



An
Bord
Pleanála

Inspector's Report

ABP-306710-20

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| Development | Retention of mobile holiday home, ancillary shed and effluent treatment system previously granted under planning reference number 08/613 |
| Location | Tonagh, Mountnugent, Co. Cavan |
| Planning Authority | Cavan County Council |
| Planning Authority Reg. Ref. | 19481 |
| Applicant(s) | Stephen Brunton. |
| Type of Application | Retention. |
| Planning Authority Decision | To refuse retention. |
| Type of Appeal | First. |
| Appellant(s) | None. |
| Observer(s) | None. |
| Date of Site Inspection | 29 th May 2020. |
| Inspector | Deirdre MacGabhann |

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1.0 Site Location and Description

- 1.1. The 1.6ha appeal site is situated to the east of Lough Sheelin, c.2km to the south west of Mount Nugent, in the townland of Tonagh, County Cavan. It lies to the south of a minor county road which ends in a cul-de-sac c.1km to the north of the appeal site.
- 1.2. The site comprises part of a larger undulating agricultural field. The field is bounded by mature hedgerows and divided by electric fencing. The appeal site comprises the western side of the field and contains, sited along its south western boundary, a mobile home and block shed. Access to the mobile home is via the agricultural field from the gated entrance to the public road.

2.0 Proposed Development

- 2.1. The proposed development comprises the retention of a single storey mobile holiday home and ancillary shed with an existing effluent treatment plant and percolation area previously granted under PA ref. 08613. Water supply is stated to be via an existing connection to a private well and surface water is to a soakpit. The mobile home has three bedrooms, a shower and toilet facilities and a living room/kitchen. It is finished in powder coated aluminium cladding and corrugated metal roofing.
- 2.2. It is stated in the application documents that an Engineer was present to oversee the works to the new effluent treatment system. An accompanying certificate states that the septic tank and percolation area was inspected and complies with the planning authority's bylaws 2004.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 31st January 2020, the planning authority decided to refuse retention for the development for the following reasons, in summary:
 1. Development represents a substandard form of development, provides a poor standard of residential amenity for future occupants and conflicts with the pattern of development in the area. Development would adversely impact on the

residential and visual amenity of the area and establish an inappropriate precedent.

2. Applicant has not demonstrated a rural housing need. Development would therefore materially contravene section 2.7.5 and Objectives RHO6, O7 and O8 of the County Development Plan.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planning authority's report (30th January 2020) refers to relevant planning policies, the planning history of the site (PA ref 08/613), pre planning meeting and observations/submissions. It raises the following concerns:
 - Principle. Planning permission for a dwelling on the site has expired and the development has not commenced. Development is c.150 back from the local road. No established access to the site raising concerns regarding residential amenity and quality of the development. Siting of the mobile home represents a substandard form of housing that is not acceptable form of development. No rural housing application form or demonstrated rural housing need at the location. Applicant is currently living abroad and wishes to relocate to the area with his young family.
 - Residential and visual amenities. Development is removed from other dwellings and will have no adverse effects on neighbouring properties. Development will have result in a poor standard of residential amenity for future residents.
 - Effluent/Water. Refers to Certificate submitted by the applicant and reports by Environment and DCHG.
 - Appropriate assessment. Not required based on distance from European site and form of development.

- 3.2.2. The report recommends refusing permission for the development.

3.3. Other Technical Reports

- Area Engineer (9th January 2020) – No details of entrance shown on drawing. Recommends that applicant provides details of access route and entrance detail.
- Environment (13th January 2020) – Site assessment under PA ref. 08/613 indicated that the site is suitable for a septic tank and percolation area. Development is located in an area designated as Locally Important Aquifer with High Vulnerability. Development is located in the Inny_040 river water body which is classified as Poor Ecological status, and which must be improved by 2021 (WFD). The river water body is also designated as a Priority Area for Action within which the LAWPro team will be undertaking work. Recommends further information, revised site layout map demonstrating surface water drainage system including soakpit and source of drinking water.

3.4. Prescribed Bodies

- DCHG (15th January 2020) – Development is located adjacent to Lough Sheelin Special Protection Area (004065). Treatment plant has been installed at a location other than that indicated in the grant of permission and is sited in a place where risks arise in relation to water quality in the designated area. Recommends applicant be requested to explain the contradiction as it poses an added threat to the SPA.

3.5. Third Party Observations

- None.

4.0 Planning History

- PA ref. 07/1154 – Permission refused to Stephen Brunton to construct a two storey house, domestic garage, proprietary treatment unit, site entrance and site works on the appeal site. Permission was refused on the grounds that the development was sited on an elevated part of the site (north of the

subject development and towards the northern boundary of the appeal site) and, taking into consideration its design, would have an adverse effect on the visual amenity of the area.

- PA ref. 08/613 – Permission granted to Stephen Brunton to construct a two storey house, domestic garage and proprietary treatment unit, new site entrance and associated site works. The dwelling was proposed on the same site as PA ref. 07/1154 and was granted after further information. Extended under PA ref. 14/53.

5.0 Policy Context

5.1. Cavan County Development Plan 2014 to 2020

- 5.1.1. The appeal site is situated in a 'Stronger Rural Area'. Policies of the Plan state that rural housing needs should be accommodated in the locality in which they arise and where the applicant meets the development plan's definition of need (Policy RHP1 and objectives RHO1 to RHP11).

5.2. Natural Heritage Designations

- 5.2.1. Lough Sheelin lies c.450m to the west of the appeal site is designated as a proposed Natural Heritage Area (site code 000987) and Special Protection Area (site code 004065).

5.3. EIA Screening

- 5.3.1. The proposed development is of a type that constitutes an EIA project (involving construction works). However, it is a mobile home with associated infrastructure and fall far short of the threshold for environmental impact assessment set out in Part 2 of the Schedule 5 of the Planning and Development Regulations 2001, as amended (Class 10 Infrastructure projects, construction of dwelling units). Further, the development is not situated on a sensitive site, will not use significant natural resources or produce significant environmental emissions (potential impacts on the nearby Lough Sheelin can be dealt with under appropriate assessment). There is therefore no real likelihood of significant effects on the environment arising from the

proposed development and the need for environmental impact assessment can be excluded at preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Grounds of appeal are:

- Following a letter of enforcement, the applicant's representatives met with the planning authority advising that the applicant intended to seek a future planning permission for the redesign of the permitted dwelling on the site (PA ref. 08613 and 1453). Currently the clients are at design concept stage. The applicant would welcome a time limit on the unit.
- The appellant placed a holiday home type structure on the appeal site with an associated effluent treatment plant, with the intention to remove it when the dwelling was constructed. The holiday home would allow the appellant to relocate from the US while building the house themselves.
- The planning authority did not advise the applicant regarding rural needs during the pre-application meeting. Rural needs had been submitted under PA ref. 08613 and is submitted with the appeal.
- The decision of the planning authority is unfair given the precedents in the area surrounding Lough Sheelin for similar developments.
- There is a lack of new housing stock in the area and a shortage of rental accommodation. The temporary solution will aid the family in their transition back to Ireland. It is not practical to insist that the family move to an adjoining area during construction and incur high rental costs while attempting to fund the project. Family intend to project manage the project.

6.1.2. Attached to the appeal is a letter from the applicant to the Board. It sets out details of the applicant's connections to the area, his situation in the US and the intention to return to Ireland.

6.2. Planning Authority Response

6.2.1. The planning authority respond to the appeal and make the following additional comments:

- Permission was granted to build a house on the site in 2008 (PA ref. 08613) and extended in 2014 to March 2019. There is no live permission on the site for a dwelling house.
- Similar developments in the area are dealt with on a case by case basis. The development referred to by the appellant is the subject of enforcement action.

6.3. Observations/Further Responses

- None.

7.0 Planning Assessment

7.1. Having regard to the information on file and my inspection of the site, I consider that the key issues for this appeal relate to the following:

- Principle.
- Precedents.
- Form of development/impact on residential amenity and visual amenity.
- Rural housing need.

7.2. I also address potential effects of the effluent treatment system to be retained.

7.3. Principle

7.3.1. The applicant has argued that the mobile home of the appeal site is a temporary structure to facilitate his family to relocate from the US and manage the construction of a family home of the site. However, permission for this dwelling, granted in 2008 expired in March 2019 and currently there is no valid planning permission to which the subject structure relates or *raison d'être*. The applicant has stated that a planning application will be submitted for a new house design. No timescale is proposed for the submission of an application and plans for the dwelling are stated to be at concept design stage. The Board may wish to grant the appellant temporary

permission, as suggested by the appellant, to facilitate a planning application for a dwelling on the site. However, I would recommend against this as the appellant has had the benefit of a longstanding permission for the development which has not been implemented, the policy context for rural development has changed since the original permission was granted and any temporary permission would be premature pending the in principle decision of a dwelling on the site.

7.4. Precedents

7.4.1. The appellant refers to other similar development in the area. Each of these will have their own site specific planning context. Further, there is no information presented to demonstrate that any particular case is of direct relevance to the current appeal.

7.5. Form of development/impact on residential amenity and visual amenity.

7.5.1. The single storey mobile home has been placed on the western boundary of the appeal site, against the backdrop of a mature hedgerow and within an agricultural field in which is bound by mature hedgerows. Consequently the mobile home is not particularly visible from the public domain or obtrusive.

7.5.2. Access to the mobile home is currently via the gated entrance to the agricultural field in which it is situated (photograph 3). The access is closely bound by strong hedgerows and these limit available sightlines. Further, there is no access route from the entrance to the mobile home. I note that the planning authority's Area Engineer recommended that the appellant provide details of access route and entrance by further information and I consider that this matter should be addressed in advance of permission or by condition if the Board decide to grant permission.

7.5.3. The applicant proposes using the mobile home for temporary accommodation for his family while a residential dwelling is constructed on the appeal site. The internal accommodation of the mobile home is modest in size and does not meet the minimum standards for permanent accommodation (Quality Housing for Sustainable Communities, DEHLG, 2007). In the absence further information on the timescale of a future planning application and likely duration of construction, I consider that the

proposed development is likely to provide a sub-standard form of development for future residents.

7.6. Rural Housing Need

- 7.6.1. From the information on file, submitted by the applicant, and the planning history of the site it would appear that he has strong links to the local area and would be able to satisfy a rural generated housing need.

7.7. Other matters

- 7.8. In the course of the planning application, the applicant submitted a certificate to indicate that the effluent treatment system had been constructed to standard. The location of the effluent treatment system is not identified and the standard referred to in the Certification on file is the 'County Council Byelaws 2004'. There is no explanation of these Byelaws or how they relate to current standards for wastewater treatment systems or the requirements of the permission granted under PA ref. 08613. On file are concerns raised by the planning authority's Environment Section and the Department of Culture, Heritage and the Gaeltacht regarding the risk of adverse effects on water quality, given the location of the site in an area designated as a Locally Important Aquifer of High Vulnerability and proximity to Lough Sheelin SPA. There is also a surface water body on the southern boundary of the appeal site which is likely to discharge into Lough Sheelin.
- 7.9. Having regard to the forgoing, I do not consider that the applicant has demonstrated that the site can be adequately drained. This matter whilst referred to in the planning application documents is not specifically referred to in the appeal and would constitute a new matter. However, given the other substantive reasons for refusal I do not consider that it is a matter which requires circulation or to be addressed specifically in the reasons for refusal.

8.0 Appropriate Assessment

- 8.1. The appeal site is c.450m to the east of Lough Sheelin a Special Protection Area and the development, albeit modest in scale, includes a proprietary effluent treatment system. There is little information on file on the detailed design or location

of this system and as stated above I have concerns regarding the standards against which certification of the system has been issued. The appeal site is removed from Lough Sheelin, however, there is therefore an absence of scientific information upon which to determine the likelihood of effects on the site and, if the Board are minded to grant permission for the development, I would recommend further information is sought on the effluent treatment system and its efficacy in order to issue a screening determination.

9.0 Recommendation

9.1. I recommend that permission for the proposed development be refused.

10.0 Reasons and Considerations

Having regard to:

- The scale and form of the proposed development,
- The absence of arrangements for access to the site,
- The lack of clarity regarding the timescale for the development, and
- The absence of planning permission for a domestic dwelling on the site,

It is considered that the proposed development would provide a substandard form of development and would be premature and represent a piecemeal and disorderly approach to development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Deirdre MacGabhann

Planning Inspector

26th June 2020