



An  
Bord  
Pleanála

## Inspector's Report ABP314796-22

---

<b>Development</b>	Demolition of existing derelict buildings, construct 2 No houses with separate garages with associated new entrance, connection to adjoining utility services and all ancillary site works.
<b>Location</b>	Aughnacliffe Td., Aughnacliffe Village, Co. Longford.
<b>Planning Authority</b>	Longford County Council.
<b>Planning Authority Reg. Ref.</b>	21/335.
<b>Applicant(s)</b>	Seamus Hourican.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Sean and Margaret Campbell.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	16 <sup>th</sup> May 2023
<b>Inspector</b>	Aisling Dineen.

## 1.0 Site Location and Description

- 1.1. The appeal site is situated south of the village of Aughnacliffe on the Ballinalee road, where it is just a few metres outside of the 80km speed limit sign exiting the village, therefore it is at an edge of village location. The area of the site is rural in character with a number of one-off dwellings on both sides of the serving road.
- 1.2. The land is generally undulating in the area. There is a slight crest on the approach road to the north towards the village. The land also gradually rises in gradient from west to east, from the ground levels of two bungalow dwellings across the road, through the appeal site to the rear.
- 1.3. The site contains a derelict dwelling house and outbuilding. The derelict dwelling as extant is positioned quite close to the serving road as is typical of the vernacular of the area. The rear of the site is contained on all three sides by mature hedgerow.
- 1.4. There is a lane, which runs along the north boundary of the site (which is in dispute). This lane, a cul-de-sac, appears to provide access to a small number of homesteads/farms.

## 2.0 Proposed Development

- 2.1. It is proposed to demolish a derelict dwelling and building and permission is sought to construct 2 No storey and half type dwellings with 2 No garages in addition to a new entrance and ancillary services. The 2 No houses proposed are identical in design. It is proposed to connect to public water and sewerage services at Aughnacliffe.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority made a decision to grant planning permission on the 17<sup>th</sup> August 2022, subject to 14 No conditions. Conditions of note are the following:

Condition No 3 (i) All rear boundary garden walls and all rear or side boundary/garden walls adjacent to a public place, such as a roadway, footpath or public open space shall consist of a 2-metre-high capped block walls and these shall be either rendered, nap plastered and paint finished in quality brick/natural stone.

Condition No 5 (i) The development should be constructed strictly in accordance with the further information submission received on the 25<sup>th</sup> July 2022.

Condition No 5 (ii) The revised entrance details submitted with the FI should be constructed within the first 4 weeks of the project commencing on the site. These works should also include the closing up of the existing entrances along the L-1044, i.e., only the proposed entrance should be used during the construction work. These restrictions are in the interest of public safety.

The Chief Executive's decision reflects the planner's report.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The planners report discusses design, access/traffic safety, waste water and water supply. It refers to a submission from Irish Water requesting further information. It also refers to the Roads Engineer report and notes a crest on the hill to the north, which limits sight distances to c 60 metres and states that the proposed entrance would only be 30 metres from an existing private lane. The report discusses the possibility of co-locating the entrance of both proposed houses with the existing private lane, which it states would provide slightly better sight distances; however, the report also states that this would represent '*A complete redesign of the development*'.

Regarding the storm water drainage, the report states that the Aughtnaclyffe sewage plant is designed to take foul water only and not surface/storm water.

Further information was requested concerning the following points:

- North Point on site location map;
- Sight distances. Suggested that colocation with the existing private lane 30 metres from proposed access may improve same, which has a slightly better sight distance. Revised proposals requested.
- Storm water scheme to be redesigned to a separate source and not foul water scheme.
- Orientation of house nearest the road to be redesigned to protect the privacy and amenity of the house to the Northeast.

Following receipt of further information, the planners report stated that the applicant had satisfactorily addressed the further information items.

### 3.2.2. Other Technical Reports

Senior Executive Engineer, Granard Municipal District

- Due to the crest on the hill to the north sight distances are restricted to 60 metres.
- Crest is more pronounced when viewed from the road.
- If the entrance to the proposed houses was collocated with the adjacent lane there may be slightly better sight distances.
- Sight distance to the south is acceptable if hedge line is trimmed back.
- The Aughnacliffe sewage plant is designed to take foul water only and not surface/storm water. It is recommended that the applicant be asked to redesign the system to dispose of storm water to a separate system.

### 3.2.3. Irish Water Report

- The applicant should provide a separate water and foul sewer connection for each dwelling, directly to the Irish Water Services located on the adjacent public road. The existing foul sewer is to be extended to facilitate the new connection.
- The applicant is required to design the foul sewer in accordance with Irish Water standards.

## 4.0 Planning History

There are a number of planning history references associated with the appeal site. The most recent are as follows:

**Planning Register Reference Number: PL 16/108** - Extension of Duration of Planning Permission PL 12/63 granted to Seamus Hourican, Aughnacliffe, Co. Longford.

Development Description: Permission for the demolition of derelict dwelling house and remove the existing septic tank and percolation area and permission to construct a two-storey type dwelling house with attached sun room and detached garage for domestic use only with boundary walls and piers and permission to connect to existing public sewer and attached ancillary site works.

The Chief Executive's Order granted extension of duration until the 20<sup>th</sup> May 2022.

**Planning Register Reference Number: PL 17/136** - Extension of duration of planning permission PL 13/39 granted to Seamus Hourican, Aughnacliffe, Co. Longford.

Development Description: Upgrading works to existing two storey hipped roof detached dwelling house to include alteration works to all existing elevations, removal of existing secondary porch structure to front, new internal reconfiguration, construction of new two storey pitched roof, rear extension, demolition of existing detached shed, new garage and ancillary works.

The Chief Executive's Order granted extension of duration until the 12<sup>th</sup> May 2023.

## 5.0 Policy and Context

### 5.1. Longford County Development Plan 2021 - 2027

Section 16.4.4.9 Design and Layout: New residential developments should deliver high quality architectural design, layout and mix.

DMS 16.40: Residential schemes to provide a range of dwelling sizes and typologies to accommodate emerging demographic trends in line with the County's Housing

Strategy and Housing Needs Demand Assessment or other evidence supported methodology.

DMS 16.41: Proposals for residential schemes which are proposed on infill or smaller sites should demonstrate the ability of the proposal to provide a mix of dwelling types within the locality as opposed to within the scheme itself.

DMS 16.42: Planning proposals for housing schemes are required to present a considered design approach to tailor the scale, design, layout and density of housing in responding to the individual character of the respective town or village.

DMS 16.45: Where new developments are proposed adjacent to existing and established neighbourhoods, the design, layout and housing mix should be designed in such a way to enable positive integration, both physically and socially towards building strong integrated communities and social cohesion.

## **5.2. Natural Heritage Designations**

Lough Kinale and Derragh Lough SPA (004061) is situated c. 14.5 km southeast of the site.

Derragh Bog SAC is situated c. 13 km southeast of the site.

## **5.3. EIA Screening**

Having regard to the limited nature and scale of the proposed development and 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. On foot of a Leave to Appeal application, an appeal was lodged against the decision of the planning authority.

### 6.2. Grounds of Appeal

- The entrance/exit of the revised development onto the private lane is disputed.
- Concern is raised regarding privacy and enjoyment of family home and land due to the orientation of the houses.
- Following a request for further information a new design and layout was submitted, which differed materially from the development set out in the original application.
- The revised layout was not subject to public consultation; therefore, the appellants were unable to lodge an objection.
- The access for the newly redesigned site layout is onto a private lane, which is stated to be in ownership, of the appellants. The original layout had access onto the Ballinalee Road.
- The applicant currently has planning permission on the appeal site to upgrade the existing two storey dwelling house and build a rear extension, which is due to expire on the 12/05/23.
- All of the previous planning applications on the site had access onto the Ballinalee Road, (References 11/46, 11/237, 12/51, 12/63, 13/39, 16/108). Why the private lane is now being used for the development is questioned.
- The access change not only effected the location of entry/exit but also resulted in significant redesign of the site layout, including the positioning of houses.
- Condition No 3 (i) is questioned as it requires all rear boundary and garden to consist of a 2-metre-high block capped wall. This will fail to integrate with the

urban fabric of Aughnacliffe and will have an impact on adjacent properties and surrounding neighbours.

- Guidelines advise that primary consideration is that new development should relate successfully to the town/village. Design criteria require that new development is to make a positive contribution to its surroundings and take best advantage of its location. A 2-metre-high capped wall on all rear or side boundaries will impact on the character of the area and neighbouring properties.
- The appellants did not make an original submission on the planning application as the access was onto the main road and the house orientation was not overlooking their property. The proposal will result in overlooking, reduced privacy and will materially affect the enjoyment of land.
- Concerns are raised regarding construction and demolition waste impacts. Previous clearance work resulted in large stones hitting the windows of the appellant's house.
- Condition No 5 (2) is not accepted as it requires that the revised entrance details submitted with the FI should be commenced within the first 4 weeks of the project commencing on the site. No permission has been given to the applicant to use this lane. This is a private lane under portfolio number LD16346F. Longford County Council have granted planning permission without the appellants knowledge, approval or consent to use the lane.
- The subject private lane is narrow and only measures 2.6 metres in width. The proposed new revised lane will also impact the enjoyment and safety of neighbours who use the lane, who have a right of way.
- Three private dwellings and two farms have had to apply for legal right of way to use the lane, which the applicant has not done. It is stated that there are additional submissions from neighbours on the lane, who object to the change of plan following FI and which was not subject to public notification.



### 6.3. Applicant Response

- Regarding condition No 2, this is a standard condition by Longford Co. Co. The applicant would be willing to change the boundary treatment to become a hedgerow although it is considered that due to the location of the site in an urban village that a block wall would be more visually suitable for this setting.
- The applicant has ownership of half the laneway in dispute. This is evident under Folio LD 6857.
- The appellants state that the house closest to the road and facing the appellants dwelling will impact their enjoyment of the land. The applicant would be willing to rotate the house closest to the road, to increase privacy of the appellant's house.
- The use of the existing laneway promotes good road safety as opposed to the original proposal. The Senior Executive Engineer in Longford Co. Co. was totally opposed to the proposed entrance onto the road. The lane solution promotes better sight lines and in turn promotes good road safety.

### 6.4. Planning Authority Response

- None.

### 6.5. Observations

- None.

### 6.6. Further Responses

The appellant's submitted the following response:

- The original drawings showed the vehicular access to the proposed 2 No houses more or less in the centre of the application site. Difficulties arose when the applicant was unable to demonstrate safe vehicular sight lines due to the crest of a hill to the north of the access.

- Details submitted with the application show a boundary, which is not correct. A folio map is submitted under the appeal, which claims title to the centre line of the adjoining lane. The applicant now claims more land than shown on the originally submitted site location/layout maps. This is supported with a screen print of a folio map, which was not submitted under the original application.
- At best the applicant owns to the centre point of the adjoining private lane, half of which is owned by the appellants. The joining of two accesses to a lane, half of which is owned by the appellants, was under the prompt of the Roads Engineer, without consent of the land owner.
- The appellant's do not give their consent to permit access across a private lane owned by them.
- The applicant does not live on the appeal site.
- While the applicant may own half the lane, he has no right of way across the appellants half of the lane.
- There has never been an access between the application site and the lane.
- If the applicant could argue that he is entitled to form an access onto the lane he has no right to confer an access to the legal stranger, who is to reside in the second of the two proposed houses. This would put an additional burden on the appellants owned lands.
- A refusal is called for on the basis that the applicant has failed to demonstrate sufficient legal interest or estate in the application lands and to the proposed access to enable him to legally carry out the works if a permission were to issue.

## 7.0 **Assessment**

7.1. Having examined all the application and appeal documentation on file and having regard to the relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and the planning authority's decision to grant planning permission. I am satisfied that no other

substantive issues arise. AA also needs to be considered. The main issues, therefore, are as follows:

- Planning and Development Regulations 2001 (as amended)
- Traffic Safety
- Impact on Residential/Visual Amenity
- Ownership
- Storm/Surface Water/Foul Water Connection
- Appropriate Assessment

7.2. Planning and Development Regulations 2001 (as amended)

- 7.3. On foot of a further information request and following the suggestion by roads engineer, the access to the proposed site was altered from the west boundary to the north boundary of the appeal site. This amendment was intended to improve the sight distances available at the site.
- 7.4. The amendments submitted under the further information response, relocated the site entrance to a different road/lane from the west boundary of the site to the north boundary and by association with this change, the positioning/orientation of both of the proposed houses was changed on the site. This represents material changes to the originally proposed and advertised development.
- 7.5. It is considered reasonable that a person, who reviewed the original plans and documents, submitted as part of the planning application, should have been afforded the opportunity to review such significant material changes, by way of re-advertisement of material changes as per Article 35 (1) (c) Planning and Development Regulations 2001 (As amended).
- 7.6. The planners report states that the suggested alterations would represent '*A complete redesign of the development*'.
- 7.7. Furthermore, the further information request, which issued, when referring to the suggestion to relocate the site access, stated; '*However this would require a complete redesign of the development*'.
- 7.8. Having assessed the documentation on file, it is considered that the plans and documents submitted with the further information reply represent material changes to

the original application and this information has not been publicly advertised and accordingly the application; plans and documents, as originally submitted only should be subject of this assessment. Accordingly, I advise that the Board should not adopt the revised details as a basis for a planning decision, as the further information response is not deemed to be valid.

#### 7.9. Traffic Safety

- 7.10. There is an existing access at the front of the site, fronting the Ballinalee Road. The access obviously served the existing dwelling house, which is now derelict. The subject application proposes an additional dwelling unit on the subject site. Therefore, two dwelling units on the appeal site would comprise an intensification of use and turning/traffic movements at the site.
- 7.11. Sight distances are restricted approaching the site from the north of the originally proposed entrance, due to a crest on the road. I also concur with comments under the planner's report, which states that speed is accelerating at this location as traffic exits Aughnacliffe village. The planners report raises concern over the proposed new entrance at a distance of approximately 30 metres from the adjacent lane. I note that the 60 kph speed limit sign, upon entering the village and 80 kph speed limit sign upon exiting the village, is situated proximate and to the north of the adjacent lane to the north of the site. Sight distances approaching the site from the south are deemed to be adequate.
- 7.12. I consider that the comments made by the Roads Engineer and which are reflected in the planner's report, regarding potentially moving and co-locating the entrances with the established lane, to be reasonable, from a traffic safety perspective. This provision would improve sight distances in particular from the north of the site. I acknowledge that owing to the slight crest on the hill to the north, that sight distances are not achieved. I also noted on the date of inspection, that traffic is definitely in acceleration mode upon exiting the village. Therefore, motorists speed combined with restricted sight distances is considered to be is a reasonable concern.
- 7.13. From the perspective of traffic safety alone, and based on the original application; its plans and documents and sight distances from the originally proposed access, I consider that the additional turning traffic movements, which would be generated by

two dwelling units on the site, would be endanger public safety by reason of traffic hazard prejudicial to public health by reason of traffic hazard.

7.14. Impact on Visual Amenity/Residential Amenity

7.15. It is stated on a number of occasions under appeal submissions that the area is of urban form. I note that the appeal site is just outside the village and outside the 60 km speed limit sign of Aughnacliffe village/town. I note Aughnacliffe is indicated to be in the category of *Towns and Villages* under Section 4.8.5 County Longford Settlement Hierarchy, in the County Development Plan 2021 – 2027. It is considered that the location of the site has rural character, albeit at the outer limits of the Aughnacliffe village/town.

7.16. From the perspective of visual amenity, the original application submitted to the planning authority demonstrated that the mature hedgerows, which contain the site boundaries are to be retained. I consider that this is appropriate as the area, which is at the outer edge of a rural village, has retained its rural character. The retention of hedgerow, say except for a situation of necessity to obtain sight distances is in accordance with national policy as per the Sustainable Rural Housing Guidelines (April 2005), which state; *'The removal of existing roadside boundaries, except to the extent that this is needed for a new entrance, should be avoided where at all possible except where required for traffic safety purposes'*.

7.17. The design of the proposed dwelling units is generally satisfactory with the exception of overlooking issues and the inclusion of first floor gable windows. I also note the planner's report and FI request, which requested that the bay windows be omitted. I am of the viewpoint that the proposal would benefit if a variation in design was introduced, however, generally it is considered to be adequate.

7.18. The rear first floor windows of both dwelling units obliquely overlook the properties to the North. I would have particular concern regarding the proposed dwelling at the front of the site (west of site), which overlooks the private open space area directly to the rear of the adjacent dwelling to the north. It is noted that the planner's report also raised the same concern. The further information request raised this issue of privacy and amenity of the existing dwelling house to the northeast. It is considered that the windows at first floor level of the house nearest the road would compromise and negatively impact the privacy and residential amenity of the said property.

7.19. As an observation, it is noted that the response to the further information request re-positioned both dwellings. If the front dwelling (west of site) as per the further information reply was turned on its axis to front the public road, the privacy and overlooking issue would be negated, if first floor gable windows were also omitted. However, this is just an observation, as the response to further information is not deemed to be valid as per para 7.8 above.

7.20. Title/Ownership

7.21. A considerable proportion of the appeal submissions relate to ownership of the lane, with the appellant arguing that the applicant does not have legal title/permission to use this laneway. The agent for the applicant states under an appeal submission that the applicant owns to the mid-point of the lane. The appellant states that other users of the lane have had to apply for legal right of way in order to use it.

7.22. The issue regarding use of the lane for access arose after the request for further information. As the response to further information is not deemed to be valid, this issue is not relevant now. However, suffice to say that a grant of permission, unto itself, does not confer rights to develop land without permission from the landowner. Furthermore, property ownership rights/title of land issues are considered to be outside of the remit of the Board and are more appropriately positioned within the remit of the courts.

7.23. Storm Water/Foul Water connection

7.24. It is noted that the storm/surface water disposal system is designed to discharge to the foul water source. Irish Water and the Municipal District Engineer have objected to this system and have requested that the storm/surface water system be redesigned. Revised details were submitted under the overall further information reply. As the further information response is not deemed to be valid, the original proposals are under evaluation. In the event that the board is minded to grant planning permission for the proposed development, the foul and surface water systems should be separately designed and this should be addressed by condition.

7.25. Appropriate Assessment

7.26. Having regard to the limited nature of the proposed development and the nature of the receiving environment and the proximity to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed

development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

8.1. I recommend that permission be refused.

## 9.0 Reasons and Considerations

1. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a road, at a point where sightlines are restricted in a northerly direction.
2. The proposed development, because of its location, layout and orientation, constitutes inappropriate development, which would seriously injure the amenities of property in the vicinity by reason of overlooking, and accordingly would be contrary to the proper planning and sustainable development of the area.

---

Aisling Dineen  
Planning Inspector  
23<sup>rd</sup> May 2023