



An
Bord
Pleanála

Inspector's Report

ABP-314782-22

Development	Retention permission for retention and completion of works to unauthorised development to single storey structure, revised site boundaries, wastewater treatment system & percolation area and site development works.
Location	Lisheenanierin, Strokestown, Co. Roscommon
Planning Authority	Roscommon County Council
Planning Authority Reg. Ref.	22375
Applicant(s)	Damien McDonnell
Type of Application	Retention
Planning Authority Decision	To refuse
Type of Appeal	First party
Appellant(s)	Damien McDonnell
Observer(s)	Paul Clabby.
Date of Site Inspection	2 nd February 2023
Inspector	Deirdre MacGabhann

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1.0 Site Location and Description

1.1. The 0.210ha appeal site lies c. 6.5km to the south west of Strokestown in the townland of Lisheenanierin, County Roscommon. The site lies c.250m to the west of the R368, on a minor county road, the L7011.

1.2. The rectangular site comprises part of an agricultural field, with a partially completed single storey dwelling situated to the east of the site, perpendicular to the public road. Immediately north east and south west of the site are two single storey dwellings. The dwelling to the north east is separated from the site by a low stone wall. It comprises the applicant's family home. The dwelling to the south west is separated from the subject site by a evergreen hedgerow, low stone wall and agricultural lane.

1.3. Access to the site is via an agricultural lane, off the minor county road. The agricultural lane adjoins a hardstanding to the north of the county road.

2.0 Proposed Development

2.1. The proposed development comprises:

- Retention and completion of works to existing single storey structure (gross floor area existing and proposed 110sqm),
- Revised site boundaries,
- A wastewater treatment system comprising packaged wastewater treatment system with polishing filter. This is situated to the north west of the proposed dwelling.

2.2. Water supply will be provided by an existing connection to the public mains and surface water will be disposed into a soakpit (location not shown). It is stated in the planning application that the structure was originally the family dwelling which was converted to a store (now demolished) after the erection of the family dwelling. Permission is sought for a residential unit for the applicant's son.

2.3. The planning application includes a Site Suitability Assessment Report and photographs of the original structure on the site.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 13th September 2022, the PA decided to refuse permission for the development for three reasons, in summary:

- 1) By virtue of its orientation and proximity to the adjacent residential property the development would injure the residential amenity of existing properties in the vicinity, with potential to depreciate property values.
- 2) Having regard to the pattern of development in the area, residential development on substantial sites, the development represents sub-division of an existing site and by reason of its overall layout would give rise to a haphazard pattern of development that would seriously injure the amenities of property in the vicinity. Development would represent an over concentration of development in the local area and set an undesirable precedent.
- 3) Insufficient information to demonstrate that the waste water treatment arrangements are adequate to serve the subject property.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 8th September 2022 – Refers to the planning history of the site, pre-planning meeting, consultations, submissions, relevant planning policy and enforcement action in respect of unauthorised development on the site. It screens the proposed development for AA and concludes that this is not required (distance from sensitive sites). The report considers the merits of the development in its Planning Assessment and raises concerns in respect of:
 - Pattern of development - Sub-division of the existing site, density of development, overdevelopment of the existing site, inappropriate precedent,
 - Site boundaries – Development involves inappropriate sub-division of an existing house (PA ref. 05/1708). No permission granted to revise boundaries associated with this development.

- Design and visual impact – Insensitive treatment of existing structure. Impact on residential amenities. Orientation of dwelling, proximity to adjacent residential property, impact on amenity and privacy of these.
- Water supply, Surface Water and Effluent Disposal – FI sought from Environment Department.
- Roads and Traffic – Development is situated in a lightly trafficked area, the access/egress arrangements serving the property are sub-optimal from a traffic safety perspective.

3.2.2. The report recommends refusing permission.

3.2.3. **Other Technical Reports**

- Environment (2nd September 2022) – Site Characterisation Report is out of date and was associated with PA ref. 20/201. Request FI, Site Characterisation Form to comply with 2021 EPA Code of Practice ‘Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)’, full details of proposed system, cross sectional drawings and that surface and sub-surface trail holes remain open to allow for a full assessment.

3.2.4. **Prescribed Bodies**

- None.

3.2.5. **Third Party Observations**

3.3. There is one observation on the proposed development. It raises the following concerns:

- Development proceeded despite decision to refuse permission for retention under PA ref. 20/201 and enforcement action.
- Supports reasons for refusal, inappropriate and insensitive design, contrary to policies of the CDP (Chapter 3, policy PPH 3.18 Re use and Replacement of Existing Dwellings, and Section 5.0 of Roscommon Rural Design Guidelines, Re-use, Reorganise, Re-place).
- Building never used as a residential unit.
- Site of development forms part of adjacent dwelling to north east.

- Size and siting of development seriously injures the residential amenities of properties in the vicinity and depreciates the value of these (including observers property to west). Development faces residence with impacts on overlooking and privacy.
- Health and safety of unauthorised waste water treatment system. Location deviates from original plans.
- Traffic hazard arising from additional turning movements in close proximity to existing gate and parking area and in contravention of conventional entrance and egress details.
- Unauthorised development extends into local road L7011 and results in narrowing of the road, particularly to larger farm vehicles.
- Inappropriate precedent.

4.0 Planning History

- PA ref. 05/1708 – Permission granted for dwelling house and effluent treatment system (dwelling to north east of subject site). Condition no. 17 required landowner to enter into a section 47 agreement sterilising the remainder of lands in the ownership of the applicant (includes the appeal site) from new residential development for a period of 10 years.
- PA ref. 13/147 – Permission granted for retention of agricultural sheep shed in the north western corner of the agricultural field in which the proposed development is situated.
- PA ref. 20/201 – Permission refused for extension and refurbishment of existing storey (*sic*) to residential unit on the subject site and installation of wastewater treatment system and site development works. Reasons for refusal (1) Overall insensitive design and lack of compliance with policies of the County Development Plan 2014-2020 (section 5.11.6, policy 5.37) and County Roscommon Design Guidelines (section 5). (2) Impact on residential amenity of adjoining property due to physical proximity, overlooking from upper floor and haphazard/disorderly development. (3) Material contravention of PA ref. 05/1708 with development proposed within the planning unit

associated with the previous permission. (4) Insufficient information in respect of existing structure and its capacity for refurbishment/conversion.

- PA ref. 22/278 – Retention and completion of works to unauthorised development to existing single storey structure, revised site boundaries, new wastewater treatment system and percolation area (subject site). Incomplete application.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Section 3.9 of the Roscommon County Development Plan 2022-2028 deals with rural housing and recognises that there remains an on-going need for one off houses in rural areas, with the Plan supporting such development in accordance with the National Planning Framework and Sustainable Rural Housing – Guidelines for Planning Authorities (DEHLG, 2005).
- 5.1.2. The appeal site does not lie a rural area under urban influence and policies of the Plan facilitate rural housing subject to meeting siting and design criteria. Policy PPH 3.18 encourages the sensitive refurbishment of existing vernacular buildings in order to protect the traditional building and housing stock and preserve the built heritage in the rural parts of the county.
- 5.1.3. The Plan refers to the Roscommon Rural Housing Design Guidelines which provide guidance on siting and design principles for rural dwellings in the countryside. Section 5 sets out guidelines in respect of the re-use, re-organisation and replacement of traditional buildings.

5.2. Natural Heritage Designations

- 5.2.1. The appeal site is largely removed from sites of nature conservation interest. The nearest national site is c.1.5km to the north west, Ardakillin Lough proposed Natural Heritage Area (pNHA) and the nearest European site c.5.8km to the north comprising Annaghmore Lough (Roscommon) Special Area of Conservation (SAC).

5.3. EIA Screening

5.4. Having regard to the nature and limited scale of the proposed development, the absence of any significant environmental sensitivity in the vicinity and in the absence of any connectivity to any sensitive location, 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. Third party grounds of appeal are:

- Partially completed development complies with Rural House Design Guidelines, Section 5.0 Reuse, Reorganise, Replace. Development was the original family home of the great, great, great, great grandfather of the applicant (see supporting information attached to appeal).
- Proposed residential development is urgently required by local persons with a rural housing need.
- Development does not impact on amenity of family dwelling or adjoining dwelling (see attachments).
- Gable of building has not been altered.
- Exit and entrance has sufficient sightlines and is not a danger to any traffic.
- Development does not overlook any property to the west and devaluation is not relevant.
- Site assessment indicates that the site is suitable for the treatment of waste water.
- A fire in early 2021 occurred in the existing structure. It was not possible to restore it to its original design without grant aid. The design of the development has sought to reflect its traditional form.
- The PA advised that the structure could be roofed as walls had been constructed to wall plate level.

6.2. Observations

6.2.1. There is one observation made by the owner of the dwelling to the west of the site. It reiterates comments made on the planning application and makes the following additional comments on the proposed development:

- ABP should have regard to communications in respect of enforcement action taken under URR2600 and submitted photographic evidence of unauthorised development (Annex 1 of submission).
- Tin roof of shed removed the day before the fire referred to in the appeal.
- Demolition of structure contradicts appellants statement in respect of preserving/conserving heritage in the area.
- Inappropriate reference to officer in PA authorising construction of new roof.
- Applicant's son is a minor and at school.
- Complete disregard for proper planning controls.

6.3. Planning Authority Response/Further Responses

- None.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, I consider that the main issues in this appeal are:

- Impact on residential amenity and devaluation of property value.
- Pattern of the Development and Impact on Rural Setting.
- Compliance with Rural Design Guide.
- Treatment of wastewater.
- Traffic Safety.

7.2. In coming to this view I note that (1) The PA has taken enforcement action against the applicant. This has resulted in the subject development. Otherwise enforcement matters are the responsibility of the PA, and (2) the proposed residential development is situated in a rural area that is not under urban influence. Policies of

the current CDP facilitate rural housing in these areas subject to siting and design criteria. Within this context, I consider the development to be, in principle, acceptable on the site.

7.3. Impact on Residential Amenity and Devaluation of Property

- 7.3.1. The planning authority's first reason for refusal refers to the orientation and proximity of the adjacent residential property and considers that the proposed development would injure the residential amenity of the property with the potential to depreciate the value of property.
- 7.3.2. The 6" ordnance survey maps of the subject site, completed between 1829 and 1841 indicate buildings on the appeal site in the approximate location of the proposed development and at a similar orientation (see attachment). Similarly, the 25" maps, completed between 1897 and 1913 show a structure in the approximate location of the subject development (see attachment).
- 7.3.3. The appeal states that the building is an example of a 'long house' being 'one room deep' and the last original dwelling of the cluster of 3 or 4 ('clachan') and of its type in the townland. Historic ordnance survey maps would support this assertion. With regard to the information on the applicant's great, great, great, great grandfather, it is not clear which property the extract from the Valuation Act of 1857 applies to. Notwithstanding this, I would accept that the structures is longstanding of the site and in the past may well have had a residential use associated with it.
- 7.3.4. The dwelling to be retained occupies the approximate location of the previous structure (now demolished) and planning permission for the adjoining dwelling (to the north east) was granted on the basis of this proximity. However, orientation has changed from a structure that faced north east, to one which faces south west (see attachments to appellant's submission). This alteration has changed the relationship between the structures in the immediate vicinity of the site.
- 7.3.5. For the dwelling to the south west, the proposed dwelling is substantially removed from it and separated from the appeal site by a mature hedge. I do not consider that overlooking of this property would arise or that the subject development is inappropriate by way proximity or orientation.

- 7.3.6. For the dwelling to the north, the internal accommodation of the dwelling to be retained is structured such that bedroom windows look onto the front garden of the adjoining property. This may give rise to impacts on residential amenity of the property to the north (direct overlooking of garden) and of the subject dwelling (overlooking of private bedroom space from front garden). The applicant states that the proposed dwelling will be used by his family. However, this situation may change and I consider it appropriate that any planning permission should provide for a proper relationship between the dwellings.
- 7.3.7. If the Board are minded to grant permission for the development the matter could be addressed by condition requiring a hedgerow or fencing along the north eastern boundary of the appeal site. Ideally, to provide better daylight and sunlight to the property to be retained, this would take place to the north east of the existing boundary wall. However, this would have implications for the adjoining property and would fall outside of the redline boundary and should, in my view, be addressed by way of further information (with revised site boundaries) or a new planning application. Any such requirement should extend to the detailed treatment of all site boundaries between the subject development and adjoining property, such that boundary treatment to address proximity/overlooking issues are addressed within the subject site.
- 7.3.8. In the absence of appropriate boundary treatment I am not satisfied that the proposed development would not detract from the residential amenity or depreciate the value of the dwelling to the north east of the appeal site.

7.4. Nature of the Development and Impact on Rural Setting

- 7.4.1. The PAs second reason for refusal relates to the pattern of development in the area, which is characterised by development on substantial sites. It is stated that the proposed development represents the sub-division of an existing site and by reason of overall layout would give rise to a haphazard pattern of residential development which would seriously injure the amenity of properties in the area and would represent an overconcentration of development, not in keeping with a rural setting of dwellings on larger sites.

- 7.4.2. As stated above, the subject development is proposed in the location of an existing structure. As such it does not change the pattern of development in the area, by reference to structures, although orientation and relationship change, but are only significant in terms of residential amenity and overlooking (discussed above).
- 7.4.3. The development represents the subdivision of an existing large landholding but I do not consider this unreasonable given the absence of restrictive conditions in place on the larger landholding and the entitlement of the applicant to bring forward a planning application for the development.

7.5. Compliance with Rural Design Guide.

- 7.5.1. Section 5 of the Roscommon Rural Design Guide refers to the re-use and conversion of existing buildings. Principles of conversion include respecting the existing structure with minimal physical intervention, retention of as much of the original fabric as possible and ensuring that new additions can be distinguished from the original. In this instance, the existing structure on the site has been demolished and the opportunity to preserve the historic building has been entirely lost.
- 7.5.2. The appellant refers to the inclusion of traditional features in the design of the development, including roof style, treatment of eaves and vertical emphasis to windows. Whilst these elements may be in place, there is little left of the original structure in terms of its original form (depth and height), pattern of openings, roof details and materials. The appellant has not therefore respected the original structure, sought to minimise physical intervention or retention of the fabric or to make any attempt to distinguish between new from original. As such, I would not accept that the dwelling to be retained complies with the Rural Design Guide in terms of the re-use and conversion of an existing building.
- 7.5.3. Notwithstanding the loss of heritage that arises with the subject development, I do not consider that this is sufficient reason to refuse the planning application for the proposed development, given the wider policy context which facilitates rural housing in areas which are not under urban pressures.

7.5 Wastewater

- 7.5.4. The PAs third reason for refusal states that the applicant has provided insufficient information to demonstrate that the waste water treatment arrangements are adequate to serve the subject property. This is on foot of a report by the Environment Section which requests that the applicant provides a Site Characterisation Form to comply with 2021 EPA Code of Practice 'Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)' with full details of proposed system, cross sectional drawings and that surface and sub-surface trial holes remain open to allow for a full assessment.
- 7.5.5. The planning application for the development includes a Site Suitability Assessment. The site assessment was carried out in May 2020 under the EPAs 2009 Code of Practice for Wastewater Treatment Systems for Single Houses and predates the current 2021 Guidelines.
- 7.5.6. The site lies on a regionally important karstified aquifer of high vulnerability. Ground water protection response is R2¹ i.e. the site is acceptable for wastewater treatment subject to normal good practice including where domestic water supplies are located nearby, particular attention to depth of soil above bedrock such that minimum depths are attained (see attachments). There are no watercourses in the vicinity of the site and trial hole encountered no water at 3.0m depth. T test results indicate a value 28.86 min/25mm, indicating that the site is suitable for the development of a septic tank system or secondary treatment system percolating to groundwater (see attachments). Notwithstanding the test result, the applicant proposes a proprietary effluent treatment system, with polishing filter, in view of density of houses in the area.
- 7.5.7. Submitted with the appeal is a 'Site Suitability Report'. This includes:
- Technical details on a propriety effluent treatment system providing primary and secondary treatment (Chieftain SBR),
 - An opinion of the on-site soil polishing filter construction based on the original percolation test results, with recommendations based on parameters that are not consistent with the original Site Suitability Assessment (P value is 30.58 min/25mm, T value is 22.78 min/25mm, bedrock 1.2m BGL, vulnerability

rating R2²). The Report makes recommendations in respect of location (to be in accordance with permission granted) and percolation trench construction and maintenance, with close attention to be paid to the site remedial works recommended by the person carrying out the Site Suitability Assessment. The report guarantees that the sewage treatment system is suitable for the development if it has been installed and commissioned correctly.

- 7.5.8. The 2020 Site Suitability Assessment includes a site layout map with the location of the percolation area to the north west of the dwelling for retention, with percolation drains running broadly east west. The subject development also proposes the percolation area to the north west of the dwelling but at further remove from it (with the red line boundary now including a larger site), and percolation drains are orientated north south. There is no information on file to indicate where the trial holes and percolation tests were carried out.
- 7.5.9. Having regard to the foregoing, I consider that there is a lack of clarity regarding the soil conditions on site, the location of the wastewater treatment system and percolation area vis a vis the location of the trial hole and percolation tests, the wastewater treatment system that has been installed and complies with the requirements of the EPAs Code of Practice (2009 or 2021).
- 7.5.10. The Board may wish to grant permission for the development and require the applicant to submit such details to the PA in advance of occupation. However, given the conflicting information in respect of the site characteristics, I am not satisfied that the applicant has demonstrated in principle if wastewater can be treated within the site. I would recommend, therefore, that the subject development is refused on this ground.

7.6. Traffic

- 7.6.1. The observer argues that the proposed development overhangs the public road, narrowing it, in a way that the previous structure did not. Having regard to the photographs on file, it is evident that the gable end wall of the previous structure also extended marginally into the public road (see photograph of front elevation dated 16/02/2019 in appeal). Given the modest nature of the extension of the proposed

building into the public road, the precedent set for this arrangement in the historic structure and the narrow and minor nature of the county road, which accommodates very light traffic, I do not consider that such an arrangement gives rise to a serious risk of traffic hazard.

- 7.6.2. Vehicular access to the appeal site is via an entrance from a lane, perpendicular to the public road, with the lane adjoining a large hardstanding. Currently sightlines are restricted to the north, by virtue of the orientation of the access and public road. Whilst traffic on the public road is very light and the alignment of the road is such that vehicles travel at low speed, I consider that it would be in the interest of traffic safety if the entrance was revised/detailed to increase visibility to the north. This would be a new matter and given the substantial reason for refusal below, it is not pursued here.

8.0 Appropriate Assessment

- 8.1. Having regard to the residential nature and modest scale of the proposed development, its location substantially removed from European sites and absence of connectivity to these sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.2. Recommendation

- 8.2.1. I recommend that permission for the development be refused for the following reason.

9.0 Reasons and Considerations

1. Having regard to the orientation and proximity of the proposed development to the adjacent residential dwelling, the limited scope for boundary treatment, it is considered that the proposed development would seriously injure the amenity of residential property in the vicinity of the site and depreciate its value. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the contradictory information on the site's characteristics and the limited information on the nature of the wastewater treatment system that has been installed on site, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the development can be satisfactorily treated or disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health.

Deirdre MacGabhann

Planning Inspector

13th February 2023