



An  
Bord  
Pleanála

## Inspector's Report ABP-319069-24

<b>Development</b>	Permission for the proposed erection of a fully serviced dwelling house together with access and parking and associated and auxiliary site works (connection to Irish Water Infrastructure CDS22006862).		
<b>Location</b>	Mauritiustown, Rosslare, Co. Wexford		
<b>Planning Authority Ref.</b>	20231524.		
<b>Applicant(s)</b>	Katie Nolan.		
<b>Type of Application</b>	Permission.	<b>PA Decision</b>	To Refuse Permission.
<b>Type of Appeal</b>	First Party.	<b>Appellant</b>	Katie Nolan.
<b>Observer(s)</b>	None.		
<b>Date of Site Inspection</b>	3 <sup>rd</sup> May, 2024.	<b>Inspector</b>	Aiden O'Neill.

### Context

#### 1. Site Location/ and Description.

The proposed development site forms part of an overall site that is relatively level, of regular shape, is bounded by a block wall on all sides (including a low block wall to the south-western boundary). The proposed development site itself is c. 0.09ha in area. It is located in Mauritiustown in the southern area of the village of Rosslare Strand. It is an undeveloped infill site with a splayed gated access off the L-7101-1 local secondary road, which forms the south-eastern boundary. To the south-

west is the access road that serves the residential estate known as The Bay consisting of 6no. detached dwellings on individual plots which are located to the north-west of the proposed development site. To the north-east of the proposed development site, c. 17m from the boundary of the proposed development site, is a pub/restaurant known as Redmond's The Bay. There is temporary loose gravel on part of the front and centre of the site, and vegetation, including gorse, to the south-west and north-west, as well as a small, disused shed structure at the north-eastern corner.

## **2. Description of development.**

- Permission is sought for the construction of a proposed a two-storey detached flat-roofed 4-bedroom dwelling house, FFL 12.15mOD.
- The proposed dwelling is to be located in the south-western part of the site and orientated in a north-easterly direction.
- It will be the northern property of 3no. detached dwellings in a cul-de-sac layout, with the other 2no. proposed dwellings to the south subject to concurrent, but separate, applications, which are also at appeal (ABP Ref No. ABP-319072-24 and ABP-319074-24).
- The proposed dwelling is of contemporary design, with a painted plaster finish, with black aluminium/painted plaster canopy over the recessed entrance door, and a seamless canopy to south-western (rear) and south-eastern ground floor patio door/corner window. The proposed development is 134m<sup>2</sup> in area and is c. 6.375m in height to roof level.
- It is orientated to face the north-east and includes a projecting balcony (c. 3.4m<sup>2</sup> in area) at first-floor level, which is proposed to be screened to the north and south to avoid overlooking. No first-floor windows are proposed on the north-western elevation. The rear garden space is stated to be 75m<sup>2</sup>.
- Boundaries to the proposed dwelling include an 1.8m plastered block party wall to the north, a proposed 1.8m plastered block party wall to the south, and an extended existing wall to 1.8m to the south-west.
- The proposed development includes a shared gravel/tarmac driveway with the other 2no. proposed dwellings. This shared driveway includes 6no. shared car parking spaces, a footpath to the front of the dwellings, and a

turning area The existing boundary wall fronting the public road is to be removed and replaced with a 2m footpath and 1.8m plastered block wall. Sight distances of 65m in each direction are illustrated on the Site Plan.

- The proposed development is to connect to the existing public mains and foul sewer, with a section of the foul sewer to be upgraded by the applicant. In relation to surface water, a new shared attenuation tank with hydrobreak will discharge to the public storm sewer.

### **3. Planning History.**

#### Subject Site

ABP-314793-22 (20220732) Permission for the proposed erection of a fully serviced dwelling house together with access and parking and associated and auxiliary site works. Decision to refuse planning permission by Wexford County Council on 23<sup>rd</sup> September, 2022 upheld by the Board on appeal on 2<sup>nd</sup> November, 2023 for the following reason:

The proposed development would be premature having regard to the existing deficiencies in the wastewater network in the area, specifically the Rosslare Strand Wastewater Treatment Plant, and the period within which this constraint may reasonably be expected to cease.

20073212 Permission for a 3-storey building to consist of (a) ground floor shop unit (b) second floor restaurant (c) 2no. penthouse apartments was refused by Wexford County Council on 19<sup>th</sup> October, 2017. An extension of duration was granted on 9<sup>th</sup> March, 2012, extending the permission to 21<sup>st</sup> November, 2017. This permission has now expired.

20070817 Permission for a 3-storey building to consist of (a) ground floor shop unit (b) second floor restaurant (c) 2no. penthouse apartments was refused by Wexford County Council on 30<sup>th</sup> July, 2007.

20062257 Permission for a 3-storey building to consist of (a) ground floor shop unit (b) second floor restaurant (c) 2no. penthouse apartments was refused by Wexford County Council on 27<sup>th</sup> October, 2006.

#### Adjoining sites

As noted above, the proposed development site is the northernmost property of 3no. detached dwellings, with the other 2no. proposed dwellings to the south subject to concurrent, but separate, applications, which are also at appeal (ABP Ref No. ABP-319072-24 and ABP-319074-24).

ABP-314947-22 (20220733) House, access, parking and associated site works. Decision to refuse planning permission by Wexford County Council on 23<sup>rd</sup> September, 2022 upheld by the Board on appeal on 2<sup>nd</sup> November, 2023 for the following reason:

The proposed development would be premature having regard to the existing deficiencies in the wastewater network in the area, specifically the Rosslare Strand Wastewater Treatment Plant, and the period within which this constraint may reasonably be expected to cease.

ABP 314789-22 (P.A. Ref: 20220731) Permission refused on the 23<sup>rd</sup> of September 2022 by the Planning Authority for a fully serviced dwelling with access and parking for one reason relating to the emerging capacity constraints at the Rosslare Strand WWTP.

#### Other Cases

ABP-315116-22 (20221146): Permission for a house, garage and associated works to the west of the proposed development site was granted by the Board on 31<sup>st</sup> October, 2023 following a First Party Appeal against the decision to refuse planning permission by Wexford County Council. Permission was granted for the following reason:

Having regard to the pattern of development in the area and the proposed design, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the proper planning and sustainable development of the area.

In their report, the Inspector noted that the file did not have the benefit of an up-to-date Confirmation of Feasibility from Uisce Éireann, and the Inspector did not recommend a grant of permission in this instance. In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered the additional information subsequently received from the appellant in response to the

Board's request for information under Section 132 of the Planning and Development Act 2000 (as amended), which comprised an up-to-date Confirmation of Feasibility from Uisce Éireann, which the Board considered addresses the concerns set out in the Inspector's Report.

#### **4. National/Regional/Local Planning Policy (see attached)**

Rosslare Strand village is identified as one of 6no. Level 3a Service Settlements in the Core Strategy of the Wexford County Development Plan 2022-2028.

Table 9-3 of the Plan notes that the wastewater infrastructure serving Rosslare Strand has a capacity of 8,500 and headroom of 2,826.

Objective WW01 of the Plan requires that all wastewater generated is collected, treated and discharged after treatment in a safe and sustainable manner, having regard to the standards and requirements set out in EU and national legislation and guidance and subject to complying with the provisions and objectives of the EU Water Framework Directive, the National River Basin Management Plan 2018-2021 and any updated version during the lifetime of the Plan, the Pollution Reduction Programmes for Shellfish Waters, Urban Wastewater Water Directive and the Habitats Directive.

Objective WW09 seeks to ensure that development proposals comply with the standards and requirements of the Irish Water: Code of Practice for Wastewater Infrastructure, (2020), and any updated version of this document during the lifetime of the Plan.

Section 4.3.6 of Volume 3 of the Plan in relation to Infrastructure states that 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.

The area is also served by public water from the Fardystown Regional Water Scheme, and as of April 2020 it too has capacity to accommodate new development.

Objective RS08 of Volume 3 requires new infill developments to maximise opportunities for enclosure by ensuring continuity of existing buildings and forms

where they exist and to address weaknesses in building lines through rationalisation as part of the infill development or redevelopment.

#### **5. Natural Heritage Designations**

- The Seas off Wexford SPA (004237) is located c. 190m to the east of the proposed development site.
- The Wexford Harbour and Slobbs SPA (004076) is located c. 1.3km to the north-west of the proposed development site.
- The Wexford Slobbs And Harbour pNHA (000712) is located c. 1.1km to the west of the proposed development site.

### **Development, Decision and Grounds of Appeal**

#### **6. PA Decision.**

The Planning Authority decided to refuse permission by Order dated 7<sup>th</sup> February, 2024 for 1no. reason as follows:

1. 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.

The planner's report dated 2<sup>nd</sup> February, 2024 is the basis for the Planning Authority's decision to refuse planning permission.

The planner's report references a submission from Uisce Éireann requesting a valid COF, less than 6 months old. It is also stated that regardless of any further information, Rosslare Strand WWTP has 'amber' status, it is a constrained WWTP as it does not consistently meet the requirements of its EPA Wastewater Discharge Licence.

The planner's report also references an internal report from the Executive Roads Technician who recommends a grant of permission with conditions.

The planner comments that the principle of the proposed development is acceptable, the design is common to the area, and the layout is acceptable, however, given the amber status of the Rosslare Wastewater Treatment Plant, permission is recommended to be refused.

## **7. First Party Appeal.**

A First Party appeal has been submitted, setting out the following grounds:

- ABP-314793-22 is noted but has been superseded given the issue of a new up-to-date Confirmation of Feasibility from Uisce Éireann CDS22006862 (dated 13<sup>th</sup> March, 2023).
- ABP-315116-22 (20221146) provides precedent for this case.
- Having regard to the location of the site on serviced lands where public water supply and sewerage are located, the proposed development is in accordance with the proper planning and sustainable development of the area.
- The principle of the dwelling in the level 3a Services Settlement of Rosslare is acceptable in principle.
- The proposed design of a block flat roofed building is considered acceptable.

- The applicant has engaged with Uisce Éireann which has confirmed that there is sufficient capacity in the wastewater treatment system to cater for the proposed development, having regard to its small scale and infill nature, which has been confirmed by the up-to-date COF from Uisce Éireann.
- The engineer's report on file dated 2<sup>nd</sup> January, 2024 was not from Uisce Éireann but from the Water Services section of the Council on behalf of Uisce Éireann. It is also noted that this report requested further information.
- The application references in the Water Services report have been superseded by new applications with up-to-date COFs.
- A number of precedent decisions from the Council are listed in support of the case.
- There is an internal conflict between Uisce Éireann and the Water Services section of the Council.
- A request to overturn the decision to refuse permission is made.

#### **8. PA Response**

- No response on file.

### **Environmental Screening**

#### **9. 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. AA Screening**

Having regard to the modest nature and scale of development, 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.

## 2.0 Assessment

- 2.1. Having examined all the application and appeal documentation on file, and having regard to relevant policy, I consider that the main issues which require consideration in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise.
- 2.2. I am satisfied that the design of the proposed dwelling, which is contemporary in nature, and which is in keeping with the pattern of development in the vicinity, as well as its layout, configuration, and orientation, which will provide good quality internal and external amenities, at a remove from the pub to the north-east, and the shared parking resource, is in accordance with the proper planning and sustainable development of the area.
- 2.3. From a services perspective, I am also satisfied that there is capacity in the public water supply to support the proposed development.
- 2.4. The main appeal issue is follows:
- Wastewater Treatment
- 2.5 Wastewater Treatment
- 2.5.1 The proposed development was refused permission on the basis of prematurity by reference to the prospective deficiency in Rosslare Strand Wastewater Treatment Plant. It was also not demonstrated that there is sufficient capacity in the Rosslare Strand Wastewater Treatment Plant to cater for the proposed development. Furthermore, the wastewater discharge from the development would result 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.
- 2.5.2 A refusal of permission issued under ABP-314793-22 (2022072) for the erection of a fully serviced dwelling house together with access and parking and associated and auxiliary site works on the proposed development site for generally the same reason.

- 2.5.3 The appeal makes the case that the proposed development has the benefit of an updated Confirmation of Feasibility that states that a wastewater connection is feasible.
- 2.5.4 The appeal also refers to ABP Ref. No. ABP-315116-22 (20221146) as relevant precedent. In that case, the Board overturned a refusal of permission after receiving an up-to-date Confirmation of Feasibility from that applicant by way of a request for information under Section 132 of the Planning and Development Act 2000 (as amended).
- 2.5.5 I note the basis for the refusal of permission in this instance is the report of the Water Services section of Wexford County Council on behalf of Uisce Éireann, which, while requesting further information for an updated Confirmation of Feasibility, noted that regardless of the response to such further information, the Rosslare Wastewater Treatment Plant has amber status as it does not consistently meet the requirements of its EPA Wastewater Discharge Licence.
- 2.5.6 Uisce Éireann's most recent Wastewater Treatment capacity register (June 2023) lists the Rosslare Wastewater Treatment Plant as being amber status, which is defined as having potential spare capacity, with applications to be considered on an individual basis considering their specific load requirements. There is a footnote on the same register which also states that there is potential spare capacity at Rosslare Wastewater Treatment Plant, and that connection applications and enquiries currently being processed may impact on capacity availability. It is further stated that connection applications will be assessed on an individual basis considering their specific load requirements, and that engagement with Uisce Éireann's Connections and Developer Services Team ahead of planning a project is required.
- 2.5.7 In this context, I note that the Confirmation of Feasibility that accompanies the planning application is dated 13<sup>th</sup> March, 2023, well over 14 months old at the time of writing this report. Even at the time of the submission of the planning application, the Confirmation of Feasibility was over 9 months old.
- 2.5.8 As stated in the Confirmation of Feasibility dated 13<sup>th</sup> March, 2023, the review is only valid at the time of its completion. It would be reasonable to expect that an up-to-date Confirmation of Feasibility would be submitted at the time of the submission of

the planning application, or with the First Party appeal. Neither is the case in this instance.

2.5.9 In the circumstances, it is my opinion that it would be inappropriate to rely on a Confirmation of Feasibility that is over 14 months old in circumstances where there are concerns raised about the constrained nature of the Rosslare Wastewater Treatment Plant which is not in compliance with the requirements of the Urban Wastewater Treatment Regulations 2001 (S.I. No 254 of 2001) as amended, and in the context of Uisce Éireann's most recent Wastewater Treatment capacity register (June 2023) .

2.5.9 There is also no indication of an upgrade to the Rosslare Strand Wastewater Treatment in Uisce Éireann's current Capital Investment Plan.

2.5.10 Having regard to the approach taken on case reference ABP Ref. No. ABP-315116-22, the Board may wish to invite the applicant to submit an up-to-date Confirmation of Feasibility by way of a request for information under Section 132 of the Planning and Development Act 2000 (as amended).

2.5.11 In the absence of an up-to-date Confirmation of Feasibility, it is my opinion that, based on the information currently available, it would be inappropriate to grant planning permission for the proposed development. Based on the information available, the proposed development would be premature having regard to the existing deficiencies in the Rosslare Strand Wastewater Treatment Plant, and the period within which this constraint may reasonably be expected to cease, and be contrary to policy objective WW01 of the Wexford County Development Plan 2022-2028.

### **3.0 Recommendation**

- 3.1. I recommend that permission for the development be refused for the following reasons and considerations.

### **4.0 Reasons & Considerations**

Based on the available information, the proposed development would be premature having regard to the existing deficiencies in the Rosslare Strand Wastewater Treatment Plant, and the period within which this constraint may reasonably be expected to cease. The proposed development would be contrary to policy objective WW01 of the Wexford County Development Plan 2022-2028 which requires that all wastewater generated is collected, treated and discharged after treatment in a safe and sustainable manner. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

## **Relevant Policies**

### **Wexford County Development Plan 2022-2028**

Rosslare Strand village is identified as one of 6no. Level 3a Service Settlement in the Core Strategy of the Wexford County Development Plan 2022-2028.

Section 3.6.3 of the Plan states that Rosslare Strand is an important contributor, in terms of tourism, to the economy of the County. The Plan states that the location of these Level 3a Service Settlements, together with targeted growth and investment in services, will contribute to the balanced spatial development of the county.

The development approach for the Service settlements is to:

- Tailor population growth for each settlement having regard to their existing baseline populations, existing and possible potential for economic development and infrastructural capacities. In allocating population regard was also had to the rate and pace of past development and the need to deliver social and community facilities to keep pace with recent development e.g. Courtown Harbour and Riverchapel.
- Apply the sequential approach to the development of land, requiring residential development to take place within the existing footprint of the settlement. The leap frogging of infill/brownfield lands to undeveloped or greenfield lands will not be considered.
- Promote economic and enterprise development appropriate in scale to the settlements, such as expanding the potential of the marine economy and tourism in Courtown and Riverchapel, the port and port-related development in Rosslare Harbour and developing the tourism potential of Rosslare Strand, Bunclody Town and Ferns.
- Support learning, education and training initiatives, economic regeneration initiatives and enterprise to address unemployment and deprivation legacies which are evident in some of these settlements, e.g. Bunclody, Courtown and Riverchapel.
- Focus on maximising opportunities presented to settlements located on, or in close proximity to planned greenway routes, rail lines and at coastal locations.

- Focus on the regeneration and renewal of these settlements.
- Ensure that new development contributes to the creation of attractive, liveable, well-designed, high-quality settlements and the local communities enjoy a high-quality of life and well-being.
- Support community organisations who are working to develop community facilities and promote and facilitate initiatives in the public realm.
- Protect and enhance amenities, heritage, green infrastructure and biodiversity in these settlements.

In Table 3-3 of the Core Strategy in the Plan, Rosslare Strand is projected to increase in population to 1,863 persons by 2027, an increase of 133no. persons over the 2021 population of 1,730 persons. Table 3-4 identifies a housing requirement of 27no. units in the built up area of Rosslare Strand to 2027, and a zoned land requirement of 3.6ha.

The Core Strategy sets out the following objectives:

Objective CS02 - To ensure that new residential development in all settlements complies with the population and housing allocation targets and the principles set out in the Core Strategy and Settlement Development Strategy, in so far as practicable.

Objective CS03 - To ensure that sufficient zoned lands are available to satisfy the planned population and housing growth in those settlements over the lifetime of the Plan.

Objective CS04 - To achieve more compact growth by promoting the development of infill and brownfield/ regeneration sites and the redevelopment of underutilised land within the existing built up footprint of existing settlements in preference to greenfield lands and to identify infill, brownfield and regeneration sites when preparing Local Area Plans, Settlement Plans and settlement boundaries.

Objective CS05 - To ensure that at least 30% of all new homes that are targeted in settlements are delivered within the existing built-up footprint of the settlement.

Objective CS21 - To ensure growth and development in the Service Settlements, Strategic Settlements, Large Villages and Small villages across the county is proportionate to the scale, size and character of the settlement and well designed so as to contribute to the regeneration of these settlements. To implement, as resources allow, interventions in the public realm, the provision of amenities, the acquisition of sites and the provision

of services and ensure good quality of life and well-being for the local communities.

Objective CS23 - To work with public infrastructure providers such as Irish Water and local communities to provide serviced sites with appropriate infrastructure to attract people to build their own homes and live in the designated Large Villages and Small Villages in the county subject to compliance with normal planning and environmental criteria and the proper planning and sustainable development of the county.

Table 9-3 of the Plan notes that the wastewater infrastructure serving Rosslare Strand has a capacity of 8,500 and headroom of 2,826.

Objective WW01 of the Plan seeks To require that all wastewater generated is collected, treated and discharged after treatment in a safe and sustainable manner, having regard to the standards and requirements set out in EU and national legislation and guidance and subject to complying with the provisions and objectives of the EU Water Framework Directive, the National River Basin Management Plan 2018-2021 and any updated version during the lifetime of the Plan, the Pollution Reduction Programmes for Shellfish Waters, Urban Wastewater Water Directive and the Habitats Directive.

Objective WW03 seeks to In order to fulfil the objectives of the Core Strategy, Settlement Strategy and the Economic Development Strategy, the Council will work alongside and facilitate the delivery of Irish Water's Water Services Strategic Plan and Capital Investment Plan, to ensure the provision of sufficient wastewater capacity to serve all lands zoned for development and in particular, to endeavour to secure the delivery of strategic wastewater treatment plant upgrades and any other smaller, localised wastewater treatment plant upgrades required during the lifetime of the plan.

Objective WW08 seeks 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 WW09 seeks to ensure that development proposals comply with the standards and requirements of the Irish Water: Code of Practice for Wastewater Infrastructure, (2020), and any updated version of this document during the lifetime of the Plan.

Section 4 of Volume 3 of the Plan sets out the specific objectives for Rosslare Strand.

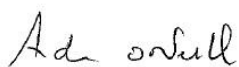
Section 4.3.6 of Volume 3 in relation to Infrastructure states that there is a public waste water treatment plant serving Rosslare Strand. It has a capacity of 8,500 P.E and as of April 2020 and there is some available headroom which affords modest scope to develop the settlement. However the current 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.

The area is also served by public water from the Fardystown Regional Water Scheme, and as of April 2020 it too has capacity to accommodate new development.

Objective RS08 of Volume 3 requires new infill developments to maximise opportunities for enclosure by ensuring continuity of existing buildings and forms where they exist and to address weaknesses in building lines through rationalisation as part of the infill development or redevelopment.

Section 4.4.6 and Objective RS13 of Volume 3 prioritises compact growth.

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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Aiden O'Neill  
Planning Inspector

31<sup>st</sup>

May, 2024