



An
Bord
Pleanála

Inspector's Report

ABP-310211-21

Development	Demolition of existing extension to the rear of the house and construction of a bigger extension.
Location	Posseckstown, Nobber, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	KA200866
Applicant(s)	Przemek & Mariena Biernat.
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Laurence Farrell
Observer(s)	None
Date of Site Inspection	29th May 2021
Inspector	Sarah Lynch

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2.0 Site Location and Description

2.1. The site is located in the rural townland of Posseckstown which is located c. 3.3km north east of the Nobber village. The site comprises a small single storey dwelling within a large rural site of c. 0.35ha in area. The site is enclosed by a timber fence to the roadside and a timber fence between the adjacent property to the northwest, remaining boundaries comprise mature hedgerow and treeline. The land is positioned at a higher level than the road and contains a number of outbuildings, a large chicken run and poly tunnels. The dwelling positioned close to the Nobber-Drumcondrath road (L-3404) and is accessed via two no. entrances from the L-3404.

3.0 Proposed Development

3.1. The following development is proposed:

- Demolish existing rear extension and construct new single storey extension with connection to upgrade on site services.
- It is of note that significant further information was submitted as outlined below.

4.0 Planning Authority Decision

4.1. Decision

Meath County Council determined to grant permission for the proposed development.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- The planners report was consistent with the decision of the planning authority, further information was sought and is summarised hereunder:
 - Revised layout formalising existing access arrangements – closing up agricultural entrance and widening the existing access.
 - Address third party submission

- Evidence of planning permission for existing septic tank or submit a site characterisation report.
- Surface water/soak away design.

4.3. Further information submitted with revised public notices.

- The applicant submitted a revised site layout, illustrating the entrance improvements but requesting that the second entrance remain for use in relation to their agriculture business.
- A site characterisation report and soak away report.
- A response to 3rd party submission

4.3.1. Other Technical Reports

None

4.4. **Prescribed Bodies**

None

4.5. **Third Party Observations**

One third party submission was received the issues raised are outlined within the grounds of appeal.

5.0 **Planning History**

No recently recorded history for this site, it was considered by Meath County Council to be a pre-1963 development.

6.0 **Policy Context**

6.1. **Development Plan**

It is of note that the current county development plan is under review and is at draft stage.

Meath County Development Plan 2013-2019

- Chapter 7 - relates to Water, Drainage and Environmental Services
- Chapter 9 – Cultural and natural assets
- Chapter 10 – Rural Development
- Chapter 11 – Development Management Standards and Guidelines.

6.2. **Natural Heritage Designations**

There are no designated sites connected to the development site.

7.0 **The Appeal**

7.1. **Grounds of Appeal**

This is a third party appeal which has been submitted by Laurence Farrell, the grounds of appeal can be summarised as follows:

- In march 2019 the applicant undertook groundworks and raised the level of their site which resulted in flooding to appellants property.
- Septic tank run off is entering appellants property.
- Legal proceedings have commenced.
- Warning letters have been issued in relation to a caravan being used as a habitable space.
- Antisocial behaviour is an issue.
- Engineering report prepared by Herring Engineering & Design Ltd has been submitted in support of the appellants grounds of appeal.

7.2. **Applicant Response**

- None

7.3. **Planning Authority Response**

- Planning Authority refer the Board to the planner's report, the proposal is in accordance with the policies and objectives of the Meath County Development Plan.

7.4. **Observations**

- None

8.0 **Assessment**

8.1. This a first party appeal against Meath County Councils decision to grant permission for a single storey extension of c. 98 sqm and upgraded septic tank and percolation area to the rear of an existing rural dwelling located in north County Meath with an overall site area of c. 0.35ha. It is important to note at this juncture that significant further information was submitted in relation to the provision of a revised layout and a site characterisation report and soakaway design report, these items will be examined within the assessment hereunder.

8.2. I have reviewed the information submitted with the application and the grounds of appeal and have carried out a site inspection and consider that the issues for consideration before the board relate largely to the grounds of appeal, with the exception of one new issue which relates to a condition imposed by the Council which seeks the closure of an existing bona fide entrance at the site. This issue will be considered separately under New Issues hereunder.

8.3. The issues before the Board therefore relate to the following:

- Waste Water & Surface water flooding
- Appropriate Assessment
- Other Matters
- New Issues - Access

Wastewater & Surface Water flooding

- 8.4. I note from the grounds of appeal that the appellants have raised concerns in relation to water ingress into their lands and property. It is contended by the appellants that their lands have been effected by both surface water arising from the raising of lands within the appeal site and from the septic tank which has been installed within the appeal site. An engineering report has been submitted by Herr Engineering & Design Ltd in support of the appellants concerns in relation to water ingress to their lands.
- 8.5. The report has been prepared by Barry Meegan who is building surveyor and states that the appellant installed a new fence between his property and the appeal site. It is then stated that the applicant raised ground level on his side of the fence with left over spoil from the installation of the new percolation area. The report states that the appellant noticed water ingress after these works were completed within the appeal site.
- 8.6. I note that the engineer states that his observations are based on a visual inspection, no trial holes or dye testing has been carried out in order to properly determine the source of water. I further note that the engineer has relied on the testimony of the appellant in relation to the raising of ground levels and has not carried out any detailed examination which would determine the specific depths to which the land was raised.
- 8.7. Reference is made to a mobile home which has been removed from the site and was not present at the time of the engineers inspection. The report refers to the requirement for a site characterisation report which has been submitted by the applicant in response to the further information request and will be examined hereunder. It is stated that the existing septic tank is unfit for purpose and should be decommissioned as there is a build up of what the engineer considers appears to be effluent at the rear of the appellants garage. The engineer also states that the appellant has contended that the septic tank has been connected directly into the surface water drainage to the rear and front of the site.
- 8.8. Whilst I note the concerns raised by both the appellant and their engineer, I also note that no site investigations have been carried out and no evidence has been provided which clearly demonstrates that the applicant has installed the upgraded septic tank and percolation area incorrectly.

- 8.9. I further note that the appellant also engaged Hydrocare to examine the flooding at this property and it is stated within this report that the existing percolation area will require decommissioning and surface will require diversion.
- 8.10. I note from the information submitted in response to the Council's further information request that a site characterisation report was submitted which has examined the suitability of the appeal site for the existing septic tank and percolation area.
- 8.11. I note from this report which has been prepared by Dr. Robert Meehan, that neither bedrock nor watertable were encountered within the trial hole and rainwater infiltrating this part of the site flowed vertically and sub vertically. The ground conditions within the trial hole therefore indicated that the site would be suitable for a conventional septic tank similar to that installed.
- 8.12. Both a T test and P test were carried out and obtained results of 33 and 22.9 respectively, which are within an acceptable range for discharge to ground. It was recommended within the site characterisation report that the existing pipe work and trenches and any connection between this and the watercourses within the site must be decommissioned fully and removed from the ground on site.
- 8.13. A percolation area of 72m was recommended to be installed and certified as being in compliance with the EPA (2009) guidelines. Subsequent to this report being issued to the applicant, I note that the applicant engaged the services of Mitchell Environmental to carry out the required works. A report from Mitchell Environmental has been submitted with the application which states that the following works have been carried out:
- Installation of O'Reilly Oakstown precast concrete pumping station.
 - Excavation of 150 sqm soil polishing filter percolation area.
 - Decommissioning of existing percolation area and manhole.
 - Installation of a control panel and all other electrical components.
 - Complete commissioning of system.
 - Topsoil reinstatement.
- 8.14. It is further stated within the report submitted that all works have been carried out in accordance with the EPA Code of Practice 2009. Photos are provided of all stages of

the works and a maintenance agreement for the percolation area has been submitted for a period of 12 months.

- 8.15. It is of importance to note that the works listed above are stated to have been carried out on the 31st August 2020. I note that letters submitted in support of the appellants concerns with regard to engineering assessments are dated prior to these works being carried out, 8th January 2020 and 28th November 2019.
- 8.16. Thus, having regard to the foregoing and the results of the site characterisation assessment and the works carried out to date, I am satisfied that the applicants have adequately demonstrated compliance with the requirements of the EPA Guidelines 2009, Wastewater Treatment Systems for Single Houses. It is of note that these guidelines have been replaced as of June 2021 by the 2021 code of practice for domestic water treatment systems, I have reviewed the said guidelines and am satisfied based on the information submitted that the development for retention also accords with the requirements of the recently published guidelines and is therefore in accordance with the proper planning and sustainable development of the area.
- 8.17. It is of note from the grounds of appeal that the applicant has also raised concerns in relation to the surface water drainage arrangements within the appeal site. It is stated by the appellants, that ground works within the appeal site, which raised the site levels adjacent to the appellant's house have resulted in flooding of the appellant's property.
- 8.18. In response to the appellants concerns the Council sought further information in which it was requested that the applicant respond to the concerns raised within the third-party submission to the application. The applicants accordingly submitted a soakaway design that had been designed in accordance with the BRE Digest 365 calculations requirements.
- 8.19. A test hole was excavated and examined by Traynor Environmental on behalf of the applicant and a site suitability assessment carried out. Results of this assessment which are contained within the documents submitted to the Council demonstrate that site conditions are suitable to facilitate the provision of an on site soakaway. Whilst I note the appellants concerns in this regard, I consider it appropriate to deal with this issue by way of condition, should the Board be of mind to grant permission.

Other Matters

8.20. I note that the appellants have made reference to antisocial behaviour, the unauthorised use of a mobile home for letting purposes and legal proceedings in relation to water ingress to their property. Whilst I acknowledge the applicants concerns and frustrations in relation to such matters, these are largely legal matters and are not ones that the Board can finally determine or provide commentary on. I draw the Board's attention to Section 34 (13) of the Planning and Development Act, which states that the granting of permission does not entitle a person to carry out development and covers the eventuality that the development cannot be implemented for legal reasons.

New Issue

Access

- 8.21. Whilst not relevant to the grounds of appeal, I note that condition no. 4 of the Council's decision states that, '*The agricultural entrance identified on the site layout submitted on the 24th February 2021 shall not be permitted. Within 3 months of the date of this order the applicant shall submit documentation for the written agreement of the Planning Authority which shows the entrance closed up and replaced with a timber fence back planted with native hedge*'.
- 8.22. This condition relates to what the planner within the further information request describes as a 'bona fide' entrance. I have reviewed historical imagery and note that this entrance was present and maintained within 2009 imagery. I also note from both the description of development and the plans and particulars submitted that the applicant does not propose any alterations to this entrance within the planning permission sought. Planning permission relates to the demolition of an existing extension, and construction of new larger extension and connection to upgraded services together with ancillary development works.
- 8.23. It is of note that the applicant indicates within the further information response submitted to the Council that they wish to keep this established entrance for agricultural purposes as currently is the case and have not proposed any alteration to this entrance. The applicants only propose alterations and improvements to the existing residential entrance to the south east of the site which I consider acceptable.
- 8.24. Given that the existing agricultural entrance is an established entrance which is not subject to any change within this application, I consider that Meath County Council

have acted ultra vires in imposing a condition which effectively seeks to change the planning status of an established entrance. Should the Board be of a mind to grant permission I recommend that condition no. 4 of the Meath County Council permission is omitted from any grant of permission.

8.25. Other

9.0 Recommendation

9.1. I recommend that permission is granted subject to the following conditions:

10.0 Reasons and Consideration

10.1. Having regard to the provisions of the Meath County Development Plan 2013-2019, the existing pattern of development in the area, and the nature and scale of the proposed development, 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 of property in the vicinity and would not impact public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the layout plan submitted to the local authority on the 24th February 2021 and the elevation plans submitted to the local authority on the 6th July 2020 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. The final detail and external finishes of the dwelling and extension shall comply with the details indicated in the documentation received by the Planning

Authority on the 6th July 2020, unless otherwise agreed by the planning authority.

Reason: In the interest of visual amenity

3. The dwelling and extension shall be jointly occupied as a single residential unit. The proposed extension shall not be let, sold or otherwise transferred or conveyed save as part of the dwelling. The principle use of the application site shall remain in private residential use.

Reason: In the interest of proper planning and sustainable development.

4. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties. The soakway shall be constructed in accordance with the soakaway design submitted to the local authority on the 24/02/21

(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent pollution.

5. (a) The percolation area installed and certified by Mitchell Environmental Ltd shall be maintained in accordance with the certification submitted to the Local Authority on the 24/02/21.

(b) A maintenance contract for the treatment system shall be entered into for a minimum period of five years from the first occupancy of the proposed extension and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the date of decision.

Reason: in the interest of public health

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located

underground. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

7. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 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.

8. The site and development works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public road, the said cleaning works shall be carried out at the developers expense.

Reason: In the interest of orderly development

Sarah Lynch
Senior Planning Inspector

11th June 2021