



An
Bord
Pleanála

Inspector's Report

ABP-313167-22

Development	Retention of dwelling house and agricultural shed.
Location	Ballynalug, Rosenallis, Clonaslee, Co. Laois.
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	2213
Applicant	Philip Keegan
Type of Application	Retain
Planning Authority Decision	Grant retention
Type of Appeal	Third Party
Appellants	Michael Wood & Danusia Oslizok
Date of Site Inspection	16 th June 2022
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located in the townland of Ballynalug, Rosenallis, Clonaslee, Co. Laois, in the foothills of the Slieve Bloom Mountains, approximately 3 kilometres south-east of Clonaslee, on a local road, south of the regional road between Clonaslee and Rosenallis.
- 1.1.2. The site location is within the Clonaslee source protection zone.
- 1.1.3. On the date of inspection there was a large shed on the site and a number of transport container type structures. No above expression of the dwelling was visible.
- 1.1.4. The site is given as 0.4059ha.
- 1.1.5. There is an appeal currently before the Board in respect of the adjoining site to the north (313169).
- 1.1.6. The subject site together with 313169 were previously the subject of a permission for the erection of a dwelling with treatment plant and percolation area, new bored well and construct an agricultural shed, ref 19/628.

2.0 Proposed Development

- 2.1.1. The proposed development is the retention of the dwelling house with revised site boundaries, retain extension to agricultural shed, retain concrete hardstanding aprons and retain mobile home on site.
- 2.1.2. The retention of the mobile home, which is in the shed, is to live in temporarily until his house has been constructed.
- 2.1.3. The retention of a 3 metre extension to the machinery shed is for the safe loading and unloading of materials onto trailers and for safely attaching and mounting machinery to tractors on a level surface.
- 2.1.4. The retention of access steps into the nearby drain to allow is for the safe entry to maintain the hedge, site boundary and waterflow and land drainage pipes installed on-site.
- 2.1.5. It is proposed to retain storage containers, which belong to the construction company who are constructing the house, until completed.

2.1.6. The proposed development is served by a private well.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority decided to grant permission, subject to 6 conditions, including:

4) The shed shall be used for agricultural purposes only and shall not be used for human habitation or any commercial purpose other than a purpose incidental to farming, whether or not such use might otherwise constitute exempted development.

Reason: In the interests of orderly development and the amenities of the area.

5) All surface water run-off from roofs, entrances and parking areas shall be collected and disposed of within the site to adequately sized soakpits, drains or adjacent watercourses. In particular, no such surface water run-off shall be allowed to flow onto the public roadway or adjoining properties.

Reason: To prevent flooding of the public road, in the interests of traffic safety and in the interests of public health.

6) The mobile home hereby permitted shall be permitted during the construction period of the development. The mobile home shall be permanently removed from the site within 1 month of occupation of the dwelling.

Reason: In the interests of the proper planning and sustainable development of the area.

The decision was in accordance with the planning recommendation.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The site forms part of a larger field. It is accessed off the L-6008 a local secondary road. Immediately to the north the site is bounded by a detached dwelling which is also the subject of a retention application, PL Ref 22/14. The site is also in the Clonaslee Source Protection Zone.

- County Development Plan 2017-2023 is quoted. This has been superceded by the Laois County Development Plan 2021 – 2027.
- Within a structurally weak area as designated under the rural housing policy of the CDP, within a mountain area, not within or adjacent to a Natura site, not in a designated flood zone, there are no protected structures located within 500m.
- The site layout of the permitted development under ref 19/628 is shown in the planner's report.
- The development complies with the design guidance.

3.3. Other Technical Reports

- 3.3.1. Boris-in-Ossory/Mountmellick Municipal District, 4th February 2022, no objection.

3.4. **Third Party Observations**

- 3.4.1. Third party observations on the file have been read and noted.

4.0 **Planning History**

313169, PA Reg Reg 22-14, appeal currently before the Board, against the planning authority's decision to grant to grant retention to Angela Keegan, for a dwelling house with existing treatment plant and percolation area, site of 0.27ha, which was previously part of the site for 19/628.

That site, together with the subject site of 0.4059ha, was previously part of the site (0.677ha) for 19/628.

19/628 planning permission for a dwelling with treatment plant and percolation area, new bored well and construct an agricultural shed, granted. Site given as 0.677ha. The house plans were similar to the subject application. Details of that application have been provided by the planning authority and are attached to this file.

The history file includes in the assessment that re. foul drainage, 'the test results are now improved. In his cover letter the applicant refers to works carried out which have boosted the drainage characteristics of the site'.

Conditions attached to the permission include:

Condition no 5 - All surface water from roofs, entrances and parking areas shall be collected and disposed of within the site to adequately sized soakpits, drains or adjacent watercourses. In particular, no such surface water run-off shall be allowed to flow onto the public roadway or adjoining properties.

Reason: To prevent flooding of the public road, in the interests of traffic safety and in the interests of public health.

Condition no 6 - a) The new entrance shall be designed, shaped or otherwise treated to ensure the uninterrupted flow of road surface water run-off, to prevent ponding on the public road and to accommodate any surface water flowing from the public road into the site.

b) The developer shall pipe the existing roadside drain for the distance of the new entrance to the satisfaction of the local Municipal District Engineer. Minimum pipe size shall be 600mms internal diameter. The only permitted pipe type shall be concrete spigot and socket or twinwall HDPE pipes. Splayed wing walls/head wall and concrete floor shall be constructed at each end of the pipe to prevent blockages from overgrowth and embankment collapse caused by erosion.

01/622 outline planning permission for a dwelling refused for 4 reasons:

1 Ground conditions are unsuitable for the disposal of effluent by means of septic tank and notwithstanding the proposal to use a puraflo treatment system it is considered that the proposed development would be prejudicial to public health.

2 The proposed development would conflict with the policy of the planning authority, as expressed in paragraph 2.5 of the current Laois County Development Plan which seek 'to prohibit development which would comprise Aquifer Protection Zones'. The proposed development would, therefore, be contrary to the proper planning and development of the area.

3 The proposed development by reason of its piecemeal nature, location and substandard form of access would be prejudicial to the rural amenities of the area and would set an undesirable precedent for the area. The proposed development, would, therefore, be contrary to the policies and provisions of the County Development Plan.

4 The proposed development is located outside any settlement area designated in the current county development plan. It would be contrary to stated policies of the development plan to encourage housing to locate in the county's settlements and to control ribbon development. The proposed development would, therefore, be contrary to the proper planning and development of the area.

A 'Water Table and Percolation Test Results' report on the file carried out by Laois Co Co states failed T test results for both test holes.

Details of the history file have been provided by the planning authority and are attached to the file.

The file includes test results of the water table and percolation carried out by an official of Laois Co Co, as was the practice at that time, which states that water table level is 1.7m and winter water level depth is a lot higher. The percolation tests were carried out at two holes in the south western part of the site and yielded different results in each hole taking 26 minutes for a drop of 100mm in one of the test holes and failing to drop 100mm in the other hole in an hour. The overall result was a fail.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Laois County Development Plan 2021 – 2027, adopted 25th January 2022, came into effect 8th March 2022.

This is an area identified as a Structural Weak Area.

Structural Weak Areas

Policy Objectives for Agriculture and Food Production RL 1 Maintain a vibrant and healthy agricultural sector based on the principles of sustainable development whilst at the same time finding alternative employment in or close to rural areas to sustain rural communities. RL 2 Facilitate the development of agriculture while ensuring that natural waters, wildlife habitats and conservation areas are protected from pollution. RL 3 Work with the Eastern and Midlands Regional Assembly and other relevant stakeholders in identifying areas of high value agricultural land in the County to address the need for sustainable food supplies. RL 4 Continue to support and work

with Laois Food producers to promote local provenance, strengthen the Laois food industry and transform Laois into one of Ireland's top food destination

General consideration for agricultural buildings:

In dealing with applications for agricultural developments the Planning Authority will have regard to the following: 1) Require that buildings be sited as unobtrusively as possible and that the finishes and colour used will blend the development into its surroundings. 2) The proposed developments shall meet with the requirements of the Department of Agriculture with regard to storage and disposal of waste. 3) The Council accepts the need for agricultural buildings and associated works (walls, fences, gates, entrances, yards) to be functional but they will be required to be sympathetic to their surroundings in scale, material and finishes. 4) Buildings should relate to the landscape. Traditionally this was achieved through having the roof a darker colour than the walls. 5) Appropriate roof colours are dark grey, dark reddish brown or a very dark green. Where cladding is used on the exterior of the farm buildings dark colours should be used. 6) Location and impacts on the road network and other associated uses 7) Ensure it does not have an undue negative impact on the visual/scenic amenity of the countryside and identify mitigating measures where required All agricultural buildings should be located an adequate distance from any watercourse to reduce the risk of contamination.

Policy Objectives for Rural Development:

RL 4 Support the expansion, diversification and intensification of agriculture and the agri-food sector by facilitating appropriate related development subject to environmental and planning considerations;

RL 5 Support and facilitate agri-tourism and the work of farming / local bodies within the county in the promotion of the rural economy, including agriculture development, tourism adaptation, rural diversification and in the development of new initiatives to support farming.

10.4.2.5 Groundwater Protection Groundwater provides drinking water requirements and almost 100% of households and businesses in county Laois via public, group scheme and private wells. Groundwater also contributes water to the river system as base flow, and so its quality is intrinsically linked to surface water quality. The main threats are posed by:

i) Point contamination sources e.g. farmyard wastes (mainly silage effluent and soiled water), industrial discharges, activities related to quarrying and extraction, septic tank effluent, leakages, spillages, the improper use of pesticides and leachate from waste disposal sites.

ii) Diffuse sources e.g. spreading of fertilisers (organic and inorganic) and pesticides.

High vulnerability inner protection zones are given policy protection.

Mountains, Hills and Upland Areas.

Laois County Council promotes the contemporary design of new houses in the countryside where it satisfies the principles set out in this Guide. Good design is not just subjective - if issues such as proportion, scale, form and massing are skilfully handled, together with respect for context, the resultant building will inevitably appear appropriate or 'good'. The general approach should be one of simplicity, avoiding over-elaboration of elevational treatments and using a restricted palette of details and mater

5.2. Natural Heritage Designations

- 5.2.1. River Barrow and River Nore SAC (002162), is the nearest Natura site, located c250m to the west, to which there is no hydrological connection and downstream via the Clarahill stream, c1.3km distance to the north-east close to Tinnahinch Bridge.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity 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. An appeal has been submitted on behalf of the third parties by Ger Fahy Planning, Planning and Development Consultant. The grounds includes:

- Previous refusal
- Location in source outer zone protection area.
- Location between two SAC's. It should have been the subject of an Appropriate Assessment.
- The Board cannot be satisfied, on the basis of the information presented and in the absence of an appropriate assessment that the proposed development would not be likely to have a significant effect on European sites specifically The River Nore and River Barrow SAC, and is precluded from granting permission.
- Visual impact on the rural character of the area.
- Traffic safety due to the substandard road in the vicinity and inadequate sightlines at the junction with the Regional Road.
- Past failures to comply with conditions, the Board cannot be satisfied that the applicant would comply with any conditions limiting use.
- The application should be deemed invalid due to the description which includes retain extension to shed. Since the permitted shed was never erected.
- Attached to the response is a report from Environmental Consultant Whitehall Environmental, titled 'Habitats Directive Screening of Two Proposed Developments at Ballynalug, Rosenallis, Clonaslee, Co Laois.

6.1.2. The Environmental Consultant's report considers the potential for impact on:

- River Nore and River Barrow SAC (site code 002162) hydrological connection.

- Slieve Bloom Mountains SAC (site code 000412) no hydrological connection.
- Slieve Bloom Mountains SAC (site code 0004160) no hydrological connection and no impact on hen harrier.
- Clonaslee Esker and Derry Bog (site code 000859) no connectivity.
- Charleville Wood SAC (site code 000571) no connectivity.
- Mountmellick SAC (site code 002141) no connectivity.
- Potential impacts – pollution to surface waters during construction of the existing structures on the site, run-off from the works containing silt, hydrocarbons or other pollutants may have been mobilised downstream to affect sensitive habitats and species and the attributes relating to the protection of water quality that have been included as part of the SSCOs (site specific conservation objectives) to restore or maintain the favourable conservation condition of those QIs (qualifying interests) in the SAC.
- Ongoing pollution to ground or surface water arising from the continued operation of both sites, including uncontrolled run-off of polluted water from hard-standing and machinery works and pollution to groundwater arising from the inappropriate installation of the wastewater treatment plant in Site B.
- The cover letter for application 22/13 (site A) (the subject site) referred to land drainage works. No further information was provided for these works and in the absence of more details regarding these works and what they entailed, it cannot be excluded that they did not lead to significant effects upon the River Nore and River Barrow SAC which is 235m from the application site.
- Emissions to aquatic receptors which cannot be excluded – pollution to surface waters during construction of the machinery shed and the hardstanding around it. In the absence of mitigation, these works may have given rise to emissions into surrounding drains and watercourses. No details were provided in the original application in relation to mitigation. If mitigation was undertaken this is sufficient to trigger a requirement for AA. No details have been provided with regards to the surface water management for the machinery shed. It will be used for the storage of large machinery on a site

with hydrological connectivity to the SAC. The risk of pollution of local aquatic receptors with hydrocarbons is high in the absence of petrol interceptors and in addition the inclusion of petrol interceptors would be a trigger for AA. No details have been provided about the movement of machinery over local roads and the main road to site traverses through the SAC and over Glenhahan River at Clarahill.

- The construction of the house at Site B (adjoining) was completed on site with hydrological connectivity to the SAC. No details of what measures (if any) were undertaken to prevent pollution to the stream along the northern boundary have been submitted. Any run-off into this stream during construction may have had effects downstream on QIs in the SAC. Any mitigation is a trigger for AA.
- The house at Site B (adjoining) is connected to a wastewater treatment plant. The site characterisation report infiltration tests were incorrectly timed and therefore the plant has not been installed per EPA 2021 CoP. Therefore there is a risk of pollution to groundwater. Two habitats are considered to be groundwater dependent ecosystems: Petrifying Springs with tufa formation and alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior*. These habitats could be affected by any deterioration in groundwater quality locally. Groundwater quality can affect surface water and therefore other downstream QIs in the SAC.
- It concludes that AA is required.

6.2. Applicant Response

6.2.1. Robert Nanasi has submitted a response on behalf of the applicant to the grounds of appeal which includes:

- He wasn't asked to submit Appropriate Assessment, more than likely because the site is outside an SAC. He doesn't have enough time to prepare a report as a response to objector's.

- The treatment plant and percolation area have been granted planning permission and are much further from the river than the neighbour's. A man-made lake (neighbour's) is even closer.
- The existing planning permission 19/628 covers the whole field. It is irrelevant to mention the previous refusal.
- The main reason for changing the planning site is to provide space for the granny flat. The bedroom and treatment room have to be fitted upstairs to reduce the footprint of the building. Access will be by chair lift as shown on plans.

A letter accompanying the grounds from Mr Keegan includes:

- He is a small, part-time, agri-contractor and general operative working in the farming sector and construction sector.
- His family are local farmers and agricultural contractors and he has lived in the townland of Rosenallis from the age of 6 after his father's death.
- He attended pre-planning meetings and took professional advice.
- Both he and his mother have on-going health problems. His mortgage approval was withdrawn during lockdown.
- He started to construct a granny flat with his savings to provide adequate accommodation for himself and his mother.
- He was stopped by Laois Co Co and asked to submit a retention application.
- Re. the appeal, the owners of what is an air B&B, reside in Dublin.
- During a recent survey it was brought to his attention that the owners of the neighbouring property, an air B&B, have claimed part of his lands and he provides maps to illustrate.
- This is concerning vis a vis impacts on his public liability insurance and the health and safety of their holiday makers and members of the public.
- The owners have carried out works, including having dug out and built a manmade lake as well as plunge pool, constructed a yurt, a boardwalk, built in decking and seating area including hut and fire pits under the canopy of trees,

within his property. Within the stream they have placed stepping stones, close to their own septic tank and soakaway.

- They are happy that they have adhered to all guidelines in both the application and installation of any treatment plants which they have received planning for at the site.

6.3. Planning Authority Response

6.3.1. The planning authority has not responded to the grounds of appeal.

7.0 Assessment

7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, compliance with statutory plans, natural heritage, climate change/sustainability, flood risk, traffic, community centre and play area, and other issues and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

7.2.1. I have read the documents submitted with the application and appeal, including the observations submitted to the planning authority, and the grounds of appeal.

7.2.2. An environmental report was submitted with the grounds of appeal, titled 'Habitats Directive Screening of two proposed developments at Ballynalug, Rosenalis, Clonaslee, Co Laois' prepared by Whitehall Environmental, Noreen McLaughlin Environmental Consultant.

7.2.3. No Natura Impact Assessment or Screening for Appropriate Assessment was included in the application. The planning authority carried out Appropriate Assessment Screening and reached a conclusion of no potential significant affects and that AA is not required.

7.2.4. The grounds of appeal (and Environmental Consultant's report) states that AA is required because it cannot be excluded.

- In relation to the works carried out: pollution to surface waters during construction of the existing structures on the site, run-off from the works

containing silt, hydrocarbons or other pollutants may have been mobilised downstream to affect sensitive habitats and species and the attributes relating to the protection of water quality that have been included as part of the SSCOs to restore or maintain the favourable conservation condition of those QIs in the SAC, may have led to significant effects upon the River Nore and River Barrow SAC which is 235m of the application site.

- Ongoing pollution to ground or surface water may arise from the continued operation of both sites, including uncontrolled run-off of polluted water from hard-standing and machinery works and pollution to groundwater arising from the inappropriate installation of the wastewater treatment plant in Site B, (adjoining).
- The cover letter for application 22/13 (site A) (subject site) referred to land drainage works (no such cover letter was supplied). No further information was provided for these works and in the absence of more details regarding these works and what they entailed, it cannot be excluded that they did not lead to significant effects upon the River Nore and River Barrow SAC which is 235m from the application site.

7.2.5. I note that the planning report on the previous file 19/628, states as follows in the assessment:

Regarding the previous refusal of outline permission on the site, I wish to make the following points.

In relation to foul drainage, the test results are now improved. In his cover letter, applicant refers to works carried out which have boosted the drainage characteristics of the site.

In addition, development levels in the area are relatively low and the local need factor is not applicable.

7.2.6. The Board has before it sufficient information to enable it to carry out screening for appropriate assessment.

7.3. Appropriate Assessment - Screening

7.3.1. 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 European sites.

7.4. Development Description

7.4.1. The proposed development involves retention and development which overall development is similar to that previously permitted, with a small additional floor area within the shed and a reduction in the site area. Except for the temporary retention of structures which have no potential for impact on a Natura site, the proposed development, including the proposed on-site wastewater treatment system, has the benefit of an existing planning permission subject to the small additional floor area within the shed and a reduction in the site area.

7.4.2. The details for the only European site with potential for impact are:

Site Name	Site Code	Site Description Qualifying Interests/Special Conservation Interests	Proximity to Site
River Barrow and River Nore SAC	002162	Estuaries Mudflats and sandflats not covered by seawater at low tide Reefs Salicornia and other annuals colonising mud and sand Atlantic salt meadows Mediterranean salt meadows Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation European dry heaths Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels Petrifying springs with tufa formation Old sessile oak woods with Ilex and Blechnum in the British Isles	c250m to the west, where there is no hydrological connection; and downstream via the Clarahill stream c1.3km distance to the north-east close to Tinnahinch Bridge, which is hydrologically connected to the subject site.

		Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> Desmoulin's Whorl Snail Freshwater Pearl Mussel White-clawed Crayfish Sea Lamprey Brook Lamprey River Lamprey Twaite Shad Salmon Otter Killarney Fern Nore Pearl Mussel	
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7.4.4. No other Natura site has a source / pathway / receptor connection to the subject site.

7.4.5. The net effect of the proposed retention is to provide a small additional floor area within the shed and a reduction in the site area, to 0.4059 ha.

7.4.6. Screening for AA was carried out in relation to the permitted development. The planner's report for the previous application, reg ref 19/628, states that having regard to the distance factor and the absence of a directly connecting watercourse no materially negative impacts on the SAC arising from the proposed development are anticipated.

7.4.7. In-combination effects are unlikely due to the limited development experienced in this rural area and the fact that any development which drains to the River Barrow and River Nore SAC would be subject to AA Screening and does not therefore require to be considered as part of the screening for this proposed development.

7.4.1. The proposed development is not likely to have a significant effect either individually or in combination with other plans and projects on the European site 002162 in view of the site's conservation objectives.

7.4.2. Conclusion of Screening:

- 7.4.3. 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, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 002162, or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.
- 7.4.4. This determination is based on the following: the limited scale of the proposed development.
- 7.4.5. This screening determination is not reliant on any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

7.5. Principle of the Development.

- 7.5.1. Map 2.2 of the core strategy identifies rural areas which are Structural Weak Areas and Area Under Strong Urban Influence, which forms the basis for the rural housing policy. In this regard the Board should note the stages of the development plan preparation, as set out on the County Council's website, which indicate that the Structural Weak Areas and Area Under Strong Urban Influence, underwent considerable modification at the final stage of the development plan preparation. The extent of Area Under Strong Urban Influence in the Draft Plan and as modified following the comments of the Regulator was much extensive than in the final plan, where the reduction in the Area Under Strong Urban Influence and increase in the Structural Weak Areas was not accompanied by any explanation. This area is identified as a Structural Weak Area.
- 7.5.2. The Offaly County Development Plan identifies the area in that county adjoining as an area of rural housing pressure.
- 7.5.3. The settlement strategy in the Eastern and Midlands Regional Spatial & Economic Strategy identifies this area as a rural place and states that for rural places the strategy is to support the sustainable growth of rural areas by promoting the revitalisation of rural towns and villages, including ready to go regeneration projects coupled with investment where required in local employment and services and targeted rural housing policies, to be determined by local authorities.

- 7.5.4. The indicative 'Outline of NSS Rural Area Type' map which accompanied the Sustainable Rural Housing Guidelines, identifies this area as a stronger rural area.
- 7.5.5. It is difficult to reconcile the Structural Weak Area designation Map 2.2, which emerged only at the final stage of the process, and is the adopted map, with the development plan process and the various iterations of Map 2.2.
- 7.5.6. The applicant did not submit local need details in support of the application. The planner's report refers to this area being a structurally weak area.
- 7.5.7. In response to the grounds of appeal, a letter from the applicant, states that they have lived in the townland of Rosenallis since he was 6. He also refers to supporting his mother and the intention that the development on the adjoining site should be a 'granny flat'.
- 7.5.8. It seems likely that the applicant would comply with local need policies. An occupancy condition could be attached in the event that the Board was minded to grant permission. In my opinion the proposed development is acceptable in principle.

7.6. Suitability of the Site for On-Site Effluent Treatment

- 7.6.1. The proposed development involves the provision of an on-site bored well water supply and on-site effluent treatment and disposal. No location for the on-site bored well water supply is shown. The development as proposed is stated to be retention. The site is located within the outer protection zone for a public water supply. A stream formerly flowed along the eastern / roadside boundary.
- 7.7. No site characterisation report was provided with the application, and the proposed development relies on the documentation provided with the previous, permitted, development 19/628. The departures from the development permitted under that reference number appear to be largely the increase in floor area of the shed, and the reduction in the site area. It appears to me that neither of these alterations are likely to impact on the suitability of the site for on-site effluent treatment.

7.8. Other Issues

- 7.8.1. Invalid application - The grounds of appeal states that the application should be deemed invalid due to the description which includes retain extension to shed, since

the permitted shed was never erected. The notices giving the description of the development is largely a requirement to inform interested parties as to the development being sought. The fact that retain parts of the proposed development and parts which have yet to be carried out, are not clearly distinguished has not in my opinion prejudiced any party in making an observation or objection to the development and does not invalidate the application.

- 7.8.2. Traffic safety - The grounds of appeal refers to traffic safety due to the substandard road in the vicinity and inadequate sightlines at the junction with the Regional Road. The departures identified from the permitted development will have limited traffic safety implications.
- 7.8.3. Visual impact - The grounds of appeal states that the proposed development would have an adverse visual impact on the rural character of the area. The departures identified from the permitted development will have limited visual impact.
- 7.8.4. Failure to comply with the permission granted under register reference 19/628. The grounds of appeal refers to non-compliance with the previous permission, that the Board cannot be satisfied that the applicant would comply with any conditions limiting use. Compliance with conditions is an enforcement matter for the planning authority.
- 7.8.5. Legal and enforcement issues – the applicant has responded to the grounds of appeal stating that the appellant has fenced the stream on the applicant’s side whereas the applicant’s property extends to the opposite bank of the stream. The applicant states that the appellant has carried out various works, including works to the stream.
- 7.8.6. The matters raised are either civil matters between the parties or matters for enforcement by the planning authority and are not matters for the Board’s determination.

8.0 Recommendation

- 8.1.1. In accordance with the foregoing I recommend that planning permission for the retention and completion of the dwelling and shed and ancillary works, and the

temporary retention of structures should be granted, in accordance with the following conditions, for the following reasons and considerations

9.0 Reasons and Considerations

- 9.1.1. The proposed development, which substantially involves retention and completion of a development permitted under register reference 19/628, with alterations to provide a small additional floor area within the shed, a reduction in the site area, and temporary retention of minor structures would provide necessary housing for an individual with ties to the local area, who is engaged in providing a service to the local community; would involve the provision of on-site accommodation for the service activity carried out by the resident of the dwelling; would accord with the provisions of the Laois County Development Plan 2021 – 2027; and subject to compliance with the following conditions would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1	<p>The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 or as otherwise stipulated by conditions hereunder, and the proposed development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of clarity.</p>
2	<p>The shed shall be used for agricultural / agricultural contracting purposes only and shall not be used for human habitation or any commercial purpose</p>

	<p>other than a purpose incidental to farming and ancillary to the dwelling on the site, whether or not such use might otherwise constitute exempted development.</p> <p>Reason: In the interests of orderly development and the amenities of the area.</p>
3.	<p>The mobile home and storage containers shall be removed from the site on completion of the proposed dwelling and prior to its occupation.</p> <p>Reason: In the interests of orderly development and the amenities of the area.</p>
4.	<p>The developer shall ensure that a clean, potable water supply is provided prior to first occupation, which complies with the EU (Drinking Water) Regulations, SI 122 of 2014 as amended. A map showing the location of the supply borehole shall be submitted to the planning authority.</p> <p>Reason: In the interests of public health, residential amenity and proper planning.</p>
5.	<p>a) The proposed wastewater treatment system (WTS) shall be located, constructed, and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021.</p> <p>All work shall be supervised and certified by a qualified and indemnified Engineer. A completion certificate shall be submitted to the planning authority upon installation and commissioning of the WTS and the percolation area. Photographic evidence of each stage of the works shall be included in the completion certificate submission.</p>

	<p>The WTS shall be visually inspected on a periodic basis and de-sludging shall be carried out in accordance with Article 3 of SI No 223 Water Services Act 2007 and 2012 (Domestic Wastewater Treatment Systems) Regulations 2012 or as recommended by the systems manufacturer.</p> <p>Reason: In the interest of public health and the protection of the environment.</p>
6	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of orderly development.</p>
7	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p>

	<p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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Planning Inspector

29 June 2022

Appendix 1 Photographs.

Appendix 2 Laois County Development Plan 2021-2027 extracts.