



An
Bord
Pleanála

Inspector's Report

ABP-320716-24

Development

Permission to change the proposed two-storey house type permitted under planning ref. no. 20231277 to a single-storey house.

Location

Ballymorris (E.D. Carrick), Wexford, Co. Wexford.

Planning Authority

Wexford County Council

Planning Authority Reg. Ref.

20240531

Applicant(s)

Aidan O'Reilly

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Stephen Gladstone & Catherine O'Reilly

Observer(s)

none

Date of Site Inspection

29th November 2024

Inspector

Aisling MacNamara

1.0 Site Location and Description

- 1.1. The site is a 2.4ha site located at the rural outskirts of Wexford town. The N25 Wexford bypass is located 200m to the east of the site. Access to the site is from the L3025. The site is adjoined by the properties of one off houses to the northeastern, western and southwestern side of the site. The eastern and southeastern boundaries of the site adjoin agricultural lands.
- 1.2. The site is partly spread over two fields and is gently sloping with boundaries formed by mature trees and hedging with the exception of the eastern boundary which is an open part of the existing field. There is a band of mature trees/ hedging crossing diagonally through the site running along the route of a drainage channel. Ground works have been carried out including construction of entrance to the public road, laying of driveway, preparatory works for stables at the rear of the site and drainage works.

2.0 Proposed Development

- 2.1. Permission is sought for a change in house type from two storey house type permitted under PA20231277 to a single storey house.

3.0 Planning Authority Decision

3.1. Decision

On 2nd August 2024 Wexford County Council issued a notification of their decision to grant permission for the development subject to four conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The first report of the Executive Planner dated 4th July 2024 includes a recommendation to request further information.
- Further Information was requested on 5th July 2024 in relation to one item. The applicant was requested to submit additional information confirming that

they have control of the whole application site edged red. The site overlaps with extant permission PA20200531 and a third party submission suggested that the submitted location map is inaccurate.

- The applicant submitted a response to the further information request on 19th July 2024 confirming that they have control over the application site.
- The second report of the Executive Planner dated 1st August 2024 sets out the basis for a recommendation to grant permission as per the decision.

3.2.2. Other Technical Reports

- The report of the Executive Technician recommends grant of permission subject to conditions relating to sightlines, drainage and gradient of access carriageway.

3.3. Prescribed bodies

None

3.4. Third Party Observations

One third party observation was received from the residents of the adjoining property to the northeast 'Liscartan' raising the following issues:

- The house is an inappropriate design for the location, area and setting.
- The proposed house is located too close to the boundary of the adjoining lane at their property.
- The location map is inaccurate because they have purchased land adjacent to the site layout that no longer is accurately reflected on the submitted plans.

4.0 Planning History

The following is the relevant planning history of the site:

- **PA 20231277** – O'Reilly – grant Jan 2024 – Permission for the proposed erection of a fully serviced dwelling house together with waste water treatment plant, percolation area, erection of stables and stable yard and all associated site works

- **PA 20230645 (ABP 317867-23 withdrawn)**- O'Reilly – refused July 2023 - Permission for the proposed erection of a fully serviced dwelling house together with waste water treatment plant, percolation area, erection of stables and stable yard and all associated site works. Refusal reasons: (i) failed to demonstrate rural housing need, (ii) premature pending approval of Oylegate to Rosslare Harbour N11/N25 upgrade corridor route
- **PA 20220781** – O'Reilly – refused July 2022 - Permission for the proposed erection of a fully serviced dwelling house together with treatment plant, percolation area, erection of stables and stable yard and all associated site works. Refusal reasons: (i) failed to demonstrate rural housing need, (ii) premature pending approval of Oylegate to Rosslare Harbour N11/N25 upgrade corridor route
- **PA 20211414** – O'Reilly – refused Oct 2021 - Permission for the proposed erection of a fully serviced dwelling house together with treatment plant, percolation area, erection of stables and stable yard and all associated site works. Refusal reason: (i) failed to demonstrate rural housing need
- **PA 20200531** – Kehoe – grant Sept 2020 - Permission for the proposed erection of a fully serviced Dwelling House and detached domestic garage (to supersede a previous Granted Permission 20160999 on site) together with all associated site works and ancillary services.
- **PA 20191593** – Kehoe – refused 2020 – Permission for erection of dwelling house and detached garage together with associated site works and ancillary service. Refusal reasons: (i) on site wastewater treatment and disposal proposals not acceptable, (ii) failed to demonstrate rural housing need for second rural house in this rural area.

5.0 Policy Context

5.1. National policy

- National Planning Framework 2040

National Policy Objective 19 states that 'In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core

consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

- Guidelines for Planning Authorities on Sustainable Rural Housing

5.2. **Wexford County Development Plan 2022-2028**

Chapter 4 Sustainable Housing

4.9 Housing in the Open Countryside

4.9.1 Single (One – off) Rural Housing Policy Context

Site is located in area of Strong Urban Influence (map 1 Rural Area Types)

Objective SH39 To consider individual rural housing in the open countryside in accordance with the categories and associated criteria set out in Table 4.6 and subject to compliance with normal planning and environmental criteria and the relevant development management standards.

In order to be considered for a single dwelling in the open countryside the applicant must meet one of the following categories:

Category A: A person with demonstrable social functional need to reside in a particular rural area (except for Structurally Weak Rural Areas), or

Category B: A person with a demonstrable economic functional need to reside in a particular rural area (except for Structurally Weak Rural Areas).

The applicant must comply with the criteria for that category and the applicable rural area criteria as set out in Table 4.6.

Objective SH45 To require the design of new single houses to be of high quality and in keeping with the rural character of the site and the area, protect the visual amenities of the area and that of the landscape character unit in which it is located.

Development Management Manual

3.1 Single Dwellings in Rural Areas

3.1.1 Design Guidance for Single Houses in Rural Areas

3.1.2 Standards for Single Dwellings in Rural Areas

Volume 7 Landscape Character Assessment

Site is located in Lowlands landscape character area which has a low to moderate sensitivity rating. The Lowlands LCU generally has characteristics which have a higher capacity to absorb development without it causing significant visual intrusion although, care still needs to be taken on a site by site basis, particularly to minimise the risks of developments being visually intrusive.

5.3. **Natural Heritage Designations**

The Slaney River Valley SAC is located c. 1.5km to the north and east.

The Wexford Harbour and Slobbs SPA is located c. 2.5km to the north and east.

5.4. **EIA Screening**

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The main issues raised in the appeal are as follows:

- The proposal will allow the applicant to build a house within an area designated as an 'area under strong urban influence' where new dwellings are restricted to those whom have an economic or social need to reside in the area. The applicant does not have any rural or economic links to the rural area and therefore does not comply with the rural housing policy as set out in the Wexford County Development Plan 2022-2028 nor does he comply with NPO19 of the National Planning Framework 2040.

- Impact on their residential amenity as a consequence of the proposed house which is now closer to their boundary than previously granted under Ref. 20231277.
- Result in a house design which is inappropriate in this rural area and which does not respect the context of the site.
- Potentially results in adverse impact to the waters at Wexford Harbour which are designated a Natura 2000 site.

6.2. **Applicant Response**

The applicant has responded to the appeal as follows:

- The applicant was granted permission for a house on the site. The proposed development is a minor alteration of house type to facilitate a single story dwelling with a smaller floor area to that previously granted.
- The appeal is frivolous and vexatious, in order to extort the sale of land from the applicant. The Board are requested to dismiss the appeal in accordance with section 138 of the Planning and Development Act 2000 (as amended).
- Compliance with rural housing policy has already been established.
- The proposed change in house type will not result in loss of amenity for appellants.
- The height, scale and bulk of the dwelling has been reduced including landscaping and minor alteration in location of dwelling means that impact of the development is reduced in views from the surrounding landscape.
- Planning authority has carried out AA screening concluding that no further assessment is required. The appellants concerns are unfounded.

6.3. **Planning Authority Response**

None

6.4. **Observations**

None

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including all submissions received in relation to the appeal, and inspected the site and having regard to relevant local policies and guidance, I consider that the main issues in this appeal are as follows:

- Nature of appeal
- Principle of development
- Design and visual impacts
- Residential amenity
- Other matters

7.2. **Nature of appeal**

7.2.1. The applicant submits that the appeal is being used as an attempt to extort the sale of land from the applicant. The Board is requested to dismiss the appeal on this basis. It is stated that the appellants submitted letters of support under PA20220781 and PA20230654 and that the appellants had agreed to support these applications in return for the sale of lands to them by the previous landowner (a copy of a contract of sale is attached). It is stated that prior to making the subject appeal similar terms were discussed between the applicant and appellant.

7.2.2. Section 138(1) of the Planning and Development Act 2000 (as amended) states that the Board shall have an absolute discretion to dismiss an appeal or referral:

(a) where, having considered the grounds of appeal or referral or any other matter to which, by virtue of this Act, the Board may have regard in dealing with or determining the appeal or referral, the Board is of the opinion that the appeal or referral –

- (i) is vexatious, frivolous or without substance or foundation, or

- (ii) is made with the sole intention of delaying the development or the intention of securing the payment of money, gifts, consideration or other inducement by any person.

I note that the grounds of appeal raise planning issue, i.e. rural housing policy, residential amenity, design and appropriate assessment. I conclude on this basis that section 138(1)(a)(i) does not apply. I therefore consider that the Board should consider the subject appeal on its merits.

7.3. Principle of development

- 7.3.1. The subject site is located in a rural area under strong urban influence where objective SH39 of the County Development Plan 2022-2028 states that a single dwelling in the open countryside is restricted to applicants who fulfil the criteria set out in table 4.6, i.e. to those with a social or economic functional need to reside in a particular rural area.
- 7.3.2. The applicant received planning permission for a single rural house under PA 20231277 (final notification of grant 4th March 2024) wherein the planning authority determined that the applicant complied with the rural housing policy of the Wexford County Development Plan 2022-2028. The current proposal is for permission to change the house type or design of the already permitted house. Having regard to this, I am satisfied that the principle of a rural house on this site for the applicant is established and I am satisfied that it is not necessary to re-consider the issue of compliance with the rural housing policy. Furthermore, I note that there has been no change in local or national housing policy since the granting of PA 20231277 and that the Wexford County Development Plan 2022-2028, the National Planning Framework and the Guidelines for Sustainable Rural Housing are all still in place.

7.4. Design and visual impacts

- 7.4.1. The appellant submits that the design of the proposed dwelling is not appropriate for the rural area citing that the complex layout and industrial elevational treatment of the proposed house does not relate to the context of the site.
- 7.4.2. The Wexford County Development Plan 2022-2028 includes objective SH45 which requires that the design of new single houses in the open countryside be of high quality and in keeping with the rural character of the site. Design guidance for single

dwellings in the rural area is set out in section 3.1.1 of Development Management Manual. In summary, this requires that new rural dwellings should be appropriately sited, well designed, simple and unobtrusive and should respond to the sites characteristics. Under the Landscape Character Assessment of the CDP, the site is located in a lowlands character area which is of low to moderate sensitivity and generally has capacity to absorb development without it causing significant visual intrusion.

- 7.4.3. The proposed house is to be located on a large 2.4ha gently sloping rural site that benefits from good screening of mature trees and hedging along boundaries and across the centre of the site. I note that proposed house is sited at a similar location on the site to the house permitted under PA 20231277. Furthermore, the proposed entrance, driveway and landscaping and boundary treatments are to be completed in accordance with that permitted under PA20231277.
- 7.4.4. The house is located towards the centre of the site setback 60m from the front road boundary, 68m from the eastern boundary, 37m from the western boundary and 89m from the rear/ southern boundary. This large site and screening provides capacity to absorb the proposed dwelling on the site.
- 7.4.5. The permitted house is a part two storey, part single storey house with floor area of 314sqm finished mainly in render and metal roof cladding. The proposed house is a single storey house with floor area of 277sqm for the house, 47sqm carport and 14sqm store. The section drawings show the outline of the permitted house relative to the proposed house. The proposed house has a smaller floor area and lower height than that permitted.
- 7.4.6. The proposed house design is a contemporary take on the traditional rural farmhouse design. The main house contains three inter-linked blocks and a store and car port. The finished floor levels are stepped taking account of the slope in ground levels and the house is narrow plan oriented to reflect the contours. The two main front blocks have a traditional flat fronted narrow design form with vertical emphasis to gables and low eaves. The rear living block also has a narrow design form with a lean-to roof. The house has a low maximum ground to ridge height of 5.7m. The house is to be finished in a select colour metal cladding and timber cladding which I consider to be representative of the traditional metal farm building

and which takes account of the wooded locational setting. Should permission be granted final colours should be agreed with planning authority. I am satisfied that the building design is a contemporary take on the traditional rural farmhouse design and that the scale, height, form and finishes are appropriate for this rural setting.

- 7.4.7. The landscaping plan shows that existing vegetation is to be retained and additional native hedgerow is proposed along the roadside boundary and clusters of new native woodland are to be planted at the side boundaries and in the southeast corner of the site.
- 7.4.8. In terms of siting and design, I am satisfied that having regard to the characteristics of the site including its landscape character, the large size of the site, its topography, the existing and proposed screening on the site including the proposed siting and design of the house, that the proposed house would integrate into this surrounding rural area and would have an acceptable impact on the visual amenities of the area. I therefore consider that the proposed development is in accordance with the principles for good rural house design as set out in section 3.1 for Single Dwellings in Rural Areas in the Development Management Manual of the CDP and that the development is in accordance with objective SH45 of the CDP.

7.5. Residential amenity

- 7.5.1. The appellants have raised concerns that the proposed house has been located closer to their property and that this compromises their residential amenity.
- 7.5.2. The proposed house is located approximately 60m from the shared boundary with the appellants property to the northeast. The driveway to the proposed house is located c 46m from this boundary. The boundary is marked by a line of mature trees and hedging that is to be supplemented with additional native woodland planting in the corner near the adjoining dwelling house.
- 7.5.3. Having regard to the small domestic nature and scale of the proposed development, including the separation distance to the adjoining property and intervening screening, I do not consider that the proposed development would result in any significant overshadowing, overbearing or overlooking impacts or other impacts in terms of noise or disturbance, on the adjoining residential property or any other property in the surrounding area. I therefore conclude that the proposed development would not

result in any significant adverse impacts on the residential amenity of adjoining properties.

7.6. Other matters

- 7.6.1. Under PA20231277 permission has been granted for an on site waste water treatment system. The applicant has submitted an updated site characterisation form dated 10th May 2024. The proposed system is a secondary wastewater treatment system followed by certified tertiary treatment system and is as per previously permitted. Should permission be granted it is recommended that a condition be attached requiring the system be installed as per the updated report.

8.0 AA Screening

I have carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act (as amended) which is attached. I conclude that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European sites namely, Slaney River Valley SAC, Wexford Harbour and Slobs SPA, The Raven SPA or Seas of Wexford SPA.

This determination is based on:

- the relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European site,
- weak indirect connections to the European sites, and
- distance to European sites

No mitigation measures are required to come to this conclusion.

9.0 Recommendation

I recommend that permission be granted for the reasons and considerations below subject to the attached conditions.

10.0 Reasons and Considerations

Having regard to the provisions of the Wexford County Development Plan 2022-2028, the planning history including permitted development PA20231277 and the nature and scale of the development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area, would not result in traffic hazard and would not unduly impact the visual amenities of the area. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 19th day of July 2024, 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. Apart from any departures specifically authorised by this permission, the development shall comply with the conditions of the parent permission Register Reference 20231277 unless the conditions set out hereunder specify otherwise. This permission shall expire on the same date as the parent permission.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission(s).

3. (a) The wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application and shall be in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) ” – Environmental Protection Agency, 2021.

(b) Treated effluent from the septic tank/ wastewater treatment system shall be discharged to a percolation area/ polishing filter which shall be provided in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)” – Environmental Protection Agency, 2021.

- (b) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/ wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

Reason: In the interest of public health and to prevent water pollution.

4. 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.

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.

5. Final details of the colours and materials of the external plaster, metal cladding and timber cladding shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

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.

Aisling Mac Namara
Planning Inspector

21st January 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	320716-24		
Proposed Development Summary	Ballymorris, Co.Wexford		
Development Address	Permission to change the proposed two storey house type permitted under planning reg no. 20231277 to a single storey house.		
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 x	Proceed to Q2.
		No	Tick if relevant. No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes		State the Class here.	Proceed to Q3.
No	x		No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes		State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required

No			Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes		State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)

• Has Schedule 7A information been submitted?		
No	x	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Aisling Mac Namara

Screening the need for Appropriate Assessment

Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

This is a proposal for a change in house type from that permitted under PA20231277. Permission has already been granted for the erection of a new house with a wastewater treatment plant, percolation area, stables and all associated site works, on the site under PA20231277 and therefore the principle of allowing a house with ancillary works including on site waste water treatment system is already established. The applicant has submitted an updated site characterisation form dated 10th May 2024. The house is to be connected to public mains water supply and surface water is to drain to on site soakaways. There are trees and vegetation along the boundaries of the site and these are to be retained and supplemented with additional native planting. There are drainage ditches traversing the site that are likely to link to the nearby stream that connects north to the River Slaney.

The planning authority has carried out appropriate assessment screening and has concluded that significant impacts on a European site can be ruled out and stage 2 appropriate assessment is not required.

European Sites

The following European sites are located within a potential zone of influence of the proposed development:

- The Slaney River Valley SAC (000708) – 1.5km distance from the site
- The Wexford Harbour and Slobbs SPA (004076) – 2.5km distance from the site
- The Raven SPA (004019) – 8.5km distance from site
- Seas of Wexford SPA (004237) – 8.5km distance from site

Likely impacts of the project (alone or in combination)

Alone:

Being a proposal for a revised house type design, the proposed development does not in itself have any ecological or hydrological pathways to the Natura 2000 site network.

In combination:

The development is to be carried out as an amendment to PA20231277. This is a recently permitted development that has been subject to appropriate assessment screening by the planning authority which concluded that significant impacts are ruled out and stage 2 appropriate assessment is not required.

The proposed development will not result in any effects that could contribute to an additive effect with any other developments in the area.

The proposed development alone and in combination with PA20231277:

The proposed development does not have any direct ecological or hydrological connection to the Natura 2000 site network.

During site clearance and construction, possible impact mechanisms of a temporary nature include generation of noise, dust and construction related emissions to water bodies. Due to the small scale and domestic nature of the development including distance to Natura 2000 sites, it is not likely that the development would affect any QI's of Natura 2000 sites.

The proposed development is indirectly connected to Slaney River Valley SAC and Wexford Harbour and Slobbs SPA by virtue of a hydrological pathway via water bodies (groundwater and drainage ditches) from on site disposal or waste water and surface water. Any indirect impacts by virtue of this pathway would not be significant by virtue of the distance to the Natura 2000 sites and dilution effects and the minimal pollution risks associated with installing infrastructure in accordance with standard best practice.

I note that existing vegetation on site boundaries is to be retained and supplemented and therefore there would be no significant impacts on existing flora or fauna dependent on this vegetation. There would be minimal impact on any species that may occasionally use the amenity open space area on the site.

Overall Conclusion

Screening Determination

Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act (as amended), I conclude that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Sites namely, Slaney River Valley SAC, Wexford Harbour and Slobbs SPA, The Raven SPA or Seas of Wexford SPA.

This determination is based on:

- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European site,
- Weak indirect connections to the European sites
- Distance to European sites

No mitigation measures are required to come to this conclusion.

Inspector: _____

Aisling Mac Namara

Date: