



An
Bord
Pleanála

Inspector's Report

ABP-318945-24

Development	3 no. two storey detached houses, upgrading of private access lane and ancillary site works
Location	Drimagh, Rosslare, Co. Wexford
Planning Authority	Wexford Co. Co.
Planning Authority Reg. Ref.	20231318
Applicant(s)	Ben Haskins
Type of Application	Permission
Planning Authority Decision	Refusal for 1 no. reason
Type of Appeal	First Party
Appellant(s)	Ben Haskins
Observer(s)	None
Date of Site Inspection	27 th March 2024
Inspector	Bernard Dee

1.0 Site Location and Description

- 1.1. The appeal site is located in Drimagh in Rosslare village, Co. Wexford in a backland site accessed via a private lane leading north from the R736. The site is encompassed by residential developments on all sides.
- 1.2. The appeal site itself has an area of approximately 0.27ha and is currently vacant and overgrown. The north, west and northern boundaries of the site are defined by the rear garden walls of houses backing onto the appeal site with associated trees and plants in these gardens. The eastern boundary of the site includes the private access lane. The site is vacant and overgrown.

2.0 Proposed Development

- 2.1. The proposed development is comprised of the erection of 3 no. three-bedroom dwelling houses, an upgraded access lane together with ancillary site works. The design of the 2 no. proposed dwellings located on the western half of the appeal site is contemporary with a flat roof height of approximately 6.5m. The GFS of each of these two houses is approximately 160m². The houses are finished in painted render, brick and metal cladding.
- 2.2. A single storey dwelling is proposed for the eastern half of the appeal site with 3 no. bedrooms and a stated GFS of 142m². The maximum pitched roof height is approximately 4.9m. The proposed finish is of painted render, brick and metal cladding.
- 2.3. Vehicular access is proposed onto the existing private lane which is to be upgraded and parking for 2 no. cars per house is also proposed. Mains water supply and connection to the mains sewer are proposed to service the site.

3.0 Planning Authority Decision

3.1. Decision

Permission for the proposed development was refused on 21st December 2023 for one reason:

Development of the kind proposed would be premature by reference to the prospective deficiency in Rosslare Strand Wastewater Treatment Plant and it has not been demonstrated that there is sufficient capacity in the Rosslare Strand Wastewater Treatment Plant to cater for the proposed development. In such circumstances the proposed development would result in non-compliance with the "combined approach" - (as defined in the Wastewater Discharge (Authorisation) Regulations 2007 (S.I. No. 684 of 2007)) due to the wastewater discharge from the development resulting in the Rosslare Strand Wastewater Treatment Plant not being in compliance with the requirements of the Urban Wastewater Treatment Regulations 2001 (S.I. No. 254 of 2001) as amended. It is further considered that it is not possible to achieve such controls or limits by way of condition and consequently the Planning Authority must refuse permission having regard to Regulation 43 of the Wastewater Discharge (Authorisation) Regulations 2007. The proposed development is therefore considered premature pending the upgrade of the wastewater treatment infrastructure in the village and in the absence of such upgrades, would be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Executive Planner's Report dated 12th December 2023 noted that the principle of residential development was acceptable at this location and noted that Irish Water had no objection to the proposed development subject to a connection agreement condition being attached to any grant of permission.
- The EP's report recommended that Further Information be sought in relation to surface water attenuation details, the capacity of downstream drains to accommodate anticipated runoff from the site and a revision of the proposed footpath material as the permeable materials proposed for the footpath were not acceptable to the Planning Authority.
- The items of Further Information sought were on foot of an internal report from the Roads Section recommending that this information be sought from the applicant in the interests of clarity.
- I note that the EP's report did not make any reference to capacity constraints at the Rosslare WWTP.

A supplementary report on the application file by the Senior Executive Planner dated 19th December 2023 stated that:

I note the case officers recommendation to request FI with a view to granting permission for 3no. dwelling houses in Rosslare Strand. The issue arises that regarding capacity in the Wastewater Treatment Plant for Rosslare Strand, the EPA are on record as having raised serious issues relating to compliance with the plants discharge licence as the WWTP is currently at or over capacity

Wexford County Council would have serious concerns about any potential risk from pollution to any of the County's water bodies which would negatively impact on the County's wildlife, the health of the County's residents and the economy of the County such as tourism.

The report by the SEP recommended a refusal of planning permission for the 3 no. houses due to the lack of capacity in the Rosslare WWTP.

3.2.2. Other Technical Reports

- Roads Section – recommended that Further Information be sought of surface water attenuation measures on site, downstream capacity for runoff and an alternative material be used for the footpath as the permeable mater proposed in the application was not acceptable.
- Senior Executive Scientist (Environment) – recommended that permission be granted subject to conditions.

3.2.3. Prescribed Bodies

- Irish Water – responded that there was no objection in principle to the proposed development.

3.2.4. Observations

- None received.

4.0 Planning History

4.1. On the Appeal Site

- Ref. 20221657 – on the current appeal site permission was refused for the construction of 3 no. houses on 10th February 2023 for 4 no. reasons.
 1. The proposed layout has resulted in a pattern of development in terms of buildings and the proximity of boundaries, parking arrangements and private open space which is inconstant with the area. The proposed development is therefore contrary to the proper planning and sustainable development of the area.
 2. Having regard to emerging capacity constraints at the Rosslare Strand wastewater treatment plant it has not been demonstrated that the proposed development can be effectively serviced by effective wastewater infrastructure. As such the proposed development would be prejudicial to public health and therefore contrary to the proper planning and sustainable development of the area.
 3. Insufficient information has been submitted in relation to culvert/pipe sections of existing open watercourse, surface & storm water attenuation, drainage piping and capacity of downstream open drains. Development is therefore considered contrary to public health and the proper planning and sustainable development of the area.
 4. Insufficient information has been submitted in relation to upgrade of the existing lane & footpath links on site. The proposed development is therefore considered contrary to traffic safety and the proper planning and sustainable development of the area.
- Ref. 20220436 – on the current appeal site permission was refused for the construction of 4 no. houses on 27th May 2022 for 4 no. reasons.
 1. The proposed development would represent over development of a constrained site. The proposed layout would result in a pattern of development in terms of buildings and the proximity of boundaries, parking arrangements and private open space which is inconsistent with the area. The proposed development is therefore contrary to the proper planning and sustainable development of the area.
 2. Insufficient information has been submitted in relation to the treatment of sewerage on the site. The proposed development is therefore considered contrary to public health and the proper planning and sustainable development of the area.
 3. Insufficient information has been submitted in relation to surface water attenuation, drainage piping, buffers from existing water courses and adjacent existing watercourse flows on the site. The proposed development is therefore considered contrary to public health and the proper planning and sustainable development of the area.
 4. Insufficient information has been submitted in relation to sightlines, upgrade of the existing lane, footpath links to the site, communal area surface treatment and service vehicle access to the site. The proposed development is therefore considered contrary to traffic safety and the proper planning and sustainable development of the area.

- Ref. 20211309 – on the current appeal site an application for 1 no. house was withdrawn before the Planning Authority made a decision on the application.

4.2. In the Vicinity of the Appeal Site

- None relevant to the current appeal.
- I would however refer the Board to my reports on file Refs. ABP-319004-24 (20231481) and ABP-318551-3 (20230757) in relation to residential developments in Rosslare both discharged on 21st March 2024 which have extensive planning history and assessment sections relating to the capacity of the WWTP in Rosslare.
- These two reports will give the Board a broader picture of the capacity issue in Rosslare and the Planning Authority inconsistency in its decision making with regard to this issue.

5.0 Policy and Context

5.1. Development Plan

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

The following policy objectives are of relevance when assessing the proposed development. Development Plan polices regarding housing design and other development management standards have not been reproduced below as the primary issue in this appeal relates to wastewater treatment.

Volume 1: Written Statement

Section 9.6 Wastewater

Table 9-3 Overview of Public Wastewater Infrastructure - Level 3a Service Settlements - Rosslare Strand – Capacity = 8,500PE and Headroom = 2,826PE. (Source: Irish Water Wastewater Capacity Register 29th April 2020 but subject to change).

Table 9-4 which lists EPA Urban Wastewater Areas of Concern does not include Rosslare on the list.

Table 9-5 which lists Irish Water Investment Plan Public Wastewater Projects 2020-2024 does not include Rosslare on the list.

- Objective WW04 - To facilitate Irish Water in the delivery of public wastewater services which address the residential, commercial and industrial needs of the county subject to compliance with all relevant EU and national legislation and guidelines and normal planning and environmental criteria.
- Objective WW05 - To work alongside Irish Water to facilitate the wastewater projects identified in Table 9-5 and any other projects that may arise during the lifetime of this Plan subject to compliance with all relevant EU and national legislation and normal planning and environmental criteria.
- Objective WW06 - To ensure that proposals in the coastal and maritime area do not significantly adversely affect existing and planned wastewater management and treatment infrastructure (where a consent, authorisation or lease has been granted to or formally applied for by Irish Water) unless compatibility with such infrastructure can be satisfactorily demonstrated or there are exceptional circumstances.
- Objective WW07 - To work with Irish Water, other public infrastructure agencies and local communities to develop the programme for 'new homes in small towns and villages' as set out in NPO 18b of the National Planning Framework for the settlements listed in Table 9-6. This programme will provide serviced sites with appropriate infrastructure to attract people to build their own homes and live in small towns and villages in the county and is subject to complying with the Habitats Directive and normal planning and environmental criteria.
- Objective WW08 - To facilitate the connection of existing developments to public wastewater services wherever feasible and subject to connection agreements with Irish Water and to ensure that any future development connects to the public wastewater infrastructure where it is available.
- Objective WW13 - To protect existing wastewater infrastructure, including way leaves and buffer zones, from inappropriate development and zoning.

5.2. Natural Heritage Designations

The following natural Heritage designations are located in the vicinity of the appeal site:

- Seas off Wexford SPA (004237).
- Wexford Harbour and Slob SPA (004076).
- Wexford Slob and Harbour pNHA (000712).

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any sensitive location, 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.

6.0 The Appeal

6.1. Grounds of Appeal

The relevant planning issues raised by the First Party are, in summary, as follows:

- Irish Water have confirmed to the applicant the feasibility of connection to the sewage infrastructure system and they, rather than the Planning Authority are the competent authority to assess whether or not the Rosslare WWTP has the capacity to accommodate the 3 no. dwellings proposed.
- There are several precedent cases in the vicinity of there site where the Planning Authority have granted permission for residential infill development where the capacity issue of the WWTP did not prove an obstacle to the Planning Authority in granting said permissions – Ref. 20221527 (10 no. houses granted on 14th March 2023), Ref. 20230438 (1 no. house granted on 16th June 2023), and Ref. ABP-315116-22 (20221146) (1 no. house granted by the Board on 31st October 2023).

- The Planning Authority is inconsistent with their assessment of applications of residential development on the issue of capacity at the Rosslare WWTP and the applicant trusts that the Board will follow its own precedent when deciding on this appeal.
- Irish Water have confirmed in a letter dated 6th October 2023 to the Board in relation to appeal Ref. ABP-318007-23 (20230715) that there is sufficient capacity at the Rosslare WWTP, notwithstanding its constrained nature, to accommodate additional residential development within Rosslare village and that any breaches of its EPA discharge licence at peak summer loading times has had minimal impact on the receiving coastal water (Appendix 3 of the First Party submission).
- The appeal site is modest in nature and will lead to the delivery of new houses in the area and an upgraded laneway to serve same.

6.2. Planning Authority Response

- The Planning Authority has not responded to this appeal.

6.3. Observations

- No Observations received.

7.0 **Assessment**

7.1. Having examined all the application and appeal documentation on file, I consider that the main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise.

7.2. The assessment issue therefore relates to the capacity of the Rosslare WWTP to accommodate additional connections for residential development having regard to its current 'Amber Status'.

7.2.1. The issue of AA Screening is also addressed in this assessment.

7.3. Rosslare WWTP Capacity

- 7.3.1. The Board should note that the Planning Authority have no issue with the principle of the development of 3 no. houses on this site nor with the layout, design or materials proposed. Aside from the reason for refusal relating to the insufficient capacity at the Rosslare WWTP, all other elements of the proposed development were favourably assessed by the Planning Authority. I would concur with the Planning Authority assessment of this application.
- 7.3.2. I note that the EP report of 15th December 2023 recommending that Further Information be sought on non-WWTP capacity issues and the SEP report dated 19th December 2023 citing lack of capacity at the Rosslare WWTP as a reason for refusal in this case.
- 7.3.3. The issues around the capacity of the Rosslare WWTP to accommodate the proposed development seem to be reasonably clear. At no point in the application documentation on file have I discovered a statement or opinion from Irish Water explicitly stating that permission should be refused for the proposed dwellings on the grounds there is insufficient capacity in the Rosslare WWTP to service the proposed development.
- 7.3.4. The status of the Rosslare WWTP is 'Amber' which means that potential spare capacity is available and applications are to be considered on an individual basis considering their specific load requirements. This status has been confirmed by Irish Water, who in this case have no objection to connecting the proposed 3 no. houses to the WWTP providing such connection is subject to agreement and a condition is attached to any grant of permission to reflect this requirement.
- 7.3.5. It is the policy of Irish Water in relation to servicing residential development within Rosslare village is that individual houses or even small developments can be accommodated but that large scale residential development cannot be accommodated as such developments would reduce capacity at the Rosslare WWTP to minimal levels. The Planning Authority itself has previously decided when assessing other applications for infill residential development in Rosslare that schemes of up to 10 no. residential units in infill/brownfield sites will be looked upon favourably with respect to the capacity issues at the Rosslare WWTP.

- 7.3.6. In addition, I draw the Board's attention to Table 9-3 Overview of Public Wastewater Infrastructure of the Wexford County Development Plan 2022-2028 confirms a capacity of 8,500PE and headroom of 2,826PE at the Rosslare WWTP (Source: Irish Water Wastewater Capacity Register 29th April 2020 but subject to change). This Development Plan information further underlines the position of Irish Water in respect of applications residential development on infill sites in Rosslare and should have informed the Planning Authority decision in this case.
- 7.3.7. A connection agreement can be sought from Irish Water post planning permission on foot of a condition specifying such a requirement and this is standard planning practice. Indeed, the Board has on several occasions previously overturned this type of reason for refusal and included a connection agreement condition in a grant of permission for residential development in Rosslare.
- 7.3.8. The proposed low density residential development of 3 no. houses as proposed is in line with compact growth policies, government guidance and complies with the policies and objectives of the Wexford County Development Plan 2022-2028 and with the development management standards contained in the Development Plan.
- 7.3.9. Having regard to the above, I would advise the Board that there is no obstacle with respect to capacity issues at the Rosslare WWTP in granting permission for the proposed development if it is minded to do so. I have examined other aspects of the proposed development such as layout, design, access arrangement, overlooking potential, overshadowing, standard of amenity and potential impacts on the visual and residential amenity of the area and I find that all planning aspects of the proposed development are satisfactory.

7.4. AA Screening

- 7.4.1. Having regard to the relatively small scale infill development proposed within an existing residential area and the distance from the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend that planning permission be granted for the proposed 3 no. dwellings for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Wexford County Development Plan 2022-2028, especially those regarding the treatment of waste water, it is considered that the proposed development would not seriously injure the visual or residential amenity of the area or have an adverse impact on the receiving environment nor be a threat to public health. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application received on the 31 st day of October 2023, 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 commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. Reason: In the interest of clarity.
2.	The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise, dust and vibration management measures, rock breaking/excavation methodologies and off-site disposal of construction/demolition waste. Reason: In the interests of public safety and residential amenity.

3.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
4.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
6.	<p>Prior to commencement of development, the developer shall enter into a water and sewage connection agreement with Irish Water.</p> <p>Reason: In the interest of public health.</p>
7.	<p>The upgrade to the private lane serving the proposed development, including turning bays, junction with the R736, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works and shall be agreed in writing with the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>

8.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:</p> <ul style="list-style-type: none"> (a) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment (b) Proposals for the protection of all existing and new planting for the duration of construction works on site, together with proposals for adequate protection of new planting from damage until established (c) A timescale for implementation, including details of phasing, which shall provide for the planting to be completed before the dwelling is first made available for occupation. <p>Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.</p>
9.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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.

Bernard Dee
Planning Inspector

28th March 2024

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318945-23		
Proposed Development Summary	Construction of a 3 no. dwellings, upgrade of private access lane and all ancillary site works		
Development Address	Drimagh, Rosslare, Co. Wexford		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	√
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	√		Proceed to Q.3
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]?			

		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes	√			Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	√	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: 28th March 2024

Bernard Dee