



An
Bord
Pleanála

Inspector's Report

ABP-319540-24

Development	Construct a single storey dwelling house, connect to public services, all ancillary site works and services.		
Location	Mauritiustown, Rosslare, Co. Wexford.		
Planning Authority Ref.	20230754.		
Applicant(s)	Mr Tom Kealy.		
Type of Application	Permission	PA Decision	To refuse permission.
Type of Appeal	First	Appellant	Mr Tom Kealy
Observer(s)	None		
Date of Site Inspection	12/07/2024	Inspector	Richard Taylor

Context

1. Site Location/ and Description.

The proposed site is located at the end of a gravelled laneway, with access to the Mauritiustown road, Rosslare. It is broadly rectangular in shape and has level topography. It is approximately 39 metres in depth and 26 metres in width, and 0.1 hectares in area. There are no buildings or structures on the site, save for a boundary wall along the site frontage approximately 1.2 metres in height and finished in block. It includes a vehicular access and typical set back area roughly centrally within the frontage. The aspect of the site is such that the frontage faces a southwesterly direction, the rear is orientated broadly north eastwards.

The northwestern boundary comprises timber panel fencing approximately 2 metres in height with a public road immediately adjacent and housing development beyond. The northeastern boundary also comprises timber fencing approximately 2 metres in height with a pair of semi-detached dwellings immediately adjacent. The rear elevations of which are approximately 10 metres from the shared boundary. Immediately adjacent to the southeast there is a detached single-storey dwelling. The common boundary between the properties comprises a block wall approximately 1.8 metres in height. The remainder of the lane comprises detached dwellings within broadly rectangular plots of similar dimensions to the appeal site.

2. Description of development.

The proposal seeks permission for a detached 3 bedroom bungalow and includes 2 bathrooms and a separate WC. The dwelling is single storey with a ridge height of approximately 6.2 metres, finished in nap plaster with blue black roof slate. It is located broadly centrally within the plot with garden areas and associated soft landscaping to the front, side/northwestern boundary, and rear. It also includes a detached single-storey garage and the northeastern corner of the site with associated driveway adjacent to the southeastern site boundary.

The proposal also includes a vehicle turning head area in the southwestern corner of the site as part of the laneway access. A post and rail timber fence is proposed along the site frontage.

3. Planning History.

Application No.: 20221004: construct a single storey dwelling house, garage, new site entrance, connect to public services, all ancillary site works and services.

Refused permission 8th of March 2023 for 7 reasons:

1. A submission of a copy of confirmation of feasibility correspondence from Irish Water with regard to connection to existing public mains has not been supplied and in the absence of this information the planning authority were unable to make a full assessment and therefore the development is considered contrary to the proper planning and sustainable development of the area.
2. Insufficient information has been submitted to demonstrate relevant permissions to connect to the third party services on the private lane have been obtained, and therefore the development is considered contrary to the proper planning and sustainable development of the area.
3. Insufficient information has been submitted to demonstrate adequate drainage capabilities of the site in relation to foul effluent treatment and soak pit drainage system forming part of the proposed development. The proposed development would therefore be considered prejudicial to public health and contrary to the proper planning and sustainable development of the area.
4. Insufficient information has been submitted in relation to the site layout drawing confirming the size, material, and where relevant cover and invert levels of existing private watermain and surface water drains, and proposed new foul and storm drains and watermains, to be fully annotated with gradients, materials, sizes, and cover and invert levels etc. The proposed development would therefore be considered prejudicial to public health and contrary to the proper planning and sustainable development of the area.
5. Insufficient information has been submitted in relation to a condition survey of existing private watermains (to include pressure test and leakage assessment) and surface water drains (to include CCTV survey) prepared by a competent Chartered Engineer. The proposed development would therefore be considered prejudicial to public health and contrary to the proper planning and sustainable development of the area.
6. Insufficient information has been submitted in relation to a flood risk assessment. The proposed development would therefore be considered prejudicial to public health and contrary to the proper planning and sustainable development of the area.
7. Insufficient information has been submitted in relation to providing a nature-based SuDS and storm attenuation design, calculations, layout, and details drawings, including the section of access laneway turning head within the site red-line boundary. The proposed development would therefore be considered prejudicial to public health and contrary to the proper planning and sustainable development of the area.

Adjacent site to east:

Application No.: 20171473: permission to construct 1 no. Single storey dwelling house, garage, all ancillary site services together with all ancillary servicing & works required to existing access road including storm drainage and attenuation system, existing access road grading & surfacing and street lighting, as required.

Permission Granted 4th January 2018.

Application No.: 20170651: permission to construct 1 no. Single storey dwelling house, garage and all ancillary site services. Refused 24th August 2017.

4. National/Regional/Local Planning Policy

- The Wexford County Development Plan 2022-2028 is the operative plan for the area and was adopted by the Elected Members of Wexford County Council at

the Special Meeting of the Council held on Monday, 13th June 2022. The Plan came into effect on Monday, 25th July 2022. It has regard to national and regional policies in respect of residential development.

- Volume 1: Written Statement
- Rosslare is located in a designated 'Coastal Zone' (Volume 1, Map 3)
- Chapter 3: Core Strategy.
- Table 3-2 County Wexford Settlement Hierarchy. Rosslare is a Level 3a Service Settlement.
- 3.6.3 Level 3a Service Settlements: Role and Function: While the size of these settlements varies, the settlements all share a common characteristic of being important service settlements for their local communities and their wider rural hinterlands. All of these settlements perform important functions including retail, commercial, education, residential, service and amenity functions. The location of these settlements, together with targeted growth and investment in services, will contribute to the balanced spatial development of the county.
- Development approach includes: 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. Protect and enhance amenities, heritage, green infrastructure and biodiversity in these settlements.
- Chapter 4: Sustainable Housing.
- Objective SH03: To seek to facilitate all households to access good quality housing appropriate to the household circumstances and in their particular community of choice.
- Objective SH04: To ensure that new residential developments minimises the use of natural resources and impacts on natural assets. The locations selected for residential developments should maximise the potential to use sustainable modes of transport such as walking, cycling and public transport to reduce dependence on fossil fuels. The design of residential units and associated services should maximise the use of renewable energy and minimise the use of water.
- Objective SH06: To prioritise the provision of new housing in existing settlements and at an appropriate scale and density relative to the location in

accordance with the National Planning Framework, the Regional Spatial and Economic Strategy for the Southern Region and the Core Strategy and the Settlement Strategy in the Plan.

- Chapter 5: Design and Place-making in Towns and Villages.
- Chapter 9: Infrastructure Strategy.
- 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 lists EPA Urban Wastewater Areas of Concern. It 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.
- 9.11 Flood Risk and Surface Water Management.
- Objective FRM06: To consider applications for minor developments such as change of use, extensions and infill development in accordance with the requirements of the Planning System and Flood Risk Management-Guidelines for Planning Authorities (DEHLG and OPW, 2009) and Circular PL2/2014, and any future update of these guidelines and the County Strategic Flood Risk Assessment in Volume 11.
- Objective FRM14: To require the use of sustainable drainage systems (SuDS) and nature-based solutions to minimise and limit the extent of hard surfacing and paving and require the use of sustainable drainage and nature-based techniques where appropriate, for new development or for extensions to existing developments, in order to reduce the potential impact of existing and predicted flooding risks, to improve water quality, enhance biodiversity and green infrastructure and contribute to climate mitigation and adaptation.
- 9.11.11 Surface Water Management.
- Objective SWM07: To discourage the use of hard non-porous surfacing and pavements within the boundaries of rural housing sites.
- Chapter 10: Environmental Management.
- 10.5.4 Protecting and Improving Water Quality.
- Objective WQ15: To ensure that development permitted would not negatively impact on water quality and quantity, including surface water, ground water, designated source protection areas, river corridors and associated wetlands, estuarine waters, coastal and transitional waters.
- Volume 2 Development Management Manual.
- Section 2 Common Principles for All Developments, 2.6 Amenity.

- Section 3 Residential Developments.
- 8.8 Sightlines which Require Works
- The Council will ensure that all developments are served by safe accesses onto public roads in accordance with the standards contained in Volume 2 Development Management Manual. Following monitoring by the Planning Department in 2019 it became apparent that some vehicular accesses were constructed without the required sightline measures conditioned by the planning permissions. This issue was more prevalent where the achievement of sightlines necessitated works to lands outside the ownership of the applicant and required consent from an adjoining landowner. As a result the Council will now require the measures outlined in Objective TS79.
- Objective TS79
- Where works are required to achieve sightlines at a vehicular access, the following criteria must be complied with:
 - The necessary works to achieve the required sightlines must be indicated within the site edged red submitted with the planning application.
 - No construction of the dwelling shall take place until the sightlines are in place.
- 6.2.6 Siting and Design of Access/Egress Points
- B. Sightlines Road speed limit of less than 60 kph The Planning Authority will have regard to the principles, approaches and standards of DMURS in the assessment of appropriate sight distances where a new or materially intensified access/egress point is proposed to a public road where a speed limit of less than 60 kph applies. Where the proposed access/egress point crosses an existing or potential future footpath (generally in towns and villages) the access/egress point shall be designed to facilitate visibility of and by pedestrians, and other road users. This may require limits on the height of boundary walls/fences and/or landscaping where the boundary treatment directly adjoins an existing or potential future footpath as detailed on Figure 6-6 below. This requirement is in addition to vehicle intervisibility sightline considerations.
- Section 4: Rosslare Strand Specific Objectives
- Objective RS08: To require 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.

- Objective RS13: To prioritise the development of vacant, infill and under-utilised brownfield sites in the settlement plan area to achieve compact growth and sustainable development.
- Objective RS19: To ensure that new residential developments comply with the relevant objectives and development management standards in Volume 1 and Volume 2 of the County Development Plan, in particular, those pertaining to density, unit type and mix, private open space, public open space, permeability with an emphasis on walking and cycling provision, car parking and other relevant requirements.
- Objective RS22: To have regard to the available capacity of the wastewater treatment plant and its seasonal capacity when assessing planning applications in the area.
- Irish Water Wastewater Capacity Register

5. Natural Heritage Designations

- The following natural Heritage designations are located in the vicinity of the appeal site:
- Carnsore Point SAC [002269]
- Lady's Island Lake SAC [000704]
- Long Bank SAC [002161]
- Raven Point Nature Reserve SAC [000710]
- Saltee Islands SAC [000707]
- Screen Hills SAC [000708]
- Slaney River Valley SAC [000781]
- Tacumshin Lake SAC [000709]
- Lady's Island Lake SPA [004009]
- Tacumshin Lake SPA [004092]
- The Raven SPA [004019]
- Wexford Harbour and Slobs SPA (004076).
- Wexford Slobs and Harbour pNHA (000712).

Development, Decision and Grounds of Appeal

6. PA Decision.

There are 2 planning reports. The first dated 21st August concludes Further Information is necessary to address 6 issues, in summary relating to access/roads details, surfacewater and wastewater arrangements.

The second Planner's Report dated 27th September 2023 in summary, had regard to the following planning issues:

The proposal for a residential development at this location is acceptable in principle.

The design, layout and materials proposed for the house and garage is acceptable.

Access proposals are acceptable as per Roads Section response report following further information.

The water supply and effluent disposal proposals have been confirmed by Irish Water as being feasible dated 22nd March 2023 subject to a connection agreement. However, having regard to the deficiency of the Rosslare Strand Waste Water Treatment Plant (WWTP), the proposed development would be premature and prejudicial to public health. A reason for refusal is recommended on this basis.

Further information is required on surface water drainage, namely calculations for attenuation and confirmation of capacity of existing surface water mains.

AA and EIA is not required.

Site is not within a flood zone and Irish Water have not requested a Flood Risk Assessment (FRA). This was an issue within the previous application for which a refusal reason was provided. This does not need addressed in light of the Irish Water response. No FRA was submitted.

No submissions were received from third parties/public.

Development contributions are applicable.

One refusal reason is provided: sufficient capacity of the Rosslare Strand Waste Water Treatment Plant has not been demonstrated to accommodate the proposal, and would therefore be premature pending upgrade to the waste water

infrastructure and in the absence of upgrades would be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

7. First Party Appeal. Grounds:

- A pre connection feasibility agreement was issued by Irish water on 22nd March 2023.
- We are aware that there are issues in relation to the sewer network in Rosslare, however a connection agreement with Irish water has been obtained.
- The local authority have overruled Irish water on the basis that no connections are allowed, however the decision should be overturned as the applicant has been issued with a pre-connection feasibility agreement.

8. PA Response

- No further comments received.

Environmental Screening

9. 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.

10. AA Screening –

Having regard to the nature and scale of development, location in an urban area, 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, 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.

2.2. The key issue is the reason for refusal issued by the Planning Authority relating to the capacity of the Rosslare WWTP to accommodate additional connections and surface water disposal.

Rosslare WWTP Capacity

2.3. 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). Objective RS22 of the plan requires consideration of the available capacity of the wastewater treatment plant and its seasonal capacity when assessing planning applications in the area.

2.4. The Irish Water Wastewater Capacity Register states that 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.

2.5. The Irish Water response to the Planning Authority referred to in the planning reports recommends that further information relating to Confirmation of Feasibility, watermains and foul drainage details is requested. Confirmation of Feasibility provided by the applicant states that a connection of the proposed development to the water and sewage system was feasible, but that any grant of permission should be subject to conditions including a connection agreement being obtained by the applicant from Irish Water prior to the commencement of development.

2.6. Confirmation of Feasibility correspondence from Irish Water was provided by the applicant and is dated 22nd March 2023, pre-dating the submission of the application in June 2023 and later decision on 22nd March 2024. The Feasibility correspondence states within the penultimate paragraph that:

As the network capacity changes constantly, this review is only valid at the time of its completion.

- 2.7. There is no record within the evidence of the latest position in relation to WWTP capacity. The 2nd planning report suggests further advice was sought from Irish Water, however no response was received at the time of assessment.
- 2.8. The policy within the plan is broadly supportive of infill residential development. However, this is subject to other requirements including the protection of amenity and the environment, as discussed by Objectives WW06, WQ15, and RS19. Objective RS22, requires consideration of additional loading of proposals at the time of assessment. Given that the capacity register indicates that the WWTP remains in amber status and the passage of time since the feasibility response, I cannot be satisfied that the wastewater capacity issue has been resolved satisfactorily to allow the proposal to proceed and that public health and natural environment interests would be safeguarded. I also conclude that the proposal would be premature due to the status of the WWTP.
- 2.9. There have been a number of recent appeals within Rosslare in which WWTP capacity has been a key issue. I would highlight to the Bord recent appeal decisions for case references 318940 and 318939, which were refused on 10th July 2024. These sites are also located in Mauritiustown, approximately 310 metres due southwest of the current appeal site. The reasons for refusal included, *inter alia*, failure to demonstrate that the proposals would not result in overloading of the WWTP.

Water supply and Drainage Details

- 2.10. The response from Irish water included a requirement to demonstrate adequate watermain and drainage details, including pipe work, inverted levels and associated information. This was provided by the applicant within the further information response.
- 2.11. There is no comment within the planning report regarding these details. There is no reference within the refusal reason to associated details as part of the further information response to confirm if they are acceptable. Notwithstanding this, I consider that appropriate details could be agreed with the Council by way of negative planning condition prior to the commencement of development if permission was granted.

Design, Layout, and Amenity

- 2.12. I consider that the design of the dwelling is appropriate in terms of scale massing, fenestration, materials and amenity provision taking account of the design and layout of existing neighbouring buildings in the locality. I am also satisfied that the proposal would not adversely impact on the character of the area.
- 2.13. Based on the positive responses from the various bodies, I am satisfied that the proposal responds appropriately to all other technical issues.
- 2.14. Notwithstanding these acceptable details, I do not consider this outweighs the WWTP capacity issues with the proposal as discussed above.

3.0 Recommendation

- 3.1. I recommend that permission for the development be REFUSED.

4.0 Reasons & Considerations

Having regard to the Wexford County Development Plan 2022-2028 and the Irish Water Wastewater Capacity Register, the development is proposed to connect to the Rosslare wastewater treatment works where there is constrained capacity and where certainty of available capacity to facilitate the proposal cannot be demonstrated and overloading of the facility will not occur, potentially causing an adverse impact on the receiving environment. The proposal would be premature due to the deficiency of the wastewater treatment facility to serve the development, and therefore be prejudicial to public health and 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.

Richard Taylor

Planning Inspector

6th September 2024