



An
Bord
Pleanála

Inspector's Report

ABP-315974-23

Development	Remodel, partial replacement and extension of house with connection to existing services and ancillary site works. Significant further information and revised plans have been submitted.
Location	Cornakill, Mullagh, Co. Cavan.
Planning Authority	Cavan County Council
Planning Authority Reg. Ref.	22339
Applicant(s)	Dariusz Drewa and Agnieszka Malinowska
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Michael Dunne.
Observer(s)	None
Date of Site Inspection	16/06/2023.

Inspector

Paul Caprani

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1.0 Introduction

1.1 315974-23 relates to a third-party appeal against the decision of Cavan Co Council to grant planning permission for the remodel and partial replacement and extension of a private residence at Cornakill, Mullagh Co Cavan.

2.0 Site Location and Description

2.1 The appeal site is located in the townland of Cornahill, approximately 2 km west of the village of Mullagh near the intersection of the R194 and the L3009. The subject site is located on the northern side of the local road and faces southwards toward the road. The field opposite the vacant dwelling which is the subject of the application forms part of the subject site. This field accommodates the septic tanks and percolation area serving the existing dwelling. There are a number of detached dwellings in the vicinity of the site. The existing structure on site comprises of a single storey c19th century cottage with a partially constructed extension to the rear and on the western gable of the cottage. The site incorporates a pronounced downward slope from north-east to southwest. Mullagh Lough is located over 300m to the south east of the site.

3.0 Proposed Development

3.1 Planning permission is sought to remodel and complete the partially constructed extensions to the side and rear of the existing cottage, and to replace the existing cottage to provide a 3-bed dwelling house with the sleeping accommodation to be located to the front of the dwelling and the living/ dining accommodation to be located within the completed extension to the rear of the dwelling. A new terraced area is to be located to the rear of the completed dwelling house. The GFA of the house will increase from 54 sq.m to 162 sq.m as a result of the completed extensions.

3.2 It is also proposed to replace the existing septic tanks with a new proprietary wastewater treatment system.

4.0 Planning Authority Decision

4.1 Decision

4.1.1 Cavan County Council granted planning permission for the proposed development subject to 8 conditions.

4.2.1 A covering letter submitted with the application sets out the rationale for the proposed development.

4.2 Additional Information Request

4.2.1 The initial planners report makes reference to reports received from the Environmental Section and the Municipal District Engineer both of which requested additional information. On foot of this initial planners report, the following additional information was requested on the 28th of September 2022:

- The applicant was requested to clearly demonstrate that the existing residential dwelling is not reasonably capable of being made structurally sound and adapted for modern living standards.
- Further details are required in relation to the wastewater treatment facilities intended to serve the dwelling.
- Submit revised site layout clearly indicating requisite sightlines are available in both directions at the proposed entrance.

4.3 Further Information Submission

4.3.1 Further Information was submitted on 20th of January 2023. It included the following:

4.3.2 A structural assessment of the existing cottage on site carried out by a Chartered Engineer so as to investigate whether the existing cottage can be incorporated into the proposed new structure on site. This report concluded that there is no foundations present beneath the old stone walls and that the level of leaching out of the lime mortar from within the walls has structurally compromised

these walls beyond repair and the building therefore is in need of complete replacement. The roof and floors also require complete replacement.

4.3.3 A Site Characterisation and Assessment Report for the proposed on-site WWTS was also submitted. It concludes that the existing septic tank and soakaway system should be decommissioned and a new mechanical aeration system with a new polishing filter installed.

4.3.4 A drawing is also submitted together with photographs that demonstrates that with the proposed works to be carried out the site entrance will ensure that adequate horizontal and vertical visibility can be achieved.

4.3.5 Revised site notices were also submitted.

4.4 Prescribed Bodies

None

4.5 Third Party Observations

An Observation was received from the current 3rd Party Appellant. The contents of this submissions has been read and noted.

5.0 Planning History

5.1 The relevant planning history pertaining to the site is set out below:

Reg Ref.09/175 The planning authority granted planning permission in 2009 to construct an extension to the rear and gable end of the existing cottage on site. This extension was partially constructed but remains unfinished.

6.0 Policy Context

6.1 Development Plan

6.1.1 The site is governed by the policy and provisions contained in the Cavan Co. Council Development Plan 2022-28.

6.1.2 The site is not governed by any specific zoning objectives. Relevant Policies are set out below.

6.1.3 Policy RDR 01 and RDR 03 relate to replacement dwellings. RDR 01 seeks to encourage the sensitive refurbishment of existing vernacular dwellings unless it is clearly demonstrated to the satisfaction of the planning authority that it is not reasonably capable of being made structurally sound and adapted for modern living standards. Whereas RDR 03 sets out the criteria which the planning authority will take into consideration in assessing applications for refurbishments and or replacement of dwellings.

6.1.4 Policy WTR 03 relates to wastewater treatment in rural areas. Proposals for significant extensions will be required to ensure that existing effluent treatment systems are adequate to cater for any additional loading that may result from the extension.

6.2 Natural Heritage Designations

6.2.1 The site is not located within or adjacent to a designated European Site. The nearest European Site, Kilconny Bog (site code 00006) is located 2.3 km to the south of the site. The River Boyne and Blackwater SAC & SPA (site code 002299 and 004232 respectively) are located c5.2 km to the southwest.

6.3 EIA Screening

6.3.1 On the basis of the information on the file, which I consider adequate in order to issue a screening determination, it is reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the proposed development and an environmental impact assessment is not required.

7.0 The Appeal

7.1 Grounds of Appeal

The decision of the Planning Authority was the subject of a third-party appeal by a neighbour, Michael Dunne. The grounds of appeal are outlined below:

- The proposal can greatly diminish the quality of drinking water for the appellants horses on his stud farm and the quality of water in Mullagh Lake to the southeast. The appellant is heavily reliant on a well in the vicinity of the percolation area that supplies water to his horses. This well is located c.70m and not 250m from the proposed percolation area as suggested in the documentation submitted with the application.
- There are 5 houses in close proximity to the well in question. There is a sharp downward gradient between the proposed percolation area and the well.
- The existing percolation area is not functioning properly and has been the subject of numerous complaints.
- Mullagh lake is an important recreational area for fishing boating and fishing.
- Photographs are attached to the submission showing the drainage characteristics of the lands un which the site is situate.

7.2 Applicant Response

A response was received on behalf of the applicants from Robert Meehan Consultant Geologist. It notes the following:

- While the nearest well might be 70m from the proposed polishing filter, this still complies with the separation distances, in respect of wells, streams and shorelines set out in Table 6.2 of the EPA Code of Practice.
- The required 0.5 m depth of unsaturated subsoil /soil above the bedrock for a proprietary WWTS and polishing filter has been met in the proposed designed of the system.
- The soils and subsoils meet the percolation tests set out in the EPA Code of Practice.

- The proposal currently before the Board represents a significant environmental improvement over the existing wastewater treatment arrangements on site.
- The proposed wastewater treatment arrangements fully comply with the EPA code of Practice and the Building Regulations.

7.3 Planning Authority Response

- The Planning Authority note that the existing wastewater treatment facilities are to be decommissioned and replaced by a new mechanical aeration system and polishing filter. On foot of this a report was received from the Environmental Section which recommended approval subject to conditions which included the decommissioning of the existing septic tank. The planning authority is satisfied that with the incorporation of the conditions in question the proposal will not pose a threat on terms of water pollution.

7.4 Observations

- None

8.0 Assessment

8.1 I have read the entire contents of the file, visited the subject site and its surroundings and have had particular regard to the issues raised in the grounds of appeal. Having noted the planning authority's request for additional information and the applicants response to same, and furthermore having regard to the presence of an existing structure on site and policy RDR01 of the County Development Plan, I consider the principle of the proposed development to be acceptable and as such I consider that the Board can restrict its deliberations to the issues raised in the grounds of appeal, namely whether or not the proposed method of treating wastewater from the dwelling could give rise to water pollution and contamination.

8.2 On visiting the site, I noted that there was no evidence of a trial hole or percolation holes in the field opposite the dwelling where the wastewater treatment

system is to be located. Although these features may have been concealed by the heavy vegetation growth. The vegetation growing on site appears to be characteristic of relatively good, free draining soils and subsoils that may be conducive to accommodating a proprietary wastewater treatment system. There is little evidence of vegetation associated with impeded drainage such as rushes etc.

8.3 Thus, the vegetation observed on site would support the conclusions set out in the Site Characterisation Form that the soil type in the area is dominated by well drained brown earth soils. The trial hole indicates that the soil cover is relatively thin with bedrock located c. 1m below ground level. P & T tests provided values of less than 5 demonstrating fast percolation rates on site. The fast percolation rate together with the relatively thin soils cover could pose a threat to the underlying groundwater. It is noted that the site is located within an area of extreme aquifer vulnerability.

8.4 The applicant proposes to address this potential problem by installing a new certified mechanical aeration system with a new soil polishing filter. Details of the exact layout and construction methodology of the polishing filter is set out in section 5 of the site characterisation form. The polishing filter incorporates (inter alia) a raising of the ground level by 0.6m in accordance with the EPA Code of Practice. It is my considered opinion that with the incorporation of proprietary wastewater treatment system that includes aerated secondary treatment together with a specifically constructed polishing filter to ensure that sufficient of soil and subsoil depth is created to further attenuate effluent percolating from the wastewater treatment system, will provide sufficient treatment of wastewater to the extent that it will not pose a threat to groundwater or any other receiving waters in the vicinity.

8.5 Furthermore, and as pointed out by the applicant in the response to the ground of appeal, the proposed location of the wastewater treatment plant within the site is situated to ensure that it complies with all the requirements as specified in Table 6.2 of the EPA Code of Practice. It is centrally located within the lower field. At 70 meters for the nearest watercourse, it comfortably exceeds the minimum distance of 10m set out in the Code of Practice. Likewise, it exceeds the 50 m separation distance from the foreshore of Mullagh Lough. While the appellant indicates that the distance between the proposed wastewater treatment system and the foreshore of the Lough is 70 m, the distance is in excess of 300 meters. It is more likely, having regard to the intervening dwellings between the site and the Lough, that the

proprietary wastewater treatment systems in the more immediate vicinity pose a greater threat to the water quality of the Lake than the treatment system proposed under the current application.

8.6 On the basis of the nature of the proprietary treatment system to be installed and the nature of the polishing filter to be constructed on site so as to ensure that there is sufficient depth between the percolation pipes and bedrock/water table to properly treat and attenuate effluent, I am satisfied that effluent can be properly treated to a satisfactory standard on the subject site. I am satisfied that the standards in the EPA Code of Practice are adhered to, and that water quality (both groundwater and surface water) is extremely unlikely to be polluted directly as a result of the proposed development.

Based on this assessment, I recommend that the decision of the planning authority be upheld in this instance and planning permission be granted for the proposal.

9.0 Appropriate Assessment

9.1 The subject site is not located within or adjacent to a designated European Site. The nearest European Sites which could be considered to be within the zone of influence of the subject site are (a) Killyconny Bog SAC, c.2.3 km to the south of the site and (b) The River Boyne and River Blackwater SAC & SPA which is c. 5 km to the south west of the site. The qualifying interests associated with the Killyconny Bog SAC site include active raised bogs and degraded raised bogs still capable of natural regeneration. The nature of the proposal being considered by the Board and the separation distances between the subject site and the SAC in question will ensure beyond all reasonable scientific doubt that the proposed development will in no way impact on the qualifying interests associated with the SAC. The River Boyne and Blackwater SAC and SPA are located in a different sub catchment area (Moynalty_SC_010) than the River Boyne and Blackwater (Blackwater [Kells]_SC-030). Therefore, the subject site is not connected to the SAC and SPA in question.

9.2 Having regard to the nature and scale of the proposed development and nature of the receiving environment together with 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 individually or in combination with other plans or projects on a European site.

Recommendation

Grant Planning Permission for the proposed development based on the reasons and considerations set out below.

Reasons and Considerations

It is considered that the proposed development which involves the renovation and completion of an existing structure on site, subject to the conditions set out below would not seriously injure the amenities of the area, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience and is therefore considered to be in accordance with the proper planning and sustainable development of the area.

Conditions

1.	<p>The development should be carried out and completed in accordance with the plans and particulars lodged with the planning application as amended by the further plans and particulars submitted on the 20th day of January 2023, 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 the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interests of clarity</p>
2.	<p>The external finishes of the proposed extension including roof tiles/slates shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p>Reason; In the interest of visual amenity.</p>

3.	<p>(a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 20th of January 2023 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>(b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary wastewater treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.</p> <p>Reason: In the interests of Public Health</p>
4.	<p>The applicant shall decommission the existing wastewater treatment system in line with the EPA guidelines. All existing septic tank wastewater (liquid and sludge) shall be pumped out completely by a licensed contractor and shall be disposed/recovered add an appropriately permitted facility.</p> <p>Reason: In the interests of public health and environmental sustainability.</p>
5.	<p>Details of the surface water and drainage arrangements relating to the site shall be agreed in writing with the planning authority prior to the commencement of development.</p> <p>Reason: in the Interests of public health.</p>
6.	<p>The proposed entrance serving the dwelling shall incorporate the following:</p> <p>(a) No part of the entrance (gates, piers, fencing, walls) shall exceed 850mm in height.</p> <p>(b) Details of any gates being installed at the entrance shall be the subject of written agreement with the planning authority prior to the commencement of development.</p>

	<p>(c) Details of the finishes at the proposed entrance shall be the subject of written agreement with the planning authority prior to the commencement of development.</p> <p>Reason: In the interests of visual amenity and traffic safety.</p>
7.	<p>The developer shall pay to the planning authority a financial contribution of €1,570 in respect of public infrastructure compatibilities 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 the commencement of development are in such phased payments as the planning authority may facilitate and shall be the subject to any applicable indexation provisions of the scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.</p> <p>Reason: It is considered reasonable that the developer should contribute towards the expenditure that was incurred by the planning authority in respect of works which have facilitated the proposed development.</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.

Paul Caprani
Planning Inspector

18 June 2023