



An  
Bord  
Pleanála

## Inspector's Report ABP-304219-19

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<b>Development</b>	Retention of reconstructed section of existing dwelling to front and rear.
<b>Location</b>	Stabannon, Castlebellingham, County Louth.
<b>Planning Authority</b>	Louth County Council.
<b>Planning Authority Reg. Ref.</b>	18/945.
<b>Applicant</b>	Des Campbell.
<b>Type of Application</b>	Retention Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Fergal O' Briain.
<b>Observers</b>	Eleanor Keenan & Others.
<b>Date of Site Inspection</b>	19 <sup>th</sup> July, 2019.
<b>Inspector</b>	Patricia-Marie Young

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## 1.0 Site Location and Description

- 1.1. The appeal site is located in the Townland of 'Stabannan', which lies c4.5m to the south west of Castlebellingham, c5.8km to the north eastern fringes of Ardee in County Louth.
- 1.2. The site has a rectangular shape with a stated site area of 0.2ha. It is accessed via a vehicular entrance onto a restricted in width local road c100m to the north Saint Nicholas's Roman Catholic Church (a Protected Structure and listed by the NIAH as a building of Regional Importance with its Categories of Special Interest identified as being Architectural, Artistic, Historical and Social (NIAH No. 13901502)) and c1km to the north of the N33 (Ardee Link Road) and c1.3km to the north west of the M1s Junction 14.
- 1.3. The site contains a significantly altered and extended detached single storey dwelling house that and is bound by a number of agricultural buildings on its southern side with its western and northern site boundaries adjoining agricultural land. In terms of the original structure most of it is now demolished and there are three sections of its external wall remaining. The original roof structure is in the process of replacement and the footprint of the dwelling house has been extended to the north and west.
- 1.4. The surrounding area has a transitional character with agricultural uses predominating to the west, north and east of the site. Notwithstanding, to the south of the site and along Wheatfield's Road either side of the public road is characterised by linear development that includes a national school, the aforementioned church and a few commercial uses including two public houses. This neighbouring land could be described as having a village character with the site occupying a position on its northern fringes.

## 2.0 Proposed Development

- 2.1. Retention planning permission is sought for a development described as the reconstruction of a section of existing dwelling to the front and rear; rear ground floor and first floor extension to dwelling and completion of the same.
- 2.2. On the 6<sup>th</sup> day of March, 2019, on foot of a request for further information the applicant submitted significant information which included the proposed provision of a new waste water treatment system for the existing and extended dwelling house.

2.3. According to the planning application form the gross floor space of existing buildings on site is stated to be 171.41m<sup>2</sup> and the gross floor space of existing buildings to be retained is 135.56m<sup>2</sup>.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

3.1.1. The Planning Authority decided to **grant** retention permission for the development sought under Section 2.1 of this report above subject to standard in nature and scope conditions.

#### 3.2. **Planning Authority Reports**

##### 3.2.1. **Planning Reports**

The **initial Planning Officer's** report concluded with a request for further information. This consisted of two items with the first relating to waste water treatment provisions for the dwelling. The second item required the provision of revised public notices.

The **final Planning Officer's report** raised no substantive concerns and concluded with a recommendation to grant retention permission.

##### 3.2.2. **Other Technical Reports**

3.2.3. **Environmental Compliance Section:** The applicant's further information response was considered to satisfactorily address their initial concerns to the development sought. No further objections are raised subject to safeguards in the event of a grant of retention permission.

#### 3.3. **Prescribed Bodies**

3.3.1. None.

#### 3.4. **Third Party Observations**

3.4.1. Several submissions were received to the development sought. I have noted the content of the same and I consider that they reiterate the same planning issues that are raised by the appellant and observers in this appeal case.

## 4.0 Planning History

4.1. No recent and/or relevant planning history.

## 5.0 Policy and Context

### 5.1. Local Planning Policy Provisions

- 5.1.1. The applicable plan is the Louth County Development Plan, 2015-2021, under which the site is located within 'Zone 5'. The development objective for such lands is *"to protect and provide for the development of agriculture and sustainable rural communities and to facilitate certain resource based and location specific developments of significant regional or national importance"*.
- 5.1.2. Section 2.9.8 of the Development Plan deals with the matter of refurbishment of Existing Dwellings and Vernacular Buildings in Rural Areas.
- 5.1.3. The Development Plan states that the Planning Authority will seek:
- "To encourage the sensitive refurbishment of existing vernacular dwellings and buildings in the interest of preserving the built heritage of County Louth"* (Policy SS 30);
- "To require that the reuse or refurbishment would maintain or enhance the form, character and architectural features, design and setting of the existing building and not have an adverse effect on the character or appearance of the locality"* (Policy SS 34);
- "To require that any new extensions are sympathetic to the scale, massing and architectural style and materials of the existing building"* (Policy SS 35);
- "To ensure that the size of any extension does not exceed 100% of the existing floor area, subject to compliance with the maximum permitted floor area of the Development Zone in which it is located"* (Policy SS 36). Note: Table 2.9 of the Development Plan indicates that the minimum site size for Development Zone 5 lands is 0.2ha and the maximum cumulative gross floor area is 220m<sup>2</sup>;
- 5.1.4. Policy SS 38 of the Development Plan states that the Planning Authority will seek to *"require that all necessary services can be provided without significant adverse impact on the environment or character of the locality"*.

- 5.1.5. Section 2.19.9 of the Development Plan states that *“it is the Council’s policy to seek to retain vernacular dwellings and structures and promote their sympathetic renovation and continued use rather than replacement”*.

## 5.2. Natural Heritage Designations

- The site lies c0.8km to the south of Special Protection Areas: Stabannan-Braganstown SPA (Site Code: 004091) at its nearest point. The objective for this SPA is to maintain or restore the favourable conservation condition of the Greylag Goose – *Anser Anser* (Bird Code: A043).
- The site lies c6.3km to the south west of Special Protection Areas: Dundalk Bay SPA (Site Code: 004026) and Special Area of Conservation: Dundalk Bay SAC at its nearest point.

## 5.3. Environmental Impact Assessment/Screening

- 5.3.1. Having regard to the nature and scale of the residential development sought under this application, the separation distance from Nature sites, the lack of any hydrological connection or otherwise to these sites, there is no real likelihood of significant effects on the environment arising from the proposed development. I consider that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal can be summarised as follows:

- Reference is made to the planning history of the site and to a purported requirement for the carrying out of archaeological excavations on the site ahead of any grant of planning permission due to the site’s location in close proximity to the church grounds/historical ruins.
- The applicant ignored these requirements and has used heavy excavators at this location alongside placed hoardings around the site to prevent locals seeing what was happening therein. These actions require investigation.

- The applicant has incorrectly stated that there is a stream located 85m south of the location when it is in fact 72.54m away from the site.
- The accuracy of the drawings in depicting other structures is questioned.
- The entrance fails to provide adequate sightlines for safe access and egress onto the narrow country road that serves it.
- The Planning Authority has failed in its examination of this application to request additional information on the potential archaeology at this location and/or information on historic structures in which its vicinity. In previous applications for this site when the applicant was requested for this information the applications were withdrawn. It is considered that the built heritage of the site still requires investigation.
- The applicant ignored that the works should not commence on the site after the date had elapsed for appeals to the Board and they commenced works within 2 days of receiving the Planning Authority's decision.

## 6.2. **Observers**

6.2.1. The observer's submission can be summarised collectively as follows:

- The applicant went to considerable efforts to conceal the development for which retention permission is sought.
- This the site is archaeologically sensitive, and it is important to know the whereabouts of the excavated material from the site.
- This development is out of character with other buildings in its vicinity.
- The original building was a beautiful old house with original features which has now been extended to the front and rear as well as risen by at least 2m in the absence of planning permission. It should be reinstated.

## 6.3. **Applicant Responses**

6.3.1. The applicant's response can be summarised as follows:

- Previous withdrawn applications made in relation to development on this site have no relevance to this current application.

- There are no known National Monuments located on or within 100m of the proposed site.
- The distance from the stream is correctly provided.
- A location map showing the proposed percolation area and the existing stream have been provided.
- Reference is made to the site characterisations report carried out by Hydrocare Environmental Ltd.
- The building located 70m from the site has no relevance to the proposed application.
- The dwelling house referred to is shown in the Site Characterisation Report.
- The site entrance is existing, and the original house has been present for more than 70-years.
- No archaeological investigation of the site has been requested.
- The appellant is not known in this area and it is considered that the appeal should be treated as a nuisance and should be rejected by the Board.

#### **6.4. Planning Authority Response**

- 6.4.1. The Planning Authority had no comments to make over and above those contained in their Planning Officer's reports.

### **7.0 Assessment**

#### **7.1. Introduction**

- 7.1.1. I consider the key planning issues relating to the assessment of this appeal case can be considered under the following broad headings:

- Principle of the Development Sought
- Built Heritage and Visual Amenity Impact
- Access
- Other Issues Arising

- 7.1.2. The matter of 'Appropriate Assessment' also needs to be assessed.



## 7.2. Principle of the Proposed Development Sought

- 7.2.1. The subject site is situated on land that is subject to 'Zone 5' land use zoning under the Louth County Development Plan, 2015-2021. The site contains an existing detached dwelling house that has been substantially extended beyond that permitted under relevant planning exemptions. In general, the principle of extending existing dwelling houses is deemed to be acceptable under the said Development Plan subject to safeguards. In this regard I refer to Section 2.19.14 of the said Development Plan which acknowledges that it is often required for existing dwellings to require the provision of additional accommodation and it considers that the provision of extension is a more sustainable solution to the construction of a new dwelling house.
- 7.2.2. This is also the case with vernacular dwellings of visual merit but not afforded any specific protection by way of designation as a Protected Structure through to forming part of a designated Conservation Area, but also subject to safeguards. In this regard I refer to Section 2.19.9 of the said Development Plan which states that: *"it is the Council's policy to seek to retain vernacular dwellings and structures and promote their sympathetic renovation and continued use rather than replacement"*.
- 7.2.3. Section 2.9.14 of the said Development Plan, like Section 2.19.9 of the Development Plan seeks sympathetic interventions. It seeks that extensions should complement the original building and harmonise with properties in its setting. It also seeks that such developments do not give rise to adverse visual amenity.
- 7.2.4. Further Policy SS 57 of the said Development Plan seeks to limit the size of such extensions to not more than 100% of the floor area of the original dwelling. It also seeks compliance with Table 2.9 and Policy SS 52.
- 7.2.5. In this regard, I note that Table 2.9 of the said Development Plan, it sets out that the minimum site area for a dwelling 0.2ha and the maximum cumulative gross floor area for a dwelling is 220m<sup>2</sup>. The development sought for retention is compliant with Table 2.9 given that its site area is stated to be 0.2ha and the gross floor area of the dwelling, including the floor area for which retention is sought, is stated to be 171.41m<sup>2</sup>.
- 7.2.6. In relation to Policy SS 52 of the said Development Plan, it states that the Planning Authority will *"require that within Development Zones 3-5, in those cases where the proposed dwelling (excludes replacement dwellings) or extension to the dwelling is in excess of 220sqm cumulatively, the site area shall be correspondingly increased by a ratio of 20 square metres for each 1.0 square metre additional floor area of the dwelling"*. The

development is compliant with this requirement based on the documentation submitted with this application.

- 7.2.7. Based on the above considerations the proposed development sought under this application which includes the retention of a reconstructed section of an existing dwelling to the front and rear of a pre-1963 dwelling house as well as the completion of the same is a type of development that is acceptable subject to safeguards.

### 7.3. **Built Heritage Impact**

- 7.3.1. The subject dwelling predates 1963 and it appears to have been significantly altered and extended since its construction. It does not benefit from any specific designation for built heritage protection nor does it form part of an architectural conservation or is it within the curtilage or immediate setting of any National Monument.
- 7.3.2. The surrounding area contains a mixture building typologies of different architectural periods, expression. The only building of built heritage merit within the visual curtilage of the subject dwelling is Saint Nicholas's Roman Catholic Church. As indicated in Section 1 of this report this particular building is a designated Protected Structure and is listed by the NIAH as a building of Regional Importance with its Categories of Special Interest identified as being Architectural, Artistic, Historical and Social (NIAH No. 13901502)) in its register.
- 7.3.3. The appellants have provided no evidence to support that the subject dwelling could or does occupy a site where there is the potential for undiscovered archaeologically significant remains.
- 7.3.4. Further, there is no recent planning history; enforcement available for the site; and/or publicly available information that would support that the subject site outside of containing a much-modified vernacular building is of significant built heritage merit or interest.
- 7.3.5. In terms of the development sought which essentially consists of the reconstruction of a section of existing dwelling house to the front and rear; rear ground floor and first floor extension to dwelling and completion of the same I am of the view that if permitted due to the separation distance from the Saint Nicholas's Roman Catholic Church, the overall diminutive height of the proposed modifications and the fact that the extension outside of the changed roof profile seeks to harmonise with the intrinsic character of

the original dwelling house would not result in any significant adverse visual impact on the visual setting of this Protected Structure.

7.3.6. Having regard to the provisions of the Development I consider that the development sought under this application is consistent with Policy SS 30 which seeks to encourage the sensitive refurbishment of existing vernacular dwellings and buildings in the interest of preserving the built heritage of the county. I also consider that the development sought under this application is consistent with Policy SS 40 which states that the Planning Authority will “*apply a presumption against the demolition of vernacular dwellings where restoration or adaptation is a feasible option*”. This conclusion is subject to the sympathetic use of external finishes and treatments which can be required by way of a condition should the Board be minded to grant permission and in my view is appropriate considering the significant loss of original built fabric as well as intrinsic character of the original dwelling house.

7.3.7. Based on the above, I consider that the development sought does not give rise to any substantive built heritage and/or visual amenity impact that would warrant refusal of permission.

#### 7.4. **Access**

7.4.1. The subject site benefits from an existing access onto a much restricted in width local road at a section where the alignment is relatively straight and where the level of traffic appears to be low. The development sought by way of this application would result in the subject dwelling containing 3 bedrooms of a size capable of accommodating double beds. I observed no traffic of significance on this lane during my time on site and its environs.

7.4.2. I therefore consider that this development, if permitted, would not generate a significant increase in traffic using the existing access point onto the public road network or would it give rise to any significant road safety and/or traffic hazard concern; however, the Board may wish to seek by way of condition that the entrance sightlines be improved by way of condition for road and traffic safety reasons.

#### 7.5. **Drainage**

7.5.1. I note the concerns of the appellants concerns raised in relation to the waste water treatment provisions on site. I consider that having regard to the increased building footprint and level of accommodation that the development sought would give rise to

it was appropriate that the applicant be requested by way of further information by the Planning Authority to provide an appropriately designed proprietary waste water treatment and disposal system on-site to current standards as part of their assessment of the original application.

7.5.2. The applicant addressed this concern by way of further information in which they put forward the provision of a new waste treatment system and percolation area. Revised public notices were also provided indicating this provision.

7.5.3. I note that Planning Authority raised no further concerns in this regard subject to safeguards. These safeguards are set out under Condition No. 5 of the Planning Authority's decision and should the Board be minded to grant permission for the development sought under this application I consider a condition requiring compliance with these safeguards appropriate in the interests of ensuring that the development would not be prejudicial public health.

#### 7.6. **Appropriate Assessment**

7.6.1. Having regard to the nature and scale of the development sought under this application and to the nature of the receiving environment and proximity to the nearest European site, the lack of any hydrological or other link with the nearest European sites no appropriate assessment issues arise and it is not considered that the development sought would be likely to have a significant effect either individually or in combination with other plans or projects on a European Site.

#### 7.7. **Other Matters Arising**

7.7.1. **Enforcement:** The appellant and observer raise concerns on the matter of enforcement. These concerns should be directed to the Planning Authority who has jurisdiction on such matters to deal with as they see fit.

### 8.0 **Recommendation**

8.1.1. I have read the submissions on file, visited the site, had due regard to the development plan and all other matters arising. I recommend that planning permission be **granted** for the reasons set out below.

## 9.0 Reasons and Considerations

9.1. Having regard to the nature and scale of the development sought under this application, the locational factors of the site and its setting, it is considered that subject to compliance with the conditions set out below, the development would not seriously injure the amenities of adjoining neighbours or the character of the area. The proposal would; therefore be, in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the further plans and particulars submitted on the 6<sup>th</sup> day of March 2016, 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. Prior to completion of the development, the developer shall submit to and agree in writing with the planning authority a method statement for the completion works on site certified by a Chartered Structural Engineer with Professional Indemnity Insurance. Works shall be carried out so as not to cause damage to, interfere with or infringe upon adjoining properties, or cause damage to the private road or public road.

**Reason:** In the interest of orderly development and amenity.

3. Water supply and drainage arrangements (including surface water disposal) shall accord with the requirements of the planning authority for such services and works.

**Reason:** To ensure the proper drainage of the proposed development.

4. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interests of sustainable waste management.

5. The site shall be landscaped as set out in the first planting season following commencement of the completion of building works on site using only indigenous deciduous trees and hedging species. Any plants which die, are removed or become seriously damaged or diseased within a period of 5 years from completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

6. (a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses" – Environmental Protection Agency, 2009.

(b) Treated effluent from the septic tank system shall be discharged to a raised percolation area which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses" – Environmental Protection Agency, 2009.

(c) Within three months of the completion of the works to the subject dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the raised percolation area is constructed in accordance with the standards set out in the EPA document.

**Reason:** In the interest of public health.

7. Any modifications to the road entrance shall be submitted to, and agreed in writing with, the planning authority prior to any further development on site.

**Reason:** In the interest of traffic safety.

8. The external finishes, treatments and materials of the reconstructed section of the existing dwelling and the extension for which retention is sought, including the roofing, walls, chimney stacks, rainwater goods, windows and door openings shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of any further development on site.

**Reason:** In the interest of visual amenity.

9. 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

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Patricia-Marie Young  
Planning Inspector – 24<sup>th</sup> July, 2019.