



An  
Bord  
Pleanála

## Inspector's Report

**ABP-319540-24**

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<b>Development</b>	Construct a single storey dwelling house, connect to public services, all ancillary site works and services.
<b>Location</b>	Mauritiustown, Rosslare, Co. Wexford
<b>Planning Authority</b>	Wexford Co. Co.
<b>Planning Authority Reg. Ref.</b>	20230754
<b>Applicant(s)</b>	Tom Kealy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Tom Kealy
<b>Inspector</b>	Conor McGrath ADP

## 1.0 Introduction

- 1.1. An Inspector's Report was prepared on this appeal case, dated 06/09/2024, which recommended that the decision of the planning authority be upheld and that permission be refused for the proposed development on grounds of prematurity and wastewater treatment capacity. That report and recommendation was considered by the Board, who issued a direction, dated 27/11/2024, seeking an addendum report from the Inspectorate.
- 1.2. An Addendum report was subsequently prepared, dated 09/12/2024, which concurred with the recommendation of the original reporting inspector. A further Board direction was issued, dated 16/12/2024, which sought items of further information from the planning authority under s.132.

This addendum report considers the response of the planning authority to the s.132 request from the Board.

## 2.0 Board Direction

- 2.1. The Board Direction required that the following items be addressed:
  1. *Given the "Amber" status of Rosslare WWTP and given that the CDP specifies the above capacity of water source/treatment available for Rosslare Harbour and Rosslare Strand to cater for the 2027 population target, please explain the PA's opinion in 2024, that it has not been demonstrated that there is sufficient capacity in the Rosslare Strand Wastewater Treatment Plant to cater for the proposed development of the construction of a single storey dwelling house, connection to public services, all ancillary site works and services, and therefore it considered the development to be contrary to the proper planning and sustainable development the area.*
  2. *Given the opinion of the PA that "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 development of the area", please explain:*
    - (i) *the basis, if any, the PA considers exists for considering the proposed development to be premature and whether there is a mechanism being*

*developed or in place to monitor the cumulative effect of grants of permission on the wastewater treatment capacity.*

*details of the timeline for the upgrade of the wastewater treatment infrastructure in the village, as referred to and as understood by the PA, and supply all relevant details available from Uisce Éireann in that regard.*

- 3. Given the PA's opinion that in the absence of the submission by the Applicant of feasibility correspondence from Uisce Éireann, with regard to connection to existing public mains, it was unable to undertake a full assessment of the application for planning permission, the PA is requested to clarify its position regarding the usefulness and adequacy of the Confirmation of Feasibility dated 22 March 2023, submitted by the Applicant, in deciding that the proposed development is premature.*
- 4. The Board notes that the PA's file includes a statutory response from Uisce Éireann, enclosing a Planning Observation Report dated 2 August 2023, which includes details of questions raised and answered at Section 4, regarding "Impact on Wastewater Treatment Plant". The Board notes that the copy Planning Observation Report submitted to the Board is partially copied only, with the responses to the queries raised not visible in the copy document supplied by the PA. The PA is therefore requested to submit a full and legible copy of the Planning Observation Report dated 2 August 2023, and to comment on the position of Uisce Éireann regarding Question 4.1, which asks "Is the development likely to cause overloading potentially impacting receiving waters".*

**Note:** While the Board Direction referred specifically to Table 9.1 of the Wexford County Development plan 2022, I note that this section of the plan refers to Public Water Supplies, rather than Public Wastewater Facilities which is the issue arising in this case. I note that section 9.6 and Table 9.3 of the Development plan are the relevant provision of the plan in this regard.

### **3.0 Planning Authority Response**

A response to the S.132 notice was received from the planning authority on 30/01/2025, which makes the following points:

#### **Amber Status of Rosslare WWTP**

- Submissions from Uisce Eireann in respect of previous applications and appeals in the area (20220887 / ABP-314639-22) noted the amber status of the treatment

plant, due to recurrent breaches of its discharge licence, requiring assessment under the combined approach by Irish Water before permission to connect can be given.

- The planning authority thus consider that the treatment plant may not be in compliance with the requirements of the Urban Wastewater Treatment Regs, may not accord with the Irish Water CoP for Wastewater Infrastructure and would therefore be contrary to objective WW01 of the Development Plan.

### **Prematurity Pending upgrade of the Treatment Plant**

- There is no indication of an upgrade to the plant in the Uisce Eireann Capital Investment programme.
- Having regard to the precautionary principle, the development may be contrary to national or EU legislative requirements, non-compliant with the Water Framework Directive, Pollution Reduction Program for Shellfish Waters, Urban Wastewater Directive and the Habitats Directive.
- Until a 'combined approach' assessment is undertaken, any development increasing loading into the wwtp would be premature and contrary to best practise.
- Wexford Co. Co. has engaged consultants to carry out a combined approach assessment of the treatment plant, due to be completed in April 2025, which will allow the planning authority to assess if there is any capacity in the wwtp to facilitate the proposed development.

### **Confirmation of Feasibility**

- Having regard to the amber status of the plant and previous breaches of the discharge licence, a Confirmation of Feasibility is primarily considered to be an indication of the physical ability to connect to a WWTP without major infrastructure works. It does not confer that the development would meet the requirements of the Wastewater Discharge Act.
- In support of this statement, an extract is provided from the submission of Uisce Eireann relating to PA ref. 20231418 / ABP-319004-48.
- The planning authority is not satisfied that the development would not have a negative impact on receiving waters and consider that it is premature pending the upgrade of the plant or completion of the 'combined approach' assessment.

### **Planning Observation from Irish Water**

- A copy of the Uisce Eireann observation (dated 02/08/2023) is provided.

- In respect of question 4.1: Is the development likely to cause overloading potentially impacting receiving waters, the Observation answers *No*.

The planning authority note the significant number of previous cases in the area wherein the Board upheld planning authority decisions to refuse permission on the basis of deficiencies in the wastewater treatment plant. Clarification on any change in approach in this regard is sought.

## 4.0 Further Responses

The planning authority submission was circulated to the first party under s.131, however, no response was received thereto.

## 5.0 Assessment

5.1. This report restricts itself to the consideration of the items raised in the Board Direction. I refer to the original reporting inspector's report dated 06/09/2024 and my addendum report dated 09/12/2024.

### 5.2. WWTP capacity

As previously detailed, and as set out in the planning authority response, Rosslare Strand WWTP is currently assigned an Amber Status. This is confirmed in the most up to date Uisce Eireann Capacity Register dated, December 2024. The register includes the following clarification on Amber status:

“potential spare capacity, additional analysis of applications may be required on an individual basis considering their specific load requirements. Potential availability of capacity in this case would be dependent on any additional load not resulting in a significant breach of the combined approach as set out in Regulation 43 of the Waste Water Discharge (Authorisation) Regulations 2007, which is a matter for the relevant Planning Authorities to determine”.

In their response to the S.132 notice, the planning authority make reference to development plan **Objective WW01**: “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 .....”

The planning authority have not commented on Table 9-3 of the Wexford County Development Plan 2022-2028, which provides an overview of Public Wastewater Infrastructure in the county. Table 9-3 identifies Rosslare Strand as a Level 3a service settlement with headroom of 2,826 in the wastewater treatment plant. This headroom / capacity is stated to be based on the Irish Water Capacity Register dated April 2020, and is further stated in the plan to be subject to change.

The Capacity Register has since been updated (December 2024) and issues with capacity in the Rosslare Strand Treatment Plant have been acknowledged. In this context I do not consider it reasonable to rely upon capacity identified in 2020.

In my earlier report dated 09/12/2024, I described documented issues with the treatment plant at Rosslare Strand vis compliance with the wastewater discharge licence (D0173-01). I remain of the view that it is not clear at this time that the proposed development can be satisfactorily accommodated at the plant.

### **Prematurity of the development:**

There is no evidence of any planned upgrades to the Rosslare Strand Wastewater Treatment Plant, while the 2023 AER identifies issues with excessive peak loadings at the plant. The planning authority have confirmed that a combined approach assessment is currently under art 43 of the Wastewater Discharge regulations.

Pending the completion of such assessment, and subject to the results thereof, and having regard to the understood capacity issues in the wastewater treatment plant, I remain of the view that the proposed development would be premature at this time.

### **Confirmation of Feasibility**

As noted in previous reports, the Confirmation of Feasibility submitted in respect of the proposed development dated 22/03/2023, confirmed that a connection was feasible at a point in time, but strongly advised that the availability of capacity changes with time. It further specifically identified capacity constraints at Rosslare

Strand Wwtp. I do not consider that such letter is sufficient to overcome concerns regarding the documented capacity issues at the treatment plant.

### **Uisce Eireann Planning Observation**

The Uisce Eireann planning observation dated 02/08/2023 indicates that the development would not cause overloading of the treatment plant, potentially impacting receiving waters. I note that this report sought a copy of a letter of Confirmation of Feasibility in respect of the proposed development.

I do not consider that this Observation is sufficient to overcome more recent documented treatment capacity issues at the plant.

## **6.0 Recommendation**

- 6.1. On the basis of the information on the file I would concur with the recommendation of the original reporting inspector, and further consider that pending completion of the Combined Approach Assessment, it cannot be concluded, having regard to the amber status of the treatment plant and noted exceedances of the discharge license (D0173-01), that a connection from the proposed development can be accommodated without negative impacts on receiving waters.

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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Conor McGrath

Assistant Director of Planning  
24/03/2025

