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Bord  
Pleanála

**Inspector's Report**  
**ABP 305017-19**

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<b>Development</b>	Retention of extensions to house, and retention of replacement boundary wall and piers as constructed.
<b>Location</b>	Stabannan, Co Louth.
<b>Planning Authority</b>	Louth County Council.
<b>Planning Authority Reg. Ref.</b>	1957
<b>Applicant</b>	John Owens
<b>Type of Application</b>	Permission and Retention Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Michael Clarke
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	23rd October 2019
<b>Inspector</b>	Brendan Coyne.



## 1.0 Site Location and Description

1.1. The site (0.13ha) is located on the southern side of a local road, in the village of Stabannan, Co. Louth. The site contains a single storey detached dwelling with parts of a ruined cottage attached to its eastern side. The roof profile of the dwelling is pitched, and its elevations comprise pebble dash finishing. The front elevation incorporates a porch extension. The front boundary is defined with a 1m high unplastered block wall and a timber post fence. The eastern side boundary is defined with a 1.9m high block wall. A tall agricultural shed is located to the western side of the dwelling. The ground level of the site and the public road to its front is relatively flat. A two-storey dwelling is located to the rear (south) of the site and a private laneway adjoins the eastern site boundary. St. Nicholas Church and St. Nicholas National School are located within 50 metres, to the east of the site and Stabannan Parnells GAA playing pitch and car parking area is located adjacent, to the south-east. The speed limit in the area is 50 km/hr.

## 2.0 Proposed Development

2.1. Application as lodged on the 31/01/2019 – **Retention Permission** sought for the following;

- Extensions to the front, side and rear of the dwelling.
- The replacement of the front boundary wall with a new 1m high front boundary wall and vehicular entrance piers,
- A 1.9m high wall along the eastern boundary of the site.

Permission sought for the following;

- Completion of works,
- Rebuilding of and new roof to the ruined cottage, to be used as an extension to the main dwelling.
- Provision of a 300mm high railing on top of the front boundary wall.
- Associated site works.

2.2. Significant Further Information submitted on the 11/06/2019 includes;

- Change of use of side extension (ruined cottage) to a family flat,
- Omission of the porch to the front of the proposed family flat and its replacement with a window ope,
- New waste water treatment system,
- Associated site works.

2.3. Documentation submitted includes;

- Revised Site Plan showing sightlines at the entrance to the site.
- Revised Floor Plan and Elevation Drawings,
- Site Characterisation Report,
- Drainage Drawing detailing wells and waste water treatment systems within 100m of the site.
- Surface water drainage details

### 3.0 Planning Authority Decision

#### 3.1. Decision

Louth County Council granted permission for the proposed development, subject to 7 no. Conditions. Of these, Conditions of note are as follows;

- C.4 The dependent relative accommodation shall not be leased, sold or otherwise disposed of, other than as part of the main residential unit on the site.
- C.5 Where the use of the dependent relative accommodation is no longer required, the development shall be re-integrated with the main dwelling for use as an extension to the main dwelling.
- C.6 The wastewater treatment system and polishing filter to comply with the EPA Code of Practice 2009.
- C.7 (a) Existing western most pier shall be relocated back in line with other pier which is 2.1m back from the edge of the road.

(b) Adequate visibility shall be made available and maintained for a minimum of 75 metres on either side of the private driveway from a point 2.0 metres back in from the edge of the public carriageway over a height of 1.05 metres above road level and no impediment to visibility shall be placed, planted or allowed to remain within the visibility triangle.

(c) Entrance gates, if any, shall be set back at least 5.5m from the road edge. Wing walls or fence shall be splayed at an angle of 45 degrees, and the gates shall open inwards. The gradient of the access road servicing the development shall not be greater than 2%.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- The proposed side extension involves the re-building and complete re-roofing of a derelict building, which appears to have formerly been a dwelling. Revised Drawings submitted by way of Significant Further Information show that this proposed side extension is to be used as a family flat for the applicant's mother and the omission of the porch to its front. The proposed family flat complies with the requirements of the County Development Plan.
- The retention of the existing front porch and rear conservatory to the main dwelling do not injure the residential amenity of the area.
- The revised site layout plan submitted by way of Significant Further Information shows the western most pier set back in line with the eastern pier, to achieve sightlines of 75m x 2m x 0.6-1m in both directions.
- The shed, which has been in place for a considerable period, does not impact on visual or residential amenity.
- The subject site is not located within an area of known fluvial / flooding, as indicated on the OPW Flood Mapping Scheme.

#### 3.2.2. Other Technical Reports

***Environment report:*** No objection subject to Conditions.

**Infrastructure Report:** No objection subject to Conditions.

#### 4.0 Planning History

None for subject site.

#### 5.0 Policy and Context

##### 5.1. Development Plan

Louth County Development Plan 2015-2021 is the statutory plan for the area.

**Zoning** The site is located within the development boundary of Stabannan and is designated Development Zone 4 - as per Map 3.1.

**Settlement Hierarchy** Stabannan is designated Level 4 in the County Settlement Hierarchy - as detailed in Table 2.8.

**Section 2.17.1 Development Management Assessment Criteria for Level 4 Rural Settlements** – relevant policy includes:

SS 16 To require that access to the public road for all dwellings will not prejudice road safety or significantly inconvenience the flow of traffic.

**Section 2.19.8** Refurbishment of Existing Dwellings and Vernacular Buildings in Rural Areas

**Section 2.19.10** Accommodation for Dependent Relatives

**Section 2.19.14** Extensions to Dwellings

**Section 2.19.15 Access** – relevant policies include:

SS 59 To require that access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic by demonstrating compliance with the appropriate visibility and traffic safety standards as set down in Section 7.3.6 of the Plan.

SS 60 To require that new accesses are located so as to minimise the impact on existing roadside boundaries.

**Section 7.3.6 Entrances** – relevant policy includes:

Table 7.4	Minimum Visibility Standards
TC 12	To apply the visibility standards and vehicle dwell area requirements as set out in Tables 7.4 and 7.5 in accordance with the National Roads Authority Design Manual for Roads & Bridges (DMRB) for the national road network and to ensure that the standards set out in the Design Manual for Urban Roads & Streets (DMURS) apply to all urban roads & streets.
<b>Section 2.19.17</b>	<b>Roadside Boundaries</b> – relevant policies include:
SS 63	To require that new accesses are located having regard to both road safety and the protection of existing roadside hedgerows, trees and boundaries.
SS 64	To require, where it is necessary to modify or remove the existing roadside boundary in the interest of traffic safety, that the new boundary is located behind the visibility sight line and that a new boundary consistent with the nature and character of the area is planted behind the visibility sight line.
Section 2.19.18	<b>Wastewater</b> – relevant policy includes:
SS 65	To protect groundwater and surface water from contamination from domestic effluent by ensuring that all sites requiring individual waste water treatment systems are assessed by suitability qualified persons in accordance with the recommendation contained in the “Code of Practice: Wastewater Treatment Systems for Single Houses”, published by the Environmental Protection Agency (EPA), 2009.

## 5.2. Other Relevant Government Guidelines

Development Management Guidelines (2007)

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

Implementation of new EPA Code of Practice on Waste Water Treatment and Disposal Systems Serving Single Houses - Circular PSSP1/10

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

The site is located 1km to the south of the Stabannan-Braganstown SPA (Site Code 004091).

## 6.0 **The Appeal**

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

6.1.1. A third-party appeal was received from Michael Clarke, who resides at Teach an Tobair, a house located opposite, to the north-east of, the subject site. The following is a summary of the grounds of appeal.

#### 6.1.2. ***Re. Drainage***

- Percolation tests do not appear to have been carried out in the immediate location of the proposed waste water treatment system and polishing filter.
- The groundwater under the subject site flows in the direction of the appellant's 40ft. deep, unlined well. The water table at this location can often be less than 600mm. The proposed waste water treatment system poses a serious risk of contamination of the appellant's drinking water.
- In a phone call between the Hydrocare Ltd. Site Assessor and the appellant, the Assessor agreed that the distance between the proposed waste water treatment system and the private well may be much less than that stated in the Site Assessment Report. The Hydrocare Site Assessor could not guarantee that the appellant's drinking water would not get contaminated.
- The appellant received an email from the Hydrocare Site Assessor (dated 30<sup>th</sup> July 2019), stating that he had relocated the wastewater percolation system and rainwater soakaway to a different location, so as to maximise the distance from the appellant's well.

#### 6.1.3. ***Re. Front Boundary Wall and Sightlines***

- The location of the front boundary wall, 300mm forward of the front boundary fence, can cause delays when cars are parked on either side of the carriageway, especially when farm machinery or heavy haulage trucks try to pass, when



parents are dropping their children off or collecting them from school, during football matches at the local football pitch, and during church meetings and events at the local community hall.

- The existing western pier is to be located back in line with the eastern pier, which the Planning Authority states is 2.1m back from the edge of the road. The appellant states that the eastern most pier is just 1.75m back from the edge of the carriageway.
- The applicant does not have clear sightlines at the entrance to the site, which has caused a traffic hazard incident in the recent past.

Documentation submitted on appeal includes;

- Copy of email and revised drainage plan from the Hydrocare Site Assessor to the appellant, sent on the on the 30<sup>th</sup> July 2019.
- Drainage Plan and photograph showing the actual location of the well within the appellant's land.
- Site Plan highlighting lack of visibility at the north-western corner of the site.

## 6.2. **Applicant Response**

None

## 6.3. **Planning Authority Response**

The Planning Authority has no further comment to make.

## 6.4. **Observations**

None.

## 7.0 **Assessment**

7.1. The main issues for consideration are as follows:

- Foul and Surface Water Drainage
- Front Boundary Wall and Sightlines

These are addressed below.

## **7.2. Foul and Surface Water Drainage**

7.2.1. The appellant objects to the proposed development on the grounds that;

- Percolation tests do not appear to have been carried out in the immediate location of the proposed waste water treatment system and polishing filter.
- Concern regarding the groundwater under the subject site, which flows in the direction of the appellant's 40ft. deep, unlined well.
- The proposed waste water treatment system poses a serious risk of contamination of the appellant's drinking water.
- The Hydrocare Ltd. Site Assessor informed the appellant that the distance between the proposed waste water treatment system and the private well may be much less than that stated in the Site Characterisation Report and could not guarantee that the appellant's drinking water would not get contaminated.
- The appellant received an email and revised drainage plan from the Site Assessor on the 30<sup>th</sup> July 2019 detailing the relocation of the wastewater percolation system and rainwater soakaway, to maximise distances from the appellant's well.

7.2.2. The proposed development provides for the de-commissioning of the existing septic tank to the rear of the dwelling, near the south eastern corner of the site and the provision of a new waste water treatment system to its side (south). The proposed soakaway is located in the front garden, to the western side of the vehicular entrance and the soil polishing filter is located to the northern side of the shed.

7.2.3. The cover letter by Hydrocare Ltd., submitted as Further Information, states the following;

- The existing treatment system is no longer compliant with EN12566, SR66 and the EPA Code of Practice 2009 respectively.
- Due to site constraints, a minimum of 3m separation distance to the site boundary could not be achieved. As the driveway and the shed are already

existing, they have not been included in the soakaway calculations. The soakaway has been sized to cater for all roof runoff including the existing building and proposed extensions. This is a significant improvement to what is currently present on site and the best that could be achieved given the tight constraints of the site.

7.2.4. A Site Characterisation Report (SCR) has been submitted with the application. This has been prepared by Daniel Nolan of Hydrocare Environmental Ltd. an indemnified and qualified site assessor. The SCR details (interalia) the following;

- The soil in the area consists of sandstone and shale till.
- The Aquifer Category is designated as 'poor' and is of 'moderate' vulnerability.
- The Ground Protection Response is 'R1' - classified as 'acceptable to normal good practice' in Annex B of the EPA Code of Practice 2009.
- No watercourses, streams or drainage ditches are located within 50m of the area tested.
- A hand pump well is located 60m N.E. from the area tested.
- There are no indicators of poor percolation.
- The ground water flow direction is north-easterly.
- Ground conditions were firm under foot at time of testing.
- Potential suitability of the site: Good. The existing septic tank and percolation area is functioning. The new system to be installed is required due to a lack of separation distance to potential targets.
- Potential Targets: Groundwater will require protection per R1 protection response. The existing well in the neighbouring dwelling site requires a 45m separation distance from the waste water treatment system and polishing filter as per the EPA Code of Practice 2009.
- Potential suitability of the site to treat wastewater: Good, potentially suitable for secondary treatment system and polishing filter as per the EPA Code of Practice (2009).

- The depth of the trial hole was 2.1m. This was located to the south of the existing shed on site.
- Photographs of trial hole, spoil heap, T1 test and P2 test submitted.
- The depth from ground surface to water table was 1.15m. Date of examination – 27/03/2019.
- The trial hole encountered silt/clay topsoil to a depth of 0.2m and sandy silt to a depth of 0.7m.
- Depth from ground surface to bedrock not available.
- With regard percolation characteristics, a T value of 18.11min/25mm and a P value of 15.89min/25mm were recorded.

7.2.5. The SCR concludes that the site is suitable for a packaged wastewater treatment system and polishing filter. The treatment system to be installed comprises an O'Reilly Oakstown Effluent Treatment System, designed, installed, certified and maintained by O'Reilly Oakstown Ltd., in accordance with their EN12566 Cert and the EPA Code of Practice 2009. The SCR states that the soil polishing filter shall consist of a minimum area of 37.5 square metres as per the EPA Code of Practice.

7.2.6. The test holes were not open on the date of inspection. However, it was noted that the ground was dry and firm underfoot with no obvious indications of poor drainage, such as the presence of rushes or other indicator species.

7.2.7. Table 6.1 of the E.P.A. Code of Practice 2009 sets out minimum separation distances required from packaged systems, percolation area and polishing filters. For separation distances from wells, Table 6.1 refers to Annex B: Groundwater Protection Response. Table B.3 of Appendix B sets out recommended minimum distances between a receptor (inc. wells) and a percolation area or polishing filter. It is recommended that for sites with a T/P value of 10-30, sandy/silt soil, depth of soil/subsoil >8m above bedrock and for non-gradient domestic wells that a separation distance of 25 metres be maintained.

7.2.8. Having regard to the Drainage Plan submitted by way of Significant Further Information, a separation distance of 25 meters would be maintained between the proposed polishing filter and the nearest water supply to the north-west of the site

and 47 metres from the private well in the appellant's lands, to the north-east of the site. The appellant has submitted a drawing showing that the well within his lands would be located 40 metres from the proposed polishing filter. It was noted during site inspection that there is no significant gradient drop between the subject site and adjacent lands to the north.

7.2.9. In consideration of the above, it is my view that the separation distances provided accord with the requirements of the E.P.A. Code of Practice 2009.

7.2.10. On the basis of the information submitted by the applicant as part of the Site Characterisation Report, I am satisfied that adequate percolation testing has been carried out and the appeal site is suitable for the installation of an EN certified packaged wastewater treatment system and polishing filter. The Environment Section of Louth County Council, in its assessment of the drainage plans and Site Characterisation Report submitted, were satisfied with the documentation received and outlined no objections subject to compliance with the EPA Code of Practice (2009).

7.2.11. I recommend, therefore, that the appeal should not be upheld in relation to this issue.

### **7.3. Front Boundary Wall and Sightlines**

7.3.1. The appellant objects to the proposed development on the grounds that;

- Clear sightlines are not provided at the entrance to the site, thereby creating a traffic hazard.
- The location of the front boundary wall, 300mm forward of the front boundary fence impacts on car parking along the roadway, thereby creating a traffic hazard with passing traffic.
- The existing eastern pier at the vehicular entrance is set back only 1.75m from the edge of the public road and not setback 2.1m, as set out in Condition No. 7(a) of the grant of permission by the Planning Authority

7.3.2. The proposed development seeks the retention of a replacement 1m high front boundary, vehicular entrance piers and the provision of a 300mm high railing on top

of the front boundary wall. Site inspection found that the western pier is located c. 0.6m forward of the eastern most pier.

7.3.3. The revised Site Layout Plan, submitted by way of Further Information, details the following;

- The western most pier is to be re-located to align with the eastern most pier at the vehicular entrance.
- The eastern most pier is setback 2.1m from the edge of the public road.
- The provision of 75 metre visibility splays taken from a setback of 2m from the edge of the public road at the vehicular entrance.

Drawings submitted do not detail the finishes of the boundary wall seeking retention and proposed railing over.

7.3.4. Sections 4.4.4, 4.4.5 and Table 4.2 of the Design Manual for Urban Roads and Streets (DMURS) requires a setback 'X' distance of 2.4 metres and a 'Y' sightline distance distances of 45 metres at entrances in 50km/h urban zones. Section 4.4.5 sets out that in difficult circumstances the 'X' distance of 2.4m may be reduced to 2.0 metres where vehicle speeds are slow and flows on the minor arm are low.

7.3.5. The speed limit along the public road is 50 km/hr. It was noted during site inspection that volumes of traffic were low along the public road adjoining the site and a Slow sign road marking is painted on the road, adjacent to the east of the vehicular entrance.

7.3.6. In consideration of the above, and having regard to the revised proposal submitted by way of Further Information, it is my view that the sightlines that can be provided at the entrance to the site comply with the relevant requirements of DMURS.

7.3.7. With regard the issue of parking to the front of the site, a grass margin is provided between the front boundary wall and the edge of the public road, with a depth of c.1.2 metres. There was no evidence of any on-street parking to the front of the site at the time of inspection. On-street parking is provided to the front of the adjacent school and a large car parking area is provided to the front and sides of the adjacent church.

7.3.8. In consideration of the above, it is my view that the width and surface treatment of the grassed margin to the front of the site is not suitable for on-street parking. Any parking at this location would obstruct sightlines at the entrance to the site and would be to the detriment of the safe passage of vehicles on both sides the public road. Adequate public parking area is available at the adjacent church and to the front of the school. A large car parking area serves Stabannon Parnells GAA Club, which is located adjacent to the south-east of the site.

7.3.9. I recommend, therefore, that this ground of appeal should also not be upheld.

#### **7.4. Screening for Appropriate Assessment**

7.4.1. The closest Natura 2000 site to the appeal site is the Stabannan-Braganstown SPA (Site Code 004091) which is located 1km to the north 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 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 Louth County Development Plan 2015 - 2021, 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 and would be acceptable in terms of traffic safety and convenience. The

proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 **Conditions**



<p>1.</p>	<p>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 11<sup>th</sup> day of June 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
<p>2.</p>	<p>(a) The proposed new waste water treatment 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 (p.e. ≤ 10)" – Environmental Protection Agency, 2009.</p> <p>(b) The existing septic tank shall be decommissioned, emptied and made safe by a registered operator and the lands suitably reinstated.</p> <p>(c) Within three months of the decommissioning of the existing septic tank and the installation of the proposed waste water treatment system and polishing filter, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the existing septic tank has been decommissioned and the proposed waste water treatment system and polishing filter 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.</p> <p>(d) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the installation of the proposed effluent treatment system and thereafter shall be kept in place at all times. Signed and dated copies of the</p>

	<p>contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.</p>
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**Reason:** In the interest of public health.

<p>3.</p>	<p>The proposed family flat extension shall be used solely for that purpose, and shall revert to use as part of the main dwelling on the cessation of such use.</p> <p><b>Reason:</b> To protect the amenities of property in the vicinity.</p>
<p>4.</p>	<p>(a) The proposed entrance shall be constructed as per the Site Layout Plan (Dwg. No.JO-19-02) received by the Planning Authority on the 11/06/2019.</p> <p>(b) Any entrance gates shall open inwards towards the site and not outwards onto the public road.</p> <p>(c) All roadside hedges / grass verges to the west and east of the entrance shall be trimmed and regularly maintained so as to maintain sightlines at all times on exiting the proposed entrance.</p> <p><b>Reason:</b> In the interest of traffic safety.</p>
<p>5.</p>	<p>Within 3 months of the Boards Order, the developer shall submit for the written agreement of the Planning Authority, the external finishes of the boundary walls and railings of the site.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
<p>6.</p>	<p>All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.</p> <p><b>Reason:</b> To protect the amenities of the area.</p>
<p>7.</p>	<p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800</p>

and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

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Brendan Coyne  
Planning Inspector

07<sup>th</sup> November 2019