



An
Bord
Pleanála

Inspector's Report ABP-309113-21.

Development	Change of House type.
Location	Tonagh, Mountnugent, County Cavan.
Planning Authority	Cavan County Council.
Planning Authority Reg. Ref.	20/326.
Applicant	Stephen Brunton.
Type of Application	Permission.
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant	Stephen Brunton.
Observer(s)	None.
Date of Site Inspection	18 th February 2021
Inspector	Philip Davis.

Contents

1.0 Introduction	3
2.0 Site Location and Description	3
3.0 Proposed Development	3
4.0 Planning Authority Decision	4
4.1. Decision	4
4.2. Planning Authority Reports	4
4.3. Prescribed Bodies	5
4.4. Third Party Observations	5
5.0 Planning History.....	5
6.0 Policy Context.....	6
6.1. Development Plan.....	6
6.2. Natural Heritage Designations	6
7.0 The Appeal	6
7.1. Grounds of Appeal	6
7.2. Planning Authority Response	7
8.0 Assessment	8
9.0 Recommendation.....	11
10.0 Reasons and Considerations	11

1.0 Introduction

This appeal is by the applicant against the decision of the planning authority to refuse permission for a dwelling, for the reason that the design is not in accordance with the Cavan County Development Plan design guidance.

2.0 Site Location and Description

2.1. Tonagh, Co. Cavan

The appeal site is located in the townland of Tonagh in Mountnugent, an area of rolling countryside east of Lough Sheelin in County Cavan. The townland is next to the shore of Lough Sheelin about 2 km south-west of the village of Mountnugent, accessed via a narrow rural road which terminates at a farm complex, with private lanes serving a number of other dwellings along the shoreline. The landscape is characterised by small hills and ridges with small hedgerow bounded fields in pasture and occasional raised bogs and conifer plantations. There are relatively few public accesses to the shoreline of the lake. Settlement is characterised by many scattered dwellings along the minor road network and occasional small villages, with the towns of Oldcastle and Ballyjamesduff being the closest towns, both around 10km drive from the townland. The appeal site is located at the end of the cul-de sac road running west from the main road, south of an existing farmstead on open fields.

2.2. Appeal site

The appeal site, with a site area given as 1.6 hectares, is an irregularly shaped field on farmland some 350 metres east of the shoreline of Lough Sheelin. The land slopes gently to the west towards the lake. It is bounded to the north by a farm complex. There is a small mobile home on the south-western part of the site.

3.0 Proposed Development

The proposed development consists of the change of use of a permitted dwelling (reference **08613**), to construct 1 no. fully serviced 1 and a half storey style house at front, 2-story to rear with solar/pv panels and single storey domestic garage,

connection to existing sewage treatment system, connection to existing private well, new entrance walls and piers and all ancillary site works.

The development description was amended slightly following a further information request.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to refuse permission for the reason that it was considered that having regard to its siting and location, it would be contrary to the 'Design Guide for Single One-Off Houses within the Cavan Rural Countryside' and related policy RHP1 and Section 10.14.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- The site is in open countryside in what is considered to be a 'Stronger Rural Area' under the Cavan County Development Plan 2014-2020. Relevant planning policy is outlined.
- Notes the planning history of the site, including a refusal, a later permission, and an extension of the permission, plus permission to retain a 1 no. single storey mobile holiday home on the site (the refusal decision was upheld on appeal by ABP).
- States that the location of the site is contrary to the Design Guide, it would be more appropriate if the proposed driveway was located along the western boundary.
- The design of the house is considered acceptable and in accordance with the guidelines.
- It is noted that the mobile home, for which retention permission was refused, was still on site.
- It is noted that the effluent plant is in a position that is unauthorised.

- A Stage II Appropriate Assessment is not considered necessary.
- Further information is requested on the siting of the site, plus further details on the existing well, and the wastewater treatment plant.

Following the submission of further information and a revised site notice a further report stated that:

- It is noted that the siting remains unchanged, despite a request to alter it. It is considered unsuitable and contrary to the design guidelines.
- It is considered that issues raised with regard to the well and wastewater treatment system are considered acceptable.
- Refusal is recommended for design reasons.

4.2.2. Other Technical Reports

Municipal District Engineer – no objection, standard conditions.

4.3. Prescribed Bodies

None

4.4. Third Party Observations

None

5.0 Planning History

19/481: Retention of 1 single storey mobile holiday home with effluent treatment plant. Refused – decision upheld on appeal. The reason for refusal relates to it being considered a substandard form of development and represented piecemeal and disorderly development (**ABP-306710-20**).

14/53: Extension of duration of 08/613.

08/613: Permission granted for a 2-storey dwelling.

07/1154: Permission for 2-storey house refused.

6.0 Policy Context

6.1. Development Plan

The site is in open countryside in the Cavan County Development Plan 2014-2020 (still the operative Development Plan for the area). The area is a 'Stronger Rural Area' under the criteria set out in the Sustainable Rural Housing Guidelines. Policy DM08 states that houses should comply with the '*Design Guide for Single One-Off Rural Houses within the Cavan Rural Countryside*'.

6.2. Natural Heritage Designations

The site is approximately 350 metres from, and within the watershed of, Lough Sheelin, which is designated an SPA, site code 004065. The Moneybeg and Clareisland Bogs SAC (002340) are approximately 3 km to the south-west of the site.

6.3. EIAR Screening

Having regard to the limited nature and small scale of the proposed development and the planning and development history of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.0 The Appeal

7.1. Grounds of Appeal

- The applicant's agent provides a general background to the application.
- It is noted that the previous planning permission was granted for the current location of the proposed dwelling – it is noted that the Design Guidelines have not changed since that period.
- It is noted that the proposed development has a significantly lower ridge height than that previously granted permission (a difference of 0.93 metres).

- It is noted that the general principle of the design was agreed with the planner at pre-application stage.
- It is stated that the planning authority mistakenly state that it is 180 metres from the road – the correct distance is 150 metres.
- It is suggested that an appropriate compromise would be 130 metres from the public road, which would bring it in line with the recommendations by the planning authority.
- A number of attachments are included in support of the appeal.

7.2. Planning Authority Response

- It is noted that there is no 'live' permission for the site. Permission **14/53** is now expired.
- It is emphasised that the planning authority liaised with the applicant on the issue of siting and design.
- It was concluded that notwithstanding the planning history, the proposed design was not considered suitable or in accordance with the Design Guidelines.
- It is considered that the other issues raised in the appeal were addressed in the original assessment.
- The Board is requested to uphold the decision to refuse.

8.0 Assessment

Having inspected the site and reviewed the file documents, I consider that the proposed development can be addressed under the following general headings:

- Principle of development
- Design issues
- Other planning issues
- Appropriate Assessment

8.1. Principle of development

The proposed development is located in a rural unzoned area, with a previous permission granted for a dwelling. The planning authority accepted that the applicant has family connections to the land and as such qualified for exemptions and on this basis the principle of a dwelling was considered acceptable.

I note that the existing permission for a dwelling on the site expired in 2019. There is a mobile home on the site which was refused permission and this decision was upheld by the Board in July 2020. With regard to this previous refusal, I would draw the Boards attention to the comments on the Direction in file **ABP-306710-20**, which highlighted concerns about the proposed wastewater treatment system and its potential impact on the Lough Sheelin SPA.

The applicant has stated that the original permission for a dwelling dating back to 2008 was on the same location within the site which the planning authority now considers inappropriate, and that the design guide has not changed since this date. While I accept that this is the case, as this permission is now out of time, I consider it reasonable for the planning authority to have reassessed the design and siting of the proposed dwelling *de novo* without reference to the previous decision.

I consider that notwithstanding the existing permission being out of time, the applicant does qualify under local exemptions, so the principle of a dwelling on the site is generally acceptable, and the proposed development should be assessed on its own merits, with particular regard to the published Design Guidelines.

8.2. Design issues

The proposed dwelling is a medium sized 2-storey dwelling with a contemporary design. It is located down a cul-de-sac road and would not be clearly visible from most public areas, although the site is somewhat elevated relative to Lough Sheelin. The overall design and scale of the proposed development is generally within the Design Guidelines that are attached as an Appendix to the Plan.

The reason for refusal relates to the siting of the dwelling – the planning authority consider that it is not in accordance with section one of the guidance and should be closer to the existing western boundary of the site in order to avoid a long driveway and to nestle in along the existing hedgerow. I concur that this assessment by the planning authority is consistent with section 1 of the Design Guidelines and the applicant was clearly made aware of these concerns at an early stage of the application. The applicant has offered a compromise position a little closer to the site, but I would concur with what appears to be the view of the planning authority that any such location would be too intrusive on the landscape and would be contrary to the overall objectives of the design guidelines and associated policies. I therefore recommend that the Board generally uphold the reason for refusal.

8.3. Other planning issues

The dwelling is to be served by an existing well, and the wastewater treatment system is to be updated in accordance with current regulations. I note the concerns outlined by the Inspector in the previous report about the proposed system, although the design and location appear to be considered acceptable by the planning authority and in accordance with the current regulations. Although the underlying geology would not seem to be ideal, the site is large and so there is sufficient room to identify a suitable location for a proprietary wastewater system, although the sensitivity of Lough Sheelin to any excess run-off is well attested – the site synopsis for the SPA notes that the lake was classified as highly eutrophic up to 2000.

I note that there is a recorded ancient monument – a large ring fort indicated on the oldest OS plans, approximately 250 metres east of the site, but this appears to have been destroyed sometime in the late 19th Century. There are no indications of archaeological remains or other cultural heritage artifacts in the vicinity.

8.4. Appropriate Assessment

The site is less than 500 metres east of the shore of Lough Sheelin SPA, site code 004065. The qualifying interests for this SPA are the **Great Crested Grebe**, the **Pochard**, **Tufted Duck**, and **Goldeneye**, all migratory birds associated with inland freshwater habitats. The conservation objective for the SPA is:

To maintain or restore the favourable conservation condition of the wetland habitat at Lough Sheelin SPA as a resource for the regularly occurring migratory waterbirds that utilise it.

The site synopsis states the following:

The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for the following species: Great Crested Grebe, Pochard, Tufted Duck and Goldeneye. The E.U. Birds Directive pays particular attention to wetlands and, as these form part of this SPA, the site and its associated waterbirds are of special conservation interest for Wetland & Waterbirds.

Despite variable water quality in recent decades, Lough Sheelin remains a very important site for wintering waterfowl, especially diving duck. It supports nationally important populations of four species, i.e. Great Crested Grebe (140), Pochard (546), Tufted Duck (762) and Goldeneye (224) - all figures are mean peaks for the 5 winters 1995/96-1999/2000. A number of other species occur in relatively low numbers, including Mute Swan (28), Mallard (76), Coot (24), Little Grebe (19), Cormorant (42) and Black-headed Gull (202).

I note that in the Direction for the previous appeal on the site, the Board noted and agreed with the concerns of the Inspector over the absence of detailed scientific information relating to the potential effect of the proposed proprietary effluent system on the SPA but did not follow up the concerns having regard to the substantive reason for refusal. I would therefore have concerns about the screening carried out and having regard to the apparently unauthorised development still on the site and the relative paucity of information on the proposed system with regard to possible

other sources of run-off to Lough Sheelin. I am not convinced from the evidence on file that a stage II Appropriate Assessment would not be required to address the issue of cumulative run off to the SPA. However, as with the Boards Direction in the previous appeal, I consider this to be a new issue as there is a substantive planning reason for refusal.

9.0 Recommendation

I recommend that planning permission for the revised design is refused for the reasons and considerations set out below.

10.0 Reasons and Considerations

It is an objective of the planning authority as set out in the Cavan County Development Plan 2014-2020 and the associated *Design Guide for Single One off Rural Houses within the Cavan Rural Countryside* that single dwellings within the rural countryside follow general principles of design and siting. Having regard to the siting and location of the proposed dwelling house, it is considered that the proposed dwelling would be contrary to this guidance and associated policy RHP1 and Section 10.14 of the Development Plan, would seriously injure the visual amenities of the area, and would thus be contrary to the proper planning and sustainable development of the area.

Philip Davis
Planning Inspector

1st March 2021