosslare Strand WWTP is currently identified as having potential spare capacity and not overloaded and Uisce Éireann is satisfied that capacity currently exists and that there is no upgrade provided in the current investment plan for Rosslare Strand WWTP.

- 8.2. First Party response dated 31st October 2023 to the response of Uisce Éireann notes that it confirms capacity for both water and wastewater connection for the proposed development. The response also reaffirms the view that the proposal would not be harmful to the setting of the adjoining protected structure.
- 8.3. No responses received from statutory bodies in relation to the protected structure.

9.0 EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

10.0 AA Screening

Having regard to the modest nature and scale of development, its location in an urban area, connection to existing services and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as 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.

11.0 Assessment

- 11.1. The main issues in this appeal are those raised in the planning authority's reasons for refusal. I am satisfied that no other substantive issues arise. It is noted that there is a concurrent appeal for a dwelling within the overall site of the protected structure ABP Ref. No. 318007-23 and the issues arising in relation to this appeal are largely the same as arises in ABP Ref. No. 318007-23. It is noted that the subject

application and appeal refers to the erection of a dwelling house, new entrance and associated and auxiliary site works and in this regard the access and parking arrangements are common to the two proposed dwellings and also the existing dwelling and share common areas within the development boundary and also appears to have a communal amenity space and this assessment considers both appeals given their relationship and interwoven links and also the relationship with the existing house a protected structure on the site. It is noted that the grounds of appeal refer to two dwellings rather a consideration of the dwellings individually.

It is also noted that the cover letter submitted with the application refers to the protected structure as being retained in family ownership and the next proposal will be the protection, upgrade and renovation to modern standards and in the grounds of appeal there is reference to a proposal that a full restoration of the protected structure which is in the ownership of the appellant's mother shall take place once permission is granted for the two dwellings. No proposals are included specifically in relation to the protected structure which is not in the ownership of the applicant/appellant and any permission cannot be conditioned relating to the protected structure in any grant of permission.

11.2. The issues are addressed under the following headings:

- Principle of the development.
- The reason for refusal.

11.3. Principle of the development.

11.3.1. The proposal as submitted is for the erection of a fully serviced dwelling, new entrance, together with associated and auxiliary site works which are located within the curtilage of a site which contains a Protected Structure. The principle of a dwelling on the site given its location within the built up area of an existing settlement is acceptable. It is however subject to assessment in relation to suitability when considered in relation to compliance with objectives and development standards stated in national guidance and the county development plan.

11.4. Reasons for refusal.

11.4.1. The decision of the planning authority was to refuse planning permission and three reasons were stated.

- 11.5. The first reason for refusal refers to the issue of insufficient capacity in relation to the public wastewater treatment plan to cater for the development.
- 11.5.1. In relation to reason no. 1 of the refusal the grounds of appeal contends that sufficient capacity has been clearly demonstrated with reference to a pre-connection inquiry with Uisce Éireann and the letter of further information request from Uisce Éireann in relation to a connection agreement Appendix B2 is a standard request and not a recommendation for refusal and Uisce Éireann have confirmed they would not a confirmation of feasibility if there was problem of capacity.
- 11.5.2. Uisce Éireann in a response specific to the appeal have indicated that Uisce Éireann issued a confirmation of feasibility to the applicants in March 2023 and was satisfied that connections for water and wastewater could be facilitated subject to a connection agreement with Uisce Éireann however noting capacity was available to service the development but that the proposed development is in an area serviced by a constrained Wastewater treatment plant (WWTP). Wastewater treatment capacity has been confirmed by Uisce Éireann to service this proposal and the response also notes that Rosslare Strand WWTP is currently identified as having potential spare capacity and not overloaded and Uisce Éireann is satisfied that capacity currently exists.
- 11.5.3. Based on the documentation submitted while noting that at periods of the year there are constraints in relation to capacity Uisce Éireann is satisfied that capacity currently exists to accommodate the current proposal and I would see no reason for a refusal on the basis of connection to the public sewerage system. A grant of permission could provide for connection agreement prior to commencement of any development works on the site.
- 11.6. The second reason for refusal refers to the proposed development by virtue of its location and design would have an overbearing impact on the existing adjacent dwelling which is listed in the current CPD ref WCC1372 and would be contrary to objectives BH06 and BH07.
- 11.6.1. The appellant in the grounds of appeal contends in relation to the issue of overbearing impact the proposal is in accordance with objectives BH06 and BH07 and that two detached dwelling houses are proposed with innovative contemporary design that respects the context of the protected structure. A new entrance is

proposed which provides adequate separation between the two new dwellings and ensures the protected structure is visible from the public road. Reference is made also to a conservation report which was submitted with the planning application which clearly indicates the structure will be protected and indicates that the property is in extremely poor condition and the applicant proposes a full restoration of the protected structure.

- 11.6.2. In relation to the issue of design I consider that taken in isolation and not considering the proximity to a protected structure the proposed development is a contemporary design and in the wider context there is a wide and varying range of design of structures and subject to a satisfactory relationship to the protected structure the design is acceptable. There is varying building lines along the public road and although it is closer to the public road the proximity to the road in principle is acceptable.
- 11.6.3. The main issue is the relationship of the proposed dwellings with the protected structure and notwithstanding the questioning of whether it should be or not it is a protected structure and any assessment must be considered in the context of the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and its reference as stated in the National Inventory of Architectural Heritage Reg N15704315 and the appraisal the NIAH of the building refers to the building as a house representing an important component of the domestic built heritage of Rosslare making a pleasing visual statement in a seaside village setting presently undergoing extensive "suburban" development.
- 11.6.4. It is noted there is no report from the council's Conservation Officer on the planning file or statutory body.
- 11.6.5. In relation to appraising by definition, national guidance in referring to a protected structure indicates that it includes the land lying within the curtilage of the protected structure and other structures within that curtilage and their interiors. The guidelines indicate that the notion of curtilage is not defined by legislation, but for the purposes of the guidelines it can be taken to be the parcel of land immediately associated with that structure and which is in use for the purposes of the structure.
- 11.6.6. Section 13.7 of the guidelines refer to development within the attendant grounds of a protected structure and section 13.7.2 outlines criteria which should be considered.

Among the criteria relevant to the current proposal to be considered these are addressed in turn;

a) Would the development affect the character of the protected structure?

The current proposal will I consider affect the character of the protected structure in that as it currently exists the protected structure has attendant grounds which extend to the public road and although there is trees and other vegetation along the road frontage the construction of two dwellings in proximity to the road will limit the views of the protected structure and represent a significant alteration to the character of the protected structure. The view of the protected structure will be significantly impaired where currently the entire frontage of the structure is visible in its setting to a more restricted view of the structure to a more limited view and the entire frontage will not be visible.

b) Would the proposed works affect the relationship of the protected structure to its surroundings and attendant grounds?

As indicated the proposed works would affect the relationship of the protected structure to its surroundings and attendant grounds with the creation of two new dwellings between the protected structure and the road.

c) Would the protected structure remain the focus of its setting? For example, a new building erected between a structure and a feature within the attendant grounds will alter the character of both?

The new buildings will alter the character within the attendant grounds as indicated.

d) Are there important views of or from the structure that could be damaged by the proposed development? Would important vistas be obstructed by new development?

I consider that views of the protected structure will be significantly obstructed and greatly limited by the new development and the new development will represent a dominant and overbearing element impacting the protected structure.

e) What effect would the scale, height, massing, alignment or materials of a proposed construction have on the protected structure and its attendant grounds?

Given the location of the proposed dwellings the scale, massing, alignment, proximity, relationship and materials of the proposed construction will impact I consider the protected structure and its attendant grounds.

- 11.6.7. Based on the assessment of the criteria as stated I consider that that the proposed dwelling will cause loss of, or damage to, the special character of the structure and a loss to a structure of heritage value within the curtilage or attendant grounds of the structure and that the proposed development within the curtilage of a Protected Structure is not compatible with its character. The provisions as stated in objectives BH06 and BH07 of the development plan are I consider reasonable and the development would be contrary to these objectives.
- 11.6.8. In relation to whether conditions can be considered to address the matters raised any proposal would I consider require a possible relocation of the northern proposed dwelling further from the public road and relocated northwards provide for a greater separation from the protected structure, an increased visibility for the protected structure from the road and greater retention of the relationship of the protected structure and its attendant grounds. Such a requirement may not be possible for the southern proposed dwelling given the constraints of the site. Any relocation would also involve recasting of the access arrangements including possible relocation of the vehicular access and would require further appraisal and conditioning this would not be appropriate.
- 11.7. The third reason for refusal refers to surface water drainage and footpath details has not been supplied and in the absence of this information the planning authority were unable to make a full assessment.
- 11.7.1. In the grounds of appeal, it is contended that the roads section and area engineer recommended further information and did not recommend refusal and the information requested could have been easily supplied or a relevant condition attached to a grant of planning permission.
- 11.7.2. It is noted that drawing 23-18-P01 site plan indicates the provision of a footpath along the entire roadside frontage and a proposal to connect to an existing sewer on the public road. It is also noted that the provision of a footpath along this section of trans Road is provided for in the plan for Rosslare town.
- 11.7.3. I consider that the matters raised in the reason for refusal can be addressed by conditions to require the matters raised in the further information requests be submitted to and agreed with the planning authority.

12.0 Recommendation

12.1. I recommend that permission be refused.

13.0 Reasons and Considerations

Having regard to the nature of the proposed development and proximity to the presence of a structure of architectural interest which is listed as a Protected Structure in the current Development Plan for the area, it is considered that the proposed development which is located within the curtilage and attendant grounds, by reason of its overall layout, and its proximity, scale, massing and design, would be out of scale with its surroundings, would seriously detract from the architectural character and setting of the protected structure listed in the Wexford County Development Plan 2022-2022 on the Record of Protected Structures Ref WCC 1372 and would be contrary to objectives BH06 and BH07 of the said plan in relation to the protection of the curtilage and special character of protected structures which are considered to be reasonable.

The proposed development would, therefore, materially and adversely affect the character of this Protected Structure, would seriously injure the visual amenities of the area and would 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.

Derek Daly
Planning Inspector

21st February 2024