



An
Bord
Pleanála

Inspector's Report ABP-312433-22

Development	Retention of reduced levels & hard surface area to side of house and pillar box for electricity meter. Permission for wastewater treatment system & percolation area and associated site works.
Location	Drumquill, Castleblayney, Co. Monaghan
Planning Authority	Monaghan County Council
Planning Authority Reg. Ref.	21108
Applicant(s)	John Brennan
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Martin Molloy.
Observer(s)	Patrick Carragher.
Date of Site Inspection	16 th May 2022.
Inspector	Barry O'Donnell

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.4ha is located in the townland of Drumquill, north of Castleblayney. The site is elevated above the R183, on its north side, and contains a two-storey house, large gravel hardstanding area and two hard surfaced areas. It is accessed via a stone track that rises up the incline and which serves other residential property and agricultural land in the area.
- 1.2. The house has a traditional two storey design, measuring c. 8m long x 5m wide, and it has a stone finish. The plot and house are on land that has been excavated and regraded, in order to provide a level site. Available aerial photograph imagery identifies a large, detached structure to the north of the house in the area of the concrete pad, but this structure had been demolished at the time of my site visit.

2.0 Proposed Development

- 2.1. The proposed development entailed within the public notices comprises (1) retention of reduced levels and hard-surfaced area to side of existing house, pillar structure housing electricity meter which serves existing house on the site, (2) permission to install new wastewater treatment system and percolation area to serve existing house, together with associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission on 7th December 2021, subject to 3 No. conditions.
 - Condition 1(a) required the hardcore area to be reduced in size and grassed over, in accordance with drawing No. 3.0_S100.00, within 6 months of the granting of permission unless otherwise agreed.
 - Condition 2(a) required the existing septic tank and percolation area to be decommissioned and replaced within 6 months of the grant of permission.

3.2. Planning Authority Reports

3.2.1. Planning Reports dated 30th April 2021 and 30th November 2021 have been provided. The first report expresses the view that the retention elements are ancillary to the existing house and fall to be considered under policies RHP1 (Design of Rural Housing) and RCP1 (Buildings in the Countryside). The pillar box is stated to be acceptable but concerns are expressed regarding the scale of the hardcore area, which is considered to be more commercial in nature. The report also notes that the environmental health officer requested additional information regarding the design and location of the proposed wastewater treatment system. The report recommends that additional information be sought, as follows: -

- Applicant to clarify location of deposited fill material associated with the to-be-retained excavated area, including the submission of pre- and post-development section drawings.
- Applicant to clarify design and location of proposed wastewater treatment system.
- Applicant to submit revised proposals showing proportional use of soil/grass covering in the hardcore area and tree/hedgerow planting along the to-be-retained embankments to the north and east.
- Applicant requested to comment on issues raised by third parties.

3.2.2. The second report followed receipt for the AI response and followed a period of further public consultation following the submission of significant additional information. The report summarises and responds to the AI response items and, following assessment, recommends that permission be granted subject to 3 recommended planning conditions. The recommended conditions are consistent with the Planning Authority's decision to grant permission.

3.2.3. Other Technical Reports

Environmental Health Officer reports dated 22nd March 2021 and 4th November 2021 have been provided. The first report requests clarification regarding the design and location of the proposed wastewater treatment system. The report states that the location shown on the site layout drawing is unworkable and unacceptable. The

second report followed the additional information response and expresses no objection, subject to recommended conditions.

3.3. Prescribed Bodies

- 3.3.1. The Planning Report indicates that no prescribed bodies were consulted on the application.

3.4. Third Party Observations

- 3.4.1. A number of third-party submissions were received, the issues raised within which can be summarised as follows: -

- The septic tank serves development that has been deemed to be unauthorised by the Planning Authority.
- The validity of the application was questioned, in relation to site notices and the submission of unsolicited information.
- Consideration has been given to excavation of material from the site, but deposition has not been addressed and this has led to blockage of a drain.
- There is ongoing unauthorised development and associated enforcement proceedings regarding this site.
- The pillar box is a road safety hazard.

- 3.4.2. A number of additional submissions were received following the submission of significant additional information. No new issues were raised in these submissions, which both continued to question the validity of the application.

4.0 Planning History

- 4.1. The site has a lengthy and complex planning and referral history, including the land on the south side of the access lane that is also shown to be in the applicant's ownership. Relevant history files include: -

Planning applications

17/357 – (ABP-301554-18): Permission refused on 17th December 2018 for retention and completion of partially completed detached storey and a half domestic garage. Permission was refused for 1 reason, which related to the impact of the development on the visual amenities of the area.

17/395 – (ABP-301047-18) *Lands on the south side of the access lane*: Permission refused to Eamonn Brennan on 13th August 2018 for construction of a storey and a half dwelling house, wastewater treatment system, percolation area, new entrance and all associated site development works. Permission was refused for 2 reasons, related to (1) landscape and visual impacts and (2) failure to demonstrate the suitability of the site for the provision of a wastewater treatment system including percolation area.

14/217 – Permission refused on 8th April 2015 for retention and completion of a partially constructed storey-and-a-half extension to side of existing house, together with all associated site works. Permission was refused for 3 No. reasons, related to proximity to a neighbouring farm building, the absence of written consent from the adjacent farmer and the proposed scale of the extension.

There have been a number of further applications on the land that have been either invalidated or withdrawn.

Referrals

Ex 16/27 – (ABP-312636-22): Current referral from Patrick Carragher in relation to whether work to reinstate the residential use of a derelict structure is or is not development or is and is not exempted development.

Ex 18/25 – (ABP-302878-18): Referral by Martin Molloy in relation to whether works carried out to change the level of land up to 3m in parts, leading to the destruction of a boundary hedgerow and redirection of groundwater is or is not development and is or is not exempted development. The Board determined that that the matter the subject of the referral is development and is not exempted development.

Ex 18/06 - (ABP-301312-18): Referral by Patrick Carragher in relation to: Whether (1) Installation of septic tank and percolation area (2) Construction of a house connected to septic tank (3) Erection of pillar box on right of way is or is not development and is or is not exempted development. The Board determined on 19th

December 2018 that each of these elements is development and is not exempted development.

PL18.RL3532: Referral by Martin Molloy in relation to whether the installation of a septic tank and percolation area is or is not development and is or is not exempted development. The Board determined on 28th March 2018 that the matter the subject of the referral is development and is not exempted development.

Ex 17/15 – (PL18.RL3594): Referral by Patrick Carragher in relation to whether the construction of a structure within the curtilage of an existing house and all associated site development works to include site clearance and connection to septic tank is or is not development and is or is not exempted development. The Board determined on 28th March 2018 that the matter the subject of the referral is development and is not exempted development.

PL18.RL3811: Referral by Martin Molly in relation to whether the construction of a pillar structure to house an electricity metre on the edge of a laneway is or is not development and is or is not exempted development. The Board determined on 28th March 2018 that the matter the subject of the referral is development and is not exempted development.

EX 16/24 - Section 5 application by Patrick Carragher in relation to (i) works to a structure, (ii) use of a derelict structure for which the residential use had been abandoned. The Planning Report recommended that the determination be made, stating (i) works carried out to the structure are exempted development under S.4(1)(h) of the Act and (ii) the use of the structure for residential use is not considered to be development under Article 10(1)(d) of the Regulations, in that the Planning Authority did not consider the use to have been abandoned given its pre-'64 status. It is unclear whether this determination was issued, as no copy of such determination was provided with the referral.

10/581: Section 5 application by Patrick Carragher in relation to refurbishment of a house. The application itself appears to be unnumbered, but the Manager's Order reference is 10/581. The question asked of the Planning Authority was reworded by the Planning Report to 'use of a structure as a dwelling house' and a determination issued on 19th July 2010 stating that '*on the basis of the information submitted...the application is not considered to be exempted development.*'

5.0 Policy Context

5.1. Monaghan County Development Plan 2019-2025

- 5.1.1. The site is situated in a rural, unzoned part of County Monaghan and the Core Strategy Map, Map 2.1, identifies that the site is in the 'remaining rural areas' part of the county.
- 5.1.2. Section 2.8.2 identifies the 'remaining rural areas' as all other rural areas outside of the settlements and the rural areas under strong urban influence (which are the rural areas around Monaghan, Carrickmacross, Castleblayney and Clones).
- 5.1.3. Section 15.17 contains design guidelines for rural housing and related policy RHP 1 requires as follows: -

RHP 1: Applications for one-off housing in the rural areas shall demonstrate compliance with the design guidelines as set out in Table 15.4 "Design Guidelines for Rural Housing."

- 5.1.4. Other relevant policies include: -

RHP 4: To only permit a dwelling within 100m of an agricultural building where written consent has been provided by the owner/occupier of the agricultural unit. Written consent must be signed by both parties and witnessed by a solicitor or a peace commissioner.

WWTP 1: To protect groundwater and surface water from contamination from domestic effluent by ensuring that all sites requiring individual wastewater treatment systems are assessed and deemed suitable by suitably qualified persons in accordance with the 'Code of Practice; Wastewater Treatment Systems for Single Houses' published by the Environmental Protection Agency, 2009 or any subsequent code of practice which supersedes it.

BLO 1: To generally require buildings and ancillary works* in the rural area along public roads to have the following setbacks from the near edge of the surfaced carriageway:

- National Route: 90m
- Regional Route: 30m

- County Road: 18m

5.2. Natural Heritage Designations

- 5.2.1. The subject site is not located within or adjacent to a designated European site. The closest such site is Slieve Beagh SPA (Site Code 004167), which is approx. 27.5km north-west.

5.3. EIA Screening

- 5.3.1. An Environmental Impact Assessment Screening report was not submitted with the application.
- 5.3.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.
- 5.3.3. The subject development consists of retention of reduced levels & hard surface area to the side of a house and support pillar for electricity meter housing and a proposed wastewater treatment system & percolation area, on a site of c.0.4ha. It falls well below the applicable threshold for mandatory EIA, as set out above.
- 5.3.4. In respect of sub-threshold EIA, having regard to the limited nature and scale of the proposed development, it is considered that 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.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third-party appeal has been submitted by Martin Molloy. The grounds of appeal can be summarised as follows: -

- Invalid application
 - The applicant has confirmed that the site notice was not erected until after the application was submitted. Article 17 of the Planning and Development Regulations 2001-2022 requires that a site notice shall be erected before submission of an application.
- Unauthorised house
 - The wastewater treatment system is for a house that is unauthorised, as was ruled by the Planning Authority in 2010
 - The Council's position was unofficially changed in 2015. A further Section 5 application was submitted in 2015 but has not been determined by the Planning Authority.
- The pillar box presents a health and safety risk and is out of character with the rural setting.
- The issue of deposited fill, which was determined by the Board to be not exempted development in 2018, is not addressed by the application. This is pertinent to this application as the reduced levels which are proposed for retention were achieved by depositing fill elsewhere on the land.

6.2. Applicant Response

6.2.1. A first party response to the appeal was received on 9th February 2022, the contents of which can be summarised as follows: -

- Invalid application
 - The applicant did not admit that the site notice was erected after the application was submitted.
 - The evidence provided shows that the site notice was in place the before the alleged date, 10th March 2021.
 - The notice was erected by the agent, on their way to submit the application.
 - The Planning Authority accepted that the photo does not confirm that the notice was erected at the time the photo was taken.

- Unauthorised house
 - The Planning Authority is satisfied that the house is not unauthorised.
 - A number of clarifications were provided to the Planning Authority following the original Section 5 decision on 19th July 2010 and it is presumed that this clarification was deemed acceptable to the Planning Authority, which determined to grant the application.
- Pillar box
 - The pillar box does not pose any health and safety risk. It does not obstruct the lane in any way.
 - The appellant's comments regarding trucks using the lane can be seen as demonstration that the lane remains accessible.
 - Application Reg. Ref. 14/217 was refused by the Planning Authority, so the applicant did not have to commit to removing the pillar box, as was proposed as part of the AI response.
- Deposited fill
 - It was agreed to submit a separate planning application to retain the deposited fill, as it is located outside the application site.
 - The applicant has commissioned their agent to submit an application and a planning notice was published on 8th February 2022 and the application is due to be submitted.

6.3. Planning Authority Response

6.3.1. None received.

6.4. Observations

- 6.4.1. A submission has been received from Pat Carragher, the contents of which can be summarised as follows: -
- The application is invalid, due to the site notice having been erected following submission of the application.

- History of the house on the site
 - The existing house was occupied as a house in the past but became dilapidated and the use was abandoned over time.
 - The applicant began work to renovate the house in 2010 and following a submission by the observer, enforcement proceedings were enacted. The observer submitted a Section 5 application and the Planning Authority determined that the works were not exempted development. This was not challenged by the applicant.
 - The applicant continued with renovation/extension of the house and applied for and was refused retention permission in 2014 (Reg. Ref. 14217 refers).
 - Photographs taken have been mislaid and are currently subject to an appeal to the Office of Information Commissioner.
 - A number of planning applications were submitted by the applicant but they have been withdrawn or invalidated for a number of reasons.
- Status of previous Section 5 determination by the Planning Authority
 - The Planning Authority has determined that the house and septic tank on the site are unauthorised and this was not challenged by the applicant.
 - A further Section 5 application was submitted and this was not determined by the Planning Authority. This application currently lies with the Board, having been referred.
 - The ruling in *Narconon Trust v An Bord Pleanala* is referenced, in the context of a Section 5 application having been previously determined and where there has been no change in underlying facts. A grant of permission for the proposed/retention elements, which serve the unauthorised house, represents a collateral attack on the Section 5 determination.
 - Reference is made to case law, which confirms that the only way to challenge a decision on a Section 5 application is by referral to the Board or judicial review. In the absence of any referral challenge or referral, the Section 5 determination should be considered to be valid and unimpeachable.

- All works on the site are therefore intended to serve an unauthorised development.
- The deposited fill that has been removed from the application is inextricably linked to it and has been determined by the Board as being not exempted development.
- The same sentiment regarding collateral attacks on previous Section 5 determinations can be applied to the applicant's grant of permission, Reg. Ref. 051068. Following this grant of permission anyone wishing to build within 100m of the observer's agricultural shed requires the observer's consent.
- The laneway that the pillar box abuts has three rights of access and its presence is an accident waiting to happen.
- Reference is made to personal comments made at a meeting with the Planning Authority, regarding the observer.

6.5. Further Responses

6.5.1. None received.

7.0 Assessment

7.1. Having inspected the site and considered the contents of the appeal in detail, I consider the main planning issues to be considered are: -

- Validity of the application
- Site planning history and planning status of existing house
- Reduced levels within the site
- Foul drainage
- Road safety
- Appropriate assessment

7.2. Validity of the application

7.2.1. The appellant and observer argue that the application is invalid, stating that the site notice was erected after submission of the application.

- 7.2.2. The applicant argues to the contrary, stating that the application is not invalid. Clarification is also provided regarding photographs that were provided to the Planning Authority, which identify the presence of the site notice on the site.
- 7.2.3. Having read the submissions on the application and appeal, it appears to me that the issue at hand relates to whether the site notice was in place at the time of submission of the application. The validation of planning applications is a matter for the planning authority, in the first instance, and in this case the matter was raised by both the appellant and observer in their submissions to the Planning Authority, but the Planning Authority did not accept the third-party arguments raised and determined that the application is valid.
- 7.2.4. I note the concerns raised, but I agree with the Planning Authority, that no evidence has been provided to demonstrate that the site notice was not in place at the time of submission of the application and in these circumstances, I see no reason to question the Planning Authority's determination that the application is valid.

7.3. Site planning history and planning status of existing house

- 7.3.1. As I have already stated, the site has a lengthy and complex planning and referral history, which is important to this appeal. There have been a number of previous Section 5 applications and referrals, both to the Planning Authority and the Board and the following determinations are noted: -
- The Planning Authority has determined that the existing house on the site is not considered to be exempted development (Reg. Ref. 10/581)
 - The Board has determined that installation of a septic tank and percolation area is not exempted development (Ref. RL3532)
 - The Board has determined that the construction of a structure within the curtilage of an existing house and all associated site development works to include site clearance and connection to septic tank is not exempted development (Ref. RL3594).
 - The Board has determined that the pillar structure that houses an electricity meter is not exempted development (Ref. PL3811)

- 7.3.2. It can be seen from the above that the existing house on the site and works associated with it, including site clearance/regrading, septic tank installation and pillar box have been determined as being unauthorised.
- 7.3.3. The Board will be aware that there is a concurrent referral under its consideration (Ref. ABP-312636-22) which relates to '*Whether work to reinstate the residential use of a derelict structure of which the residential use has been abandoned is or is not development and is or is not exempted development.*' I have outlined in my report on the referral that the question asked is the same, or substantially the same, and in respect of the same land as Section 5 application Reg. Ref. 10/581 and that in these circumstances, the Board is precluded under Section 50(2) of the Act from making a determination on the referral. That is to say, the Planning Authority's determination on Reg. Ref. 10/581 stands and cannot be revisited by the Board.
- 7.3.4. In view of the above, the retention and proposed elements within this application serve an unauthorised development. This gives rise to an in-principle objection, in respect of the facilitation of ongoing unauthorised development on the site and the precedent that would be set for other similar forms of development in the future. A refusal of permission is recommended on this basis.
- 7.3.5. Notwithstanding my conclusion above, I have assessed the individual elements within the application, below, to assist the Board in its consideration of the appeal.

7.4. Reduced Levels Within the Site

- 7.4.1. Site layout drawing No. 3.0_S100.00 identifies that the area of clearance/regrading that is proposed for retention (shaded in blue) is to the rear (north) and side (east) of the house. The drawing identifies that up to c.2.4m of earth has been excavated, in order to provide a level surface in the area adjacent to the house. The area is primarily surfaced with gravel hardstanding but also contains two concrete pads. As part of the additional information response, the applicant proposed to reduce the extent of the hardstanding area and to provide a landscaped and grassed garden.
- 7.4.2. Having visited the site, I am satisfied that the clearance/regrading work does not impact on the visual amenities or the rural character of the area. The site is elevated above the R183 and there is limited or no visibility of the site from the wider landscape. I note that the area to be retained as hardstanding was reduced as part of the AI response, with a landscaped and grassed garden to be provided in part of

the area. The hardstanding area to be retained continues to be extensive, shown to extend 10m from the rear of the house, but, taking a balanced view, as it does not impact on the visual amenities or the rural character of the area, it is acceptable.

- 7.4.3. The appellant also argues that consideration should be given to the deposition of the excavated material, which has been deemed by the Board to be not exempted development (Ref. RL18.302878 refers). This is not clarified within the application documents, however; I note from the Inspector's report on Ref. RL18.302878 that soil was deposited on the applicant's land on the south side of the stone track. I also note from the Inspector's report that the amount of soil deposited is unknown as it has now become grassed over.
- 7.4.4. The applicant states that it was agreed with the Planning Authority that a separate application would be submitted, seeking to retain the deposited fill and that such an application would be forthcoming. Planning Authority records indicate that an application was submitted on 13th May 2022 (Reg. Ref. 22216), with a decision to be made by 7th July 2022. As I am recommending refusal based on other substantive grounds, I have not pursued the issue further. However, should the Board be minded to grant permission, they may wish to clarify the issue with the applicant.
- 7.4.5. The pillar box to be retained measures approx. 1.8m tall x 0.9m wide. It is located on the north of the side of the stone track and is set among the trees that line the edge of the track. It is only visible in close-range views and I am satisfied that it also has no impact on visual amenities.

7.5. Foul Drainage

- 7.5.1. The development includes the provision of a packaged treatment plant and polishing filter. The Site Suitability Assessment Report submitted with the application recommends that an O'Reilly Oakstown Treatment System (or similar) and sand polishing filter be installed. A 60m² sand polishing filter is identified on the site layout drawing as being provided to the rear (north) of the house, on elevated ground above it. The proposed system was amended at the additional information stage, to allow for gravity flows from the house to the WWTP and pumped thereafter to the polishing filter.
- 7.5.2. The Site Suitability Assessment Report identifies the category of aquifer as 'poor', with a vulnerability classification of 'extreme'. Table E1 (Response Matrix for DWWTSs) of

the EPA Code of Practice Domestic Wastewater Treatment Systems identifies an 'R21' response category i.e., acceptable subject to normal good practice. The table also includes commentary that in such circumstances, where domestic water supplies are located nearby, particular attention should be given to the depth of subsoil over bedrock such that the minimum required depths are met and the likelihood of microbial pollution is minimised.

- 7.5.3. A trial hole with a depth of 2.1m recorded 300mm of silt/clay and the remaining 1800mm is indicated as comprising clay intermixed with stone. The trial hole evaluation sheet states that bedrock and the water table were not encountered, but that the winter groundwater was encountered 1.2m below ground level. In relation to the percolation characteristics of the soil, a T-test value of 46.86 min/25mm was returned and a P-test value of 30.65 min/25mm was returned.
- 7.5.4. Having regard to the site percolation test results, I consider it has been demonstrated that the site can accommodate a wastewater treatment system and I note that the Planning Authority accepted the revised system design, as proposed at the AI stage.
- 7.5.5. Should the Board decide to grant permission, I recommend a condition be attached requiring the applicant to agree the detailed specification of the on-site wastewater treatment system with the Planning Authority.

7.6. Road Safety

- 7.6.1. The appellant and observer both express concern regarding the impact of the pillar box on road safety, where the track is used by vehicles travelling accessing other property on the lane.
- 7.6.2. The box is set back from the lane by approx 0.5m but is not readily visible other than in close range views, due to the extent of vegetation on both sides. The stone track is likely to experience low levels of traffic but notwithstanding, I am inclined to agree with the appellant and observer that there is a risk of collision. As part of application Reg. Ref. 14/217 the applicant proposed to relocate the structure within the property, to the gable of the house. There is evidently no strict requirement for the electricity meter to be retained in its current location and in view of my concerns, I consider it should be relocated within the site. Should the Board decide to grant permission I recommend a condition be attached requiring the applicant to submit and agree

proposals with the Planning Authority for relocation of the pillar box and electricity metre within the site.

7.7. Appropriate Assessment

Appropriate Assessment Screening

Compliance with Article 6(3) of the Habitats Directive

- 7.7.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Background on the Application

- 7.7.2. A screening report for Appropriate Assessment was not submitted with this appeal case. Therefore, this screening assessment has been carried de-novo.

Screening for Appropriate Assessment- Test of likely significant effects

- 7.7.3. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 7.7.4. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

Brief description of the development

- 7.7.5. The development is described at Section 2 of this Report. In summary, permission is sought for (1) retention of reduced levels and hard-surfaced area to side of existing house, pillar structure housing electricity meter which serves existing house on the site, (2) permission to install new wastewater treatment system and percolation area to serve existing house, together with associated site works. The site is located in Drumquill, north of Castleblayney. The site is elevated above the R183, on its north side, and contains a two-storey house, large gravel hardstanding area and two hard surfaced areas. It is accessed via a stone track that rises up the incline and which serves other residential property and agricultural land in the area. Foul drainage is

proposed to drain to a WWTP and sand polishing filter to the rear of the house, with the polishing filter on elevated land.

Submissions and Observations

- 7.7.6. The submissions from the appellant, applicant and Planning Authority are summarised as Section 6 of my Report.

European Sites

There are no designated European sites within a 15km search zone of the subject site. The closest such site is Slieve Beagh SPA (Site Code 004167), which is approx. 27.5km north-west.

Potential impacts on European Sites

- 7.7.7. There are no open watercourses/drains on or adjacent to the site. There is a drain to the south of the site, which crosses under the R183 and which drain into Laragh Lough, to the south. The topography of the area means surface water flows from north to south, so it is likely that surface water from the site and the applicant's landholding drains into this drain, which is approx. 90m from the house.
- 7.7.8. The site is not in close proximity to a European site, as I have set out above. In view of this, and given the smallscale nature of the development, I am satisfied that there is no possibility of significant effects on qualifying interests within a European site, arising from the development.

Screening Determination

- 7.7.9. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site, in view of the sites' Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.
- 7.7.10. This determination is based on the following:
- The separation distance between the subject site and any European site,
 - The smallscale nature of the development.

8.0 Recommendation

- 8.1. I recommend that permission be refused, for the reasons and considerations outlined below.

9.0 Reasons and Considerations

The existing house on the site has been determined by the Planning Authority under Section 5 application Reg. Ref. 10/581 as being unauthorised. In view of this, the Board considered it would be inappropriate to facilitate the ongoing unauthorised use on the site, where the retention and proposed development the subject of this application are associated with this unauthorised residential use. In these circumstances the Board considered the proposed development was not in accordance with the proper planning and sustainable development of the area and would establish a precedent for other similarly undesirable forms of development.

Barry O'Donnell
Planning Inspector

26th May 2022.