



An
Bord
Pleanála

Inspector's Report ABP315647.23

Development

Restoration, adaption and extension of existing cottage with all associated site works to provide one dwelling and for the installation of a new proprietary waste water treatment system. Permission also for refurbishment and adaption of buildings for domestic use ancillary to the proposed dwelling.

Location

Brownstown, Monasterboice, Co.
Louth

Planning Authority

Louth County Council

Planning Authority Reg. Ref.

22/878

Applicant(s)

Thomas & Ciara Winters

Type of Application

Permission

Planning Authority Decision

Refusal

Type of Appeal

First Party Appeal

Appellant(s)

Thomas & Ciara Winters

Observer(s)

None

Date of Site Inspection

17th July 2023

Inspector

Terry O' Leary

1.0 Site Location and Description

- 1.1. The subject site is situated in the rural townland of Brownstown in Monasterboice which is located approximately 6km north of Drogheda.
- 1.2. The subject site comprises 0.41 Ha and located on the site is a group of existing buildings which appear not to have been used for quite some time and are in various states of repair.
- 1.3. There are two roofed structures on the site presently, one is an open sided farm shed / barn with a corrugated iron roof and the other is a stone walled structure which also appears to be used for agricultural purposes.
- 1.4. Surrounding the site are agricultural fields to the southern, western and northern sides. An existing detached dwelling is situated to the eastern side of the subject site.
- 1.5. The access to the subject site is via private tarmac laneway which meets the class 2 local road L-6302 approximately 180m to the western side.

2.0 Proposed Development

- 2.1. The planning application proposes the restoration, adaption and extension of an existing vernacular stone cottage to provide 1 no. stand-alone cottage.
- 2.2. Permission is also sought for the refurbishment and adaption of an existing hay barn and vernacular stone building to be used as domestic outbuildings which will be ancillary to the stand-alone cottage.
- 2.3. The original part of the dwelling is to be restored with fieldstone and a lime mortar façade with slate roof and the extension area is to be contemporary in nature with vertical larch cladding and metal clad roof.
- 2.4. The existing site entrance is to be closed for pedestrian use only and a new vehicular access is proposed to the western side of the site area.
- 2.5. Permission is also sought for the installation of a proprietary waste water treatment system with final discharge to groundwater and all associated site development works.
- 2.6. The proposed water supply to serve the property is via a private borewell on the site.

3.0 Planning Authority Decision

3.1. Decision

Louth County Council refused planning permission for the proposed development for two reasons which can be summarised as follows;

- The structural remains of the former dwelling do not meet the requirements of Section 13.9.12 of the Development Management Guidelines and the proposal constitutes a new replacement dwelling.
- The applicants do not comply with Policy HOU 41 of the Louth County Development Plan 2021 - 2027 and thus the proposed development is contrary to the proper planning and sustainable development of the area and would set an undesirable precedent for similar developments.
- The proposed vehicular access from the private lane onto the local road L-6302 has failed to demonstrate that adequate visibility can be achieved as required in Table 13.13 of the Louth County Development Plan 2021 - 2027 and the intensification of traffic movements at the junction would endanger public safety by reason of traffic hazard and obstruction of other road users.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report from Louth County Council references the issues of non-compliance with Policies HOU 41 for local need compliance and also the creation of a traffic hazard due to non-compliance with Table 13.13 of the Louth County Development Plan 2021 - 2027.

3.2.2. Other Technical Reports

Infrastructure – Further information required (visibility)

Environment – No objections (subject to conditions)

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Submissions / Observations / Representations**

None received.

4.0 **Planning History**

2278

Planning application on the same site to the same applicants was lodged on the 2nd February 2022 but subsequently withdrawn.

22158

Planning application 22158 was made on the 1st March 2022 on an adjacent site to the northern side of the subject site and the application was subsequently granted permission on the 17th January 2023. The development description was for permission for restoration, adaption and single storey extension of existing vernacular tow storey stone cottage and attached outbuilding, forming part of the historic Toberra Clachan settlement. Permission also sought for installation of proprietary waste water treatment system and all associated external site development works.

22159

Planning application 22159 was made on the 1st March 2022 on an adjacent site to the north-eastern side of the subject site and the application was subsequently granted permission on the 17th January 2023. The development description was for permission for restoration, adaption and single storey extension of existing vernacular tow storey stone cottage and attached outbuilding, forming part of the historic Toberra Clachan settlement. Permission also sought for installation of proprietary waste water treatment system and all associated external site development works.

21835

Planning application in the name of Bill Hoyne refused on the 26th August 2021 for the conversion of an existing barn to residential accommodation and for the installation of a waste water treatment system and percolation area with the access to the site via existing laneway and all associated site works.

20561

Planning application in the name of Gerard Johnson granted on the 17th September 2020 for the construction of a single storey dwelling house with proprietary waste water treatment system and all associated site works.

191036

Planning application in the name of Gerard Johnson refused on the 18th June 2020 for the construction of a single storey dwelling house with proprietary waste water treatment system, agricultural storage building and all associated site works.

5.0 Policy and Context

5.1. Louth County Development Plan 2021 - 2027

Louth County Development Plan 2021 – 2027 is the current operative development plan and the following relevant policy objectives from that plan relate to one-off housing in Zone 1 which is described as an “Area under stronger urban influence and of significant landscape value”. The subject site is located with Zone 1 of the Louth County Development Plan 2021 – 2027.

5.2. Natural Heritage Designations

Not applicable at this site.

5.3. EIA Screening

Having regard to the nature and modest scale of the proposed development comprising a single house, its location remote from sensitive and ecological sites,

and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

The first party appeal has been prepared and submitted by Declan P. Walsh & Co. on behalf of the applicants and may be summarised as follows;

- The proposed restoration, adaption and extension of the existing vernacular stone cottage forming part of the historic Toberra Clachan Settlement will ensure the continuity of life of the cottage and helps to retain this significant place as part of the built heritage.
- There is a renewed interest in the Toberra Village location from local families mainly driven from a local housing need.
- This application, in conjunction with other permissions already granted to the northern and north-eastern side of the subject site will help to conserve and re-establish a community in the ancient village of Toberra.
- The application is in compliance with the Built Heritage Policy Objectives as set out in the Louth County Development Plan 2021 – 2027.
- The subject application clearly does not cause any urban influence or detract from the landscape value of the surrounding landscape.
- The site location and description in the planning report from Louth County Council does not accurately represent the physical cottage structure on the ground and displays a lack of understanding of vernacular cottage buildings.
- The survey and subsequent planner's report on the vernacular cottage neglects to report on visible features such as evidence of a corrugated metal roof that covered the cottage until recent years.
- That no structural chimney may have ever existed and that a wattle and daub chimney may have facilitated an inner fire.

- The external stone constructed walls are well capable of being put into repair to continue the life of the cottage for future generations to come.
- A disingenuous description of the cottage by the local planning authority has formulated into the basis for planning refusal and that there is no reference to the review of the cottage by the qualified conservation officer in the local authority planning report.
- There is a gross failure of a “duty of care” in the assessment of the planning application by Louth County Council.
- The granting of recent planning applications 20/561, 22/158 & 22/159 make it eminently clear that the traffic and transport and planning departments of Louth County Council are satisfied with the visibility splays at the junction of private lane with the local road L-6302.

6.2. Planning Authority Response

The local planning authority submitted a planning observation to An Bord Pleanála in respect of planning appeal reference ABP 315647-23 on the 21st February 2023 subsequent to the first party appeal. The local planning authority reiterate in their submission that Section 13.9.12 of the Development Management Guidelines have not been met as the proposed structures to be restored do not possess any intact walls or a roof as required by the Development Management Guidelines and as such cannot be feasibly be restored. The local planning authority contends that the proposed development would in fact represent a new one-off dwelling where rural qualifying criteria applies and that it contravenes policy objective HOU 41 of the Louth County Development Plan 2021-2027. Policy objective HOU 41 seeks to manage the development of rural housing in the open countryside by requiring applicants to demonstrate compliance with Local Needs Qualifying Criteria relative to the Rural Policy Zone from the Louth County Development Plan 2021-2027. According to the local planning authority the proposed development is therefore contrary to the proper planning and sustainable development of the area and would set an undesirable precedent for similar type developments.

The local planning authority also confirm in their observation that the applicants have failed to demonstrate acceptable visibility at the junction of the existing laneway with the Local Road (L-6302) and that the proposed development would create an intensification of traffic movements at the junction and this intensification would endanger public safety by reason of traffic hazard and obstruction of road users.

The local planning authority make a specific response to the planning applicant's supporting statement with the appeal and they point out that the subject property has been abandoned for a considerable period of time and that the physical structure no longer exhibits any essential characteristics of a functional building such as roof, windows, door openings, intact external walls, chimney or internal room divisions etc. The local planning authority believe that the current building is too far deteriorated to be restored and that and that any residential use has been long abandoned. They also contest the conclusions of the building surveyor's report on the part of the planning applicant and specifically state that the external walls are not sufficiently intact to be considered viable for repair or refurbishment. The local planning authority conclude by asking the Board to uphold their decision to refuse planning permission.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

The main issues for consideration in this appeal can be considered under the following headings;

- Structural Integrity of the Vernacular Cottage
- Endangerment of Traffic at Lane Junction with Local Road L-6302
- Other Issues
- Appropriate Assessment Screening

7.1. Structural Integrity of the Vernacular Cottage

- 7.1.1. The local planning authority believes that the current condition of the vernacular cottage does not comply with the requirements of Section 13.9.12 of the Development Management Guidelines which stipulates that all external structural walls and internal walls be substantially intact and that the building be capable of being renovated / refurbished without demolition.
- 7.1.2. The current structure does not contribute to the landscape character and the proposed development will constitute a new one-off dwelling house.
- 7.1.3. The building survey completed on behalf of the planning applicants and dated September 2022 states that the remaining external structural walls are capable of repaired and refurbished without the need of demolition.
- 7.1.4. The building survey dated September 2022 does concede on the final page that the report is based on a one-off visual inspection and does not guarantee the performance standards of structural elements.
- 7.1.5. Based on the limited nature of the remaining external walls, entire lack of internal walls or roof and the stated limitations in the building survey that it does not guarantee the performance standards of the remaining structural elements it is my opinion that the proposed development does not comply with Section 13.9.12 of the Development Management Guidelines and that a new one-off dwelling will be created if permission is granted.

7.2. Endangerment of Traffic at Lane Junction with Local Road L-6302

- 7.2.1. Table 13.13 of the Louth County Development Plan 2021-2027 requires sightlines of 3.0m x 75m over a height of 0.6 – 1.05m above road level where a private lane meets a public road such as is the case for this application.
- 7.2.2. The appeal report references previous planning permissions 20/561, 22/158 & 22/159 where visibility splays of 2.4m x 75m over a height of 0.6 – 1.05m were achieved and accepted. Nevertheless Table 13.13 of the Louth County Development Plan 2021-2027 does prescribe for 3.0m x 75m over a height of 0.6 – 1.05m above road level and this standard has not been met for this application.
- 7.2.3. The intensification of vehicular movements on the private laneway due to current and permitted development is a critical consideration for compliance with Table 13.13 of the Louth County Development Plan 2021-2027.

7.3. **Other Issues**

7.3.1. **EPA Code of Practice – Domestic Waste Water Treatment Systems (2021)**

The EPA Code of Practice (2021) states in Section 5.4.1 that groundwater quality should be assessed in areas of high-density housing where domestic waste water treatment systems are greater than six per hectare in areas of 'Extreme' or 'High' groundwater vulnerability. The proposed site is in a vulnerability classification of 'High' and all surrounding and permitted residential dwellings are served by private borewells. The permeability of the receptor subsoil is also free draining as outlined in the Site Characterisation Form which demonstrates a T-Value of 5.22 and it is my opinion that the concentration of domestic waste water treatment systems in an area where borewells are used for drinking water poses a risk to public health.

- 7.3.2. **Development Contributions** – I refer to the Louth County Council Development Contribution Scheme. The proposed development is not exempt from the requirement to pay a development contribution and it is therefore recommended that should the Board be minded to grant permission that a suitable worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning & Development Act 2000.

7.4. Appropriate Assessment Screening

Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, the nature of the receiving environment and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

8.0 Recommendation

8.1. Having regard to the foregoing I recommend that planning permission be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

9.1. It has not been established that the remaining component of the vernacular cottage is capable of being renovated without the need for demolition and the construction of a new one-off dwelling is not in compliance with the Louth County Development Plan 2021-2027

9.2. Taken in conjunction with existing and permitted development in the area, the proposed development would constitute an excessive density of suburban-type development in a rural area, which would militate against the preservation of the rural environment and lead to demands for the provision of further public services and community facilities, and would, therefore, be contrary to the proper planning and sustainable development of the area.

9.3. It is considered that, taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of development served by domestic waste water treatment systems in an area which is classified as "High" for groundwater vulnerability status and where all existing and permitted development derive their water supply from private borewells. The proposed development, would, therefore, be prejudicial to public health.

9.4. 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.

Terry O' Leary
Planning Inspector

3rd August 2023