



**Development**

Refurbishment and construction of a single storey extension and construction of a single storey detached garage and all associated site works.

**Location**

Mount View, The Mayne, Clonee, Co. Meath

**Planning Authority**

Meath County Council.

**Planning Authority Reg. Ref.**

RA190008

**Applicant(s)**

Fionn O'hEadhra.

**Type of Application**

Permission

**Planning Authority Decision**

Grant Permission.

**Type of Appeal**

Third Party

**Appellant(s)**

Matt Brady.

**Observer(s)**

None

**Date of Site Inspection**

20<sup>th</sup> September 2019

**Inspector**

Brendan Coyne.



## 1.0 Site Location and Description

1.1. The subject site (0.17ha) is located on the eastern side of the Powerstown Road, in the rural townland known as The Mayne. The site is located c. 2.5km north-west of Clonee village and c. 600m north of an IBM Campus. The site contains a single storey detached dwelling with a detached garage to its eastern side. The roof profile of the dwelling is hipped and its elevation finishes comprise pebble dash finishing. The front elevation of the dwelling faces in a southerly direction. The rear (northern) boundary of the site is defined with a steel wire fence c. 2m high and a wall c. 1.2m high is located along the eastern boundary of the site. Mature trees are planted along the southern boundary of the site and a hedgerow defines the western boundary of the site, adjoining the public road. Lands to the rear (north and east) of the site are agricultural, used for the grazing of cattle.

## 2.0 Proposed Development

2.1. The proposed development comprises the following;

- Demolition of an existing lean-to structure (10sq.m.) and boiler house (1.7sq.m.) to the rear (north) of the house,
- Demolition of the existing garage structure (29sq.m.) to the side (east) of the house and its replacement with a new single storey detached garage (51 sq.m.),
- Construction of a single storey extension (37 sq.m.) to the side (west) of the house,
- Refurbishment of the existing dwelling,
- De-commissioning of the existing septic tank located on adjacent lands to the north of the site (outside the applicant's ownership), and the provision of a new secondary treatment system and polishing filter within the site, to the west of the house.
- All associated site works.

### 3.0 Planning Authority Decision

#### 3.1. Decision

Meath County Council granted permission for the proposed development, subject to 9 no. Conditions. Of these, a Condition of note is as follows;

C. 2: The existing septic tank shall be decommissioned in accordance with the procedure set out in the method prepared by EurGeol and received by the Planning Authority on the 21/05/2019. Within 3 months of the date of occupation of the extended dwelling, the applicant shall submit written confirmation that the tank has been decommissioned in accordance with the method statement. Compliance with this Condition shall be subject to the written agreement of the Planning Authority unless otherwise agreed in writing by the Planning Authority.

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

##### 3.2.2. Initial Report (5<sup>th</sup> March 2019)

- The main issue raised in the third-party submission relates to title of land, land ownership and legal issues. The Planning Report refers to Section 5.13 of the *Development Management Guidelines (2007)* and outlines how a grant of planning permission does not entitle a person to carry out a development.
- The existing septic tank (to be decommissioned) is not located within the application site as outlined in red or the applicant's land holding, as outlined in blue.
- Further information was requested, requiring the following;
  - Submit details, including a method statement, detailing how it is proposed to decommission the existing septic tank in adjacent lands in separate ownership.
  - The applicant was invited to respond to the issues raised in the third-party submission.

### 3.2.3. Second Report (14<sup>th</sup> June 2019)

- The Method Statement submitted is deemed acceptable and addresses the issues raised.
- The applicant presented a comprehensive response to the issues raised in the third-party submission and is deemed acceptable.

### 3.2.4. Other Technical Reports

The Planning Report states that none were received.

## 4.0 Planning History

None relevant.

## 5.0 Policy and Context

### 5.1. Development Plan

Meath County Development Plan 2013-2019 is the statutory plan for the area.

Section 11.2.4 sets out Development Management Standards for House Extensions.

Section 10.19.2 refers to 'Groundwater Protection and the Planning System' and seeks to ensure environmental protection. Policies RD POL 44 and RD POL 45 refer.

Section 10.19.3 refers to Wastewater Disposal. Policies includes;

RD POL 46 To ensure that new development is guided towards sites where acceptable wastewater treatment and disposal facilities can be provided, avoiding sites where it is inherently difficult to provide and maintain such facilities. Sites prone to extremely high water tables and flooding or where groundwater is particularly vulnerable to contamination shall be avoided.

- RD POL 47 To ensure that the site area is large enough to adequately accommodate an onsite treatment plant and percolation area.
- RD POL 48 To ensure all septic tank/proprietary treatment plants and polishing filter/percolation areas satisfy the criteria set out in the EPA 'Code of Practice Waste Water Treatment and Disposal Systems Serving Single Houses (p.e. <10)', (2009) (or any other updated code of practice guidelines) in order to safeguard individual and group water schemes.
- RD POL 49 To require a site characterisation report to be furnished by a suitably qualified competent person. Notwithstanding this, the Planning Authority may require additional tests to be carried out under its supervision.
- RD POL 50 To ensure a maintenance agreement or other satisfactory management arrangements are entered into by the applicant to inspect and service the system as required. A copy of this must be submitted to the Planning Authority.
- RD POL 51 To ensure that direct discharge of effluent from on-site waste water disposal systems to surface water is not permitted.

## Appendix 15 The Meath Rural Design Guide

### Section 5.5 Extensions, Porches & Conservatories

### Section 5.7 Garages

## 5.2. **Code of Practice: Wastewater Treatment Disposal Systems serving Single Houses, EPA (2009)**

This document is relevant to single houses (p.e <10) and replaces SR6:1991 and the EPA Manual 2000 for 'Treatment Systems for Single Houses'. The objective is to protect the environment and water quality from pollution and it is concerned with site suitability assessment. It is concerned with making a recommendation for selecting an appropriate on site domestic wastewater treatment and disposal system if the site

is deemed appropriate subject to the site assessment and characterisation report. The implementation of the Code is a key element to ensure that the planning system is positioned to address the issue of protecting water quality in assessing development proposals for new housing in rural areas and meeting its obligations under Council Directive (75/442/EEC).

### 5.3. **Natural Heritage Designations**

None

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

6.1.1. An appeal was received from Mark Cunningham of Cunningham Design & Planning Consultants, representing the third-party appellant Matt Brady, against the decision made by the Planning Authority to grant permission for the proposed development. The following is a summary of the grounds of appeal.

- The proposed development provides for the decommissioning of the existing septic tank and soak pit together with a foul sewer line leading to same, all of which are located on the appellant's landholding. No consent was given to the applicant to carry out these works.
- The appellant disputes the exact position of the boundary of the site. The red lines, as shown on the Ordnance Survey maps and site layout drawings submitted, do not accurately reflect the applicant's landholding as per the respective Folio Maps submitted. Therefore, the drawings submitted to Meath County Council as part of the application were flawed and a decision to grant permission should not have been issued.
- The appellant is of the opinion that part of the proposed garage and all of the proposed soakaway are located outside of the applicant's landholding and are located within the appellant's landholding. The appellant states that the relevant trial hole 'T' Test and 'P' Test were carried out on the appellant's landholding.

- The appellant is of the opinion that there is inadequate space within the applicant's landholding to provide an onsite sewerage treatment system with polishing filter in accordance with the relevant code of practice, as it is not possible to provide such a system to cater for a development of this size, without breaching the minimum separation distances, as set out in Table 6.1 of the EPA Code of Practice, 2009.
- The appellant is of the opinion that the proposed development is disproportionate in relation to the size of the site and as a result there is insufficient space within the confines of the site to discharge both treated effluent together with all surface waters from roof and paved areas to ground waters. There is no surface water drain in the vicinity of the site for surface waters to drain to and therefore it is not possible to construct an adequately sized surface water soak pit within the confines of the applicant's landholding.
- The appellant issued a further submission to Meath County Council after the Planning Authority received a further information response from the applicant. However, this submission was not acknowledged by the Planning Authority and was returned to the appellant. As a result, the appellant was not afforded an opportunity to respond to the detailed Further Information letter that was issued to the applicant.

## 6.2. Applicant Response

6.2.1. The applicant's response is summarised as follows;

- The existing septic tank in the appellant (Mr. Brady's) lands has served the property without any apparent hindrance for many years under the residency of both the previous owner and more recently the applicant.
- The decommissioning of the septic tank will benefit both the applicant and the appellant.
- It is in everyone's interest that the property is served by its own septic tank and that the septic tank in the appellant's land is effectively and properly decommissioned to all relevant standards.



- In order to ensure a smooth transition, both the installation and decommissioning of the septic tanks will be undertaken at the same time.
- It is intended to engage the services of an established, experienced and reputable septic tank installation and decommissioning contractor.
- The applicant confirms that they are the registered owner of the land comprised in Folio 48288F County Meath. Certified copies of up-to-date Folio and File Plan submitted, confirming that the applicant is the owner of the lands within the application site.
- Appendices submitted include the following;
  - Land Registry File Folio 48288F (dated 17/07/2019) confirming that the applicant is the owner of the land outlined in red on the Registry Map attached.
  - Property Registration Authority Map, Folio No. MH48288F (dated 17/07/2019) detailing the applicant's freehold boundary outlined in red.
  - Letter from Richard Black Solicitors confirming that the lands in Folio MH48288F are within the ownership of the applicant and that no lands included in the planning application are in the ownership of the appellant.
  - Map prepared by J&L Surveys Ltd. (Engineering and Land Surveys) showing an Area 'A' in green outlining the area of the proposed new garage and proposed soakaway.
  - Declaration of Identity from Joe Rossney MRIAI Architect stating satisfaction that the Area 'A' on the map (the area of the proposed new garage and proposed soakaway) prepared by J&L Surveys are within the applicant's landholding.
  - Summary of attempts to resolve the outstanding issue regarding site boundaries, as highlighted in the third-party observations by the neighbouring landowner to the planning application.

### 6.3. Planning Authority Response

- The Planning Authority is satisfied that the matters outlined in the letter of appeal were considered in the course of assessment of the planning application, as detailed in the Planning Officer's Report.
- The proposed development is considered to be consistent with the policies and objectives of the Meath County Development Plan.
- In relation to the lack of consent to carry out works on the appellant's landholding, the Board are to note the wording of Condition No. 2 of the notification of decision to grant planning permission. The onus is on the applicant to secure sufficient legal interest to carry out all works as described in the method statement, including the proposed decommissioning of the septic tank.
- In relation to the boundary dispute, the Planning Authority consider this is a Civil matter between both parties. The planning application was assessed on its own merits, based on the information presented including all maps and documentation.
- Regarding the issue of a restricted size for the adequate treatment of effluent / disposal of surface water, the Board will note the application was assessed on its merits based on the information received. This included a Site Characterisation and Assessment Report in accordance with the EPA Code of Practice 2009 and a Method Statement for the proposed decommissioning of the existing septic tank. The applicant indicated on the application form that the method of surface water disposal on site is to a soakpit. Based on the submitted site details, including the soil characteristics and site size, there is nothing to suggest that the site is not suitable for the disposal of surface water.
- The appellant refers to a further submission which was returned by the Planning Authority. It is noted that the Response to Further Information received by the Planning Authority on the 21/05/2019 was not deemed to contain significant further information. Therefore, the applicant was not requested to re-advertise the proposed development. Any third-party submission received outside the initial statutory 5 week period would have been returned to the person making such submission.

#### 6.4. **Observations**

None received.

#### 7.0 **Assessment**

7.1. I consider that the key planning issues to be assessed are as follows:

- Title of Land
- Waste Treatment System
- Surface Water Drainage

These are addressed below.

#### 7.2. **Title of Land**

7.2.1. The third-party appellant has appealed the grant of permission for the proposed development on the grounds that the proposed development provides for the decommissioning of the existing septic tank and soak pit together with a foul sewer line leading to same, all of which are located on land outside the applicant's ownership and in the landholding of the appellant. No consent was given to the applicant to carry out these works. Furthermore, the appellant states that part of the proposed new garage and new soakaway are located outside the applicant's ownership and within the appellant's ownership.

7.2.2. The applicant acknowledges that the existing septic tank and soak pit are located within the appellants landholding. However, the applicant proposes to decommission the use of this septic tank and install a new secondary treatment system and polishing filter within the applicant's landholding, to the west of the house. As detailed under Section 6.2.1 above, the applicant considers that the decommissioning of the septic tank will benefit both the applicant and the appellant, whereby the subject house will be served an effluent treatment system within the applicant's own landholding. The applicant proposes to engage the services of an established, experienced and reputable septic tank installation and decommissioning contractor and ensure a smooth transition, whereby both the installation and decommissioning will be undertaken at the same time.

- 7.2.3. With regard the proposed new garage and new soakaway, the applicant contests the grounds of appeal, stating that the proposed new garage and new soakaway are located on lands within the ownership of the applicant. The applicant has submitted documentation substantiating this, including Land Registry Folio's, Property Registration Authority Maps, a solicitor's letter and an engineer's land survey map.
- 7.2.4. In consideration of the issue of Title of Land, Section 5.13 of the *Development Management Guidelines (2007)* refers to 'Issues relating to title to land' and states that the planning system is not designed as a mechanism for resolving disputes about title to or rights over land and that these are ultimately matters for resolution in the Courts. The Guidelines advise that where there is doubt in relation to the legal title of the applicant, the Planning Authority may decide to grant permission, however a grant of permission is the subject of Section 34(13) of the *Planning and Development Act 2000 (as amended)*. Section 34(13) of the *Planning and Development Act* states that 'a person is not entitled solely by reason of permission to carry out any development'.

Having regard to the above and the dispute over the title of land and the applicant's sufficient legal interest to carry out the proposed development, I consider it inappropriate to refuse permission for the proposed development on these grounds.

### **7.3. Waste Treatment System**

- 7.3.1. The appellant objects to the proposed development on the grounds that there is inadequate space within the applicant's landholding to provide an onsite sewerage treatment system with polishing filter, in accordance with the EPA Code of Practice: Wastewater Treatment Disposal Systems serving Single Houses, (2009).
- 7.3.2. A Site Characterisation Report (SCR) has been submitted with the application. This has been prepared by an indemnified and Meath County Council Approved Site Assessor. The report submitted states that the soil in the area consists of Grey Brown Podzolics. The Aquifer Category is designated as 'locally important' and is of 'Low' vulnerability. The Ground Protection Response is R1, 'acceptable to normal good practice'.
- 7.3.3. The on-site assessment shows that the nearest watercourse/ stream is located c.205m to the east of the proposed polishing filter, that the nearest surface water

ponding is c. 130m northwest of the proposed polishing filter and that no wells occur within 200m of the proposed polishing filter. The Ground Water flows in a north-easterly easterly direction towards the nearest stream and the ground condition of the fields surrounding the site are firm and even.

- 7.3.4. The trial hole encountered loam topsoil to a depth of 0.19m and sandy silt to a depth of 0.5m. The SCR found that neither bedrock nor the water table was encountered in the trial hole, at a depth of 1.5m below ground level.
- 7.3.5. With regard percolation characteristics, a T value of 16.9min/25mm and a P value of 10.9min/25mm were recorded. The SCR concludes that the site is suitable for discharge to ground as there exists 1.36m/1.44 depth of permeable sandy silt subsoil above the water table (and the bedrock) on the site, through the year. The SCR states that all minimum separation distances can be met on the site once the proposed polishing filter is installed exactly where specified in the report.
- 7.3.6. The SCR states that the locality is serviced by public supply mains water and that the existing house is connected to this service.
- 7.3.7. The SCR recommends the decommissioning of the existing septic tank in the field north of the site and the installation of an EN certified treatment system and percolation area as per the 2009 EPA Code of Practice on Wastewater Treatment and Disposal Systems serving Single Houses and overseen by a suitably qualified and accredited person.
- 7.3.8. The test holes were open on the date of inspection and the ground was dry and firm underfoot with no obvious indications of poor drainage, such as the presence of rushes or other indicator species.
- 7.3.9. In conclusion, and on the basis of the information submitted by the applicant as part of the Site Characterisation Report, I am satisfied that the appeal site is suitable for the installation of a EN certified treatment system and percolation area.

#### **7.4. Surface Water Drainage**

- 7.4.1. The appellant objects to the proposed development on the grounds that there is insufficient space within the confines of the site to discharge all surface waters from roof and paved areas to ground waters. The appellant states that there is no surface

water drain in the vicinity of the site for surface waters to drain into and that it is not possible to construct an adequately sized surface water soak pit within the confines of the applicant's landholding.

- 7.4.2. It is proposed to discharge surface water to a soakaway designed and installed to BRE365 standard, on the site to the east of the dwelling. There are no flooding issues on the site. This is considered acceptable.

## **7.5. Screening for Appropriate Assessment**

- 7.5.1. The closest Natura 2000 site to the appeal site is the Rye Water Valley/Cartron Special Area of Conservation (Site Code 001398) which is located 75km to the south-west of the site. Taking into consideration the nature and scope of the proposed development, the wastewater treatment system proposed to serve the existing dwelling, the details provided on the site characterisation form and the existing residential and farm development in the immediate vicinity, I am of the opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

## **8.0 Recommendation**

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

## **9.0 Reasons and Considerations**

- 9.1. Having regard to the provisions of the Meath County Development Plan 2013-2019, the nature and scale of the proposed development and the suitability of the site for the safe disposal of domestic effluent and surface water drainage, it is considered that, subject to compliance with the Conditions set out below, the proposed development would not seriously injure the amenities of the area or property in the vicinity. The proposed development 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, as amended by the further plans and particulars submitted on the 21<sup>st</sup> day of May 2019, 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. (a) The existing septic tank shall be decommissioned in accordance with the method statement submitted to the planning authority on the 21<sup>st</sup> day of May 2019.

(b) The proposed effluent treatment system and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 10<sup>th</sup> day of January 2019, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(c) Within three months of the installation of the proposed effluent treatment system and polishing filter, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that (i) the existing septic tank has been decommissioned in accordance with the Method Statement submitted to the planning authority on the 21<sup>st</sup> day of May 2019 and (ii) the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

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

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

**Reason:** In the interest of public health and to ensure a proper standard of development.

4. The garage shall be used solely for non-habitable uses ancillary to the main house and shall not be used for the carrying out of any trade or business or sold, let or otherwise transferred or conveyed save as part of the dwelling.

**Reason:** In the interest of clarity.

---

Brendan Coyne  
Planning Inspector

30<sup>th</sup> September 2019