



An
Bord
Pleanála

Inspector's Report

ABP-315238-22

Development	Alterations and extensions to house, decommissioning of septic tank and installation of a new wastewater treatment system. Associated Site Works.
Location	Redcity, Fethard, Co Tipperary, E91 W535
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	2260497
Applicant(s)	Anke & Kasten Burke.
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Thomas Wright.
Observer(s)	None.
Date of Site Inspection	31 st July 2023

1.0 Site Location and Description

1.1. The site is located in the townland of Redcity, c. 2km southwest of Fethard, County Tipperary. The site contains an existing two-storey dwelling with a number of outbuildings. There is established tree planting surrounding the dwelling and the boundaries consist of trees, hedgerows and low stone walls. The house is surrounded by agricultural land to the north, east and south. There is a neighbouring dwelling to the west of the site. The stated site size is 0.330 hectares, and the stated floor area of the existing buildings on site is c. 100 sqm.

2.0 Proposed Development

2.1. Permission is sought for alterations and extensions to the house, decommissioning the septic tank, and installing a new wastewater treatment system and associated site works and drainage.

3.0 Planning Authority Decision

3.1. Decision

Tipperary County Council issued a decision to grant permission on 8th November 2022, subject to 5no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report dated 2nd November 2022 reflected the decision to grant permission. The main points can be summarised as follows:

- The nature of the proposed development was considered to be acceptable in principle.
- The proposed design, scale, orientation and material finishes of the proposed extension are satisfactory and meet the requirements of Section 4.12 of Appendix 6 of the Tipperary County Development Plan 2022-2028.
- It was noted that the existing outbuilding are to be used ancillary to the main house and as a garage.
- The site constraints were noted and considered that the proposed wastewater system is a significant improvement on the existing system serving the dwelling.
- An Appropriate Assessment and EIAR are not required.

3.2.2. Other Technical Reports

The report from the Carrick Municipal District Engineer dated 16th November 2022 had no objection to the proposed development and recommended a surface water condition.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

One third party submission by the appellant was received, stating that he owns the adjacent agricultural property and would be concerned about how the works may be carried out.

4.0 Planning History

Enforcement P.A. TUD-138 Complaint regarding unauthorised development relating to the conversion of outbuildings to living space.

5.0 Policy Context

5.1. Development Plan

The Tipperary County Development Plan 2022-2028 is the operative Development Plan for the area. This plan came into effect on 22nd August 2022.

Policy 15: Require that all new septic tanks, proprietary effluent treatment systems and percolation areas to be located and constructed in accordance with the Water Services Guidelines for Planning Authorities (and any review thereof) and the Code of Practice for Domestic wastewater treatment systems (EPA, 2021) (and any amendment) and the development management standards of this Plan as set out in Volume 3.

Policy 5 – 16: Support and encourage the appropriate refurbishment, conversion and adaptation of existing rural building stock, such as vernacular school houses, coach houses, farm buildings, where feasible, as sustainable alternatives to new build.

5.2. Natural Heritage Designations

None Relevant

6.0 The Appeal

6.1. Grounds of Appeal

The main grounds of appeal can be summarised as follows:

- Works to the outbuildings have been occurring for the past number of months without the benefit of planning permission and are not exempted development.

- The outbuildings are being developed as habitable space.
- The outbuildings have been wired and plumbed as if the intention is to occupy the space rather than use it for a purpose incidental to the enjoyment of the dwelling.
- The Site Suitability Assessment states that there are five bedrooms and a maximum occupancy of seven, but the submitted floor plans show only three bedrooms.
- The planner did not attach any condition restricting the use of the outbuildings.
- The Appellant owns a section of the site outlined in red. This is subject to a right of way to the owner of the rest of the site. The appellant did not provide consent to the planning application.

6.2. Applicant Response

The main points of the applicant's response can be summarised as follows:

- The applicants agreed to purchase the site in May 2022.
- The applicant originally intended to convert the existing outbuilding to a playroom as the children are home schooled. They plan to use it mainly for the children to live in during the building work on the main house.
- On completion of the building works to the main house, the outbuildings will revert to the playroom.
- The existing septic tank is located outside the site's boundaries; therefore, the red line was extended to include the existing septic tank.

6.3. Planning Authority Response

- None

6.4. Observations

- 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 having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Outbuildings.
- Legal and Procedural Issues
- Appropriate Assessment

7.2. Outbuildings

7.2.1. The development for which permission is sought is for alterations and extensions to the main house. The appellant states that one of the outbuildings has been developed for habitation with wiring and plumbing, including water and foul water pipes. The appellant refers to the Site Suitability Assessment, which states that there will be five bedrooms and an occupancy of seven.

7.2.2. The applicant states that the intention is to convert the existing outbuilding to a playroom, learning room, etc., for the home-schooled children. It is stated that the applicants intend to use the converted outbuilding for temporary accommodation when the works to the main house are ongoing. I note the outbuilding has been partially refurbished with new windows and plumbing. I consider that the use of the converted outbuilding is not part of the development which permission has been applied for. I recognised that using the converted outbuilding for human habitation would require planning permission. Any potential unauthorised use falls under the jurisdiction of the Planning Authority.

7.3. Legal and Procedural Issues

7.3.1. The application includes for the decommissioning of the existing septic tank. The appellant has stated that the site outlined in red encompasses land in two separate folios, one of which is owned by the appellant, who has not consented to the planning application. On the submitted site layout plan is a section of the site that protrudes into the adjoining land and is the location of the existing septic tank to be decommissioned. It is annotated on the site layout that this area is within the adjacent property. In the applicant's response comments, they state that they were advised to include the existing septic tank for the dwelling, which is not in their ownership within the red line boundary, as it is to be decommissioned as part of the overall development.

Regarding the legal interest, I am satisfied that the applicant has provided sufficient evidence of their legal interest for the purposes of the planning application and decision. In any case, this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

7.4. Appropriate Assessment.

7.4.1. Having regard to the nature of the proposed development, the site location outside of any protected site and the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

8.1. I recommend that permission be granted subject to the following conditions.

9.0 Reasons and Considerations

9.1. Having regard to the nature and scale of the development, the provisions of the current Tipperary County Development Plan and having regard to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the visual or

general amenities of the area or property in the vicinity and would not be detrimental to the character of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The proposed development shall comply with the plans and particulars lodged with the application submitted, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>(a) Domestic effluent from the extended dwelling shall discharge to a Tertiary Treatment System and Infiltration/Treatment area (DWWTs) that shall be designed, located and constructed in accordance with the requirements of 'EPA 2021' Code of Practice - Domestic Wastewater Treatment Systems. The separation distances required under the EPA 2021 Code of Practice shall be adhered to.</p> <p>(b) Location, construction and commissioning of the DWWTs shall be supervised by a Civil Engineer or appropriately qualified individual, who upon completion of works/commissioning shall submit to the Planning Authority certification (to include photographs) that the system has been laid out and constructed in accordance with the EPA 2021 Code of Practice</p>

	<p>- Domestic Wastewater Treatment Systems, within three months of installation.</p> <p>(c) The owners/occupiers of the subject site shall be responsible for the maintenance of their DWWTS.</p> <p>(d) The existing septic tank and percolation area shall be decommissioned once the proposed system is operational.</p> <p>Reason: In the interests of public health.</p>
4.	<p>Surface water from the site shall not be permitted to drain onto the adjoining public road.</p> <p>Reason: In the interest of traffic safety.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Peter Nelson
 Planning Inspector

2nd August 2023