



An
Bord
Pleanála

Inspector's Report

ABP-317004-23

Development	To renovate & extend cottage, alter entrance onto road, wastewater treatment system and percolation area and all associated site works.
Location	Wattstown, Portloman, Mullingar, Co. Westmeath.
Planning Authority	Westmeath County Council
Planning Authority Reg. Ref.	2260020
Applicant(s)	Timothy Murphy & Sarah Jane Foster
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Caoimhe Duncan & Jonathan Doran
Observer(s)	Cllr Hazel Smyth
Date of Site Inspection	20 th of May 2024
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1. The subject site is located in a rural area 6.8km north of Mullingar town, in the townland of Wattstown. The area is rural agricultural land. The site is 0.510 ha in area with the eastern boundary addressing the public road. The public road is a narrow cul de sac that serves a small number of dwellings and farms.
- 1.2. The site is currently grassland. It slopes from east to west. There is a disused structure in the middle of the site, which is stone building with a red galvanised roof. This structure is the subject of this appeal.
- 1.3. There are mature hedgerows along the northern and southern site boundaries. The eastern roadside boundary also includes a mature hedgerow and the field access.
- 1.4. To the northwest of, there is single storey dwelling house, where the third-party appellants reside. The existing dwelling is setback into the site almost in line with the existing structure on the subject site. The front garden area is their private open space.
- 1.5. The site is located within the Lough Owel High Amenity Area and Water Catchment Area.
- 1.6. The existing structure is within 50metres of Monument WM011-141 – Class- Ringfort – Rath.
- 1.7. The site rises sharply in the middle from east to west, dropping off to the west making the ringfort not visible from the subject site or structure.

2.0 Proposed Development

- 2.1. The public notices state the proposed development is to renovate and extend an existing cottage, alter existing entrance onto road, new wastewater treatment plant and percolation area and all associated site development works.

3.0 Planning Authority Decision

3.1. Decision

By Manager's Order dated 13th of April 2023 Westmeath Co. Co. granted planning permission for the proposed development, subject to 9No. standard conditions.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

A summary of the assessment issues is as follows:

- The Council will facilitate the reuse and refurbishment of vacant traditional farm buildings which are no longer suitable for modern farm practices and derelict houses in the countryside;
- A site inspection carried out by the Planning Authority confirms that the existing site comprises a derelict dwelling which appears structurally intact. The submitted plans show that the proposed development would retain the overall form and character of the existing dwelling within the design approach, including existing natural stone walls of the dwelling to be repointed.
- The proposal relates to the refurbishment of an existing dwelling. Policies relating to local need rural housing policy are not therefore applicable in this instance.
- The proposal incorporates a mixture of traditional and contemporary design and would maintain the overall scale and character of the existing structure on site which is welcomed. Overall, the proposed development is considered to demonstrate a sympathetic design approach which would respect the character of the existing structure on site and would integrate well with the rural site context. It is therefore considered acceptable in this regard.

Report 1 : Recommended Further Information on the basis of: Revise design of the dwelling to address the privacy concerns of the neighbouring dwelling. Address the issues raised in the letter from the Department of Heritage, Local Government and Housing.

Report 2: Following receipt of the further information: The archaeological assessment was prepared by John Pursell, and it is considered to be acceptable. The house design was not revised in accordance with the F.I. request, instead a 5m deep native planting screening along the common boundary of the properties was proposed.

Recommendation to grant permission.

3.2.2. *Other Technical Reports*

Area Engineer : No objection

3.3. *Prescribed Bodies*

Department of Housing and Local Government and Heritage

The proposed development will involve the removal of part of a hedgerow habitat for access and to allow for road sightlines and other site development works.

Hedgerows form important wildlife corridors as per Annex 10 of the EU Habitats Directive and have the potential to support foraging/ feeding bats and breeding birds. The old cottage building has potential to support roosting/breeding bats and denning pine marten, and also nesting/ roosting birds, including but not limited to barn owl, swallow, starling. Bats, pine marten, their breeding and resting places and wild birds are protected under the Wildlife Act 1976, as amended. Also bats are listed under Annex IV of the EU Habitats Directive (Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora) which requires strict protection.

The Department recommends the following be included as conditions, should planning consent be granted:

1. Any required hedgerow removal or cutting to facilitate the proposed development or any hedgerow maintenance should not take place during the breeding season between 1st of March and 31st of August. Developed road sightlines should take account of the extent of summer hedgerow vegetation.
2. A new hedgerow of equal length should be established in close proximity to any hedge lines removed to comply with required road sightlines and along the site boundary.

Archaeology It is noted that the proposed development is located partly within the zone of notification associated within Recorded Monument WM011-141----Class: Ringfort – rath, which is subject to statutory protection in the Record of Monuments and Places. The Department recommends that an Archaeological Impact Assessment, as outlined below, should be prepared to assess any impact on archaeological remains within the proposed development site. This assessment should be submitted as Further Information.

3.4. Third Party Observations

3.4.1 The third party submission from the neighbouring dwelling to the northwest:-

- The structure has an abandoned use;
- The development plan states the structure for extension or renovation must be reasonable in fact. This structure is not habitable;
- The proposed design is overly complex;
- How does the applicant meet with CPO Policy 9.23;
- It is within 50metres of a monument.

4.0 Planning History

There is no relevant planning history.

5.0 Policy Context

5.1. Development Plan

5.1.1 *Westmeath County Development Plan 2021-2027*

5.1.2 Chapter 9 Rural Westmeath is the relevant chapter.

Section 9.4 includes a Rural Typology Map (9.1), whereby the subject site is located in a 'Rural Area Under Strong Urban Influence', essentially to facilitate the provision of single houses in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area, siting and design criteria for rural housing and compliance with statutory guidelines and plans. The aim is to support

the desire of individual applicants with strong links and a need to settle in that area and to encourage people with no such links to settle in the identified extensive network of towns, villages and rural nodes. Such persons would normally have spent substantial periods of their lives living in the rural area as part of the established rural community e.g. people employed in the rural area including farmers and their sons and daughters, people originally from the rural area and wishing to return, people wishing to reside near elderly parents to provide security and care, elderly parents wishing to live near other family members, people who would have grown up in rural areas seeking to build their home close to other family members, people working in rural areas such as teachers in rural schools

5.1.3 It is a policy objective of Westmeath County Council to:

CPO 9.1 Areas Under Strong Urban Influence

To accommodate demand from individuals for permanent residential development in defined 'Rural Areas Under Strong Urban Influence' who have strong links to the area and who are an intrinsic part of the rural community, subject to good planning practice, environmental carrying capacity and landscape protection considerations.

Local Housing Need

Permit residential development in areas defined 'Rural Areas Under Strong Urban Influence and Stronger Rural Areas' subject to the following circumstances:

1. Persons who are actively engaged in agriculture, horticulture, forestry, bloodstock and peat industry,
2. Members of farm families seeking to build on the family farm,
3. Landowners for this purpose being defined as persons who own the land 5 years prior to the date of planning application,
4. Persons employed locally whose employment would provide a service to the local community,
5. Persons who have personal, family or economic ties within the area, including returning emigrants,
6. Persons who wish to return to farming and who buy or inherit a substantial farm holding which is kept intact as an established farm unit, will be considered by the Council to be farmers and will be open to consideration for a rural house, as farmers.

Where there is already a house on the holding, refurbishment or replacement of this house is the preferred option.

The local area for the purpose of this policy is defined as the area generally within a 10km radius of the applicant's family home.

5.1.4 *Refurbishment and Extensions of Existing Structures*

The Council will facilitate the reuse and refurbishment of vacant traditional farm buildings which are no longer suitable for modern farm practices and derelict houses in the countryside. (Refer Chapter 16 Development Management Standards) When assessing proposals to convert, re-use and/or adapt traditional buildings in rural areas, it is a requirement that:

- The structure is substantially intact.
- The design, scale and materials used in the refurbishment and extension are in keeping and sympathetic with the existing structure.
- The size of any house extension takes account of the siting and size of the existing dwelling and that the character of the original structures is respected.
- The design of the proposal does not erode the siting and design qualities of the building and its setting which makes it attractive in the first instance.
- Mature landscape features are retained and enhanced with landscape proposals.

Refurbishment and Extension of Existing Structures Policy Objectives

It is a policy objective of Westmeath County Council to:

CPO 9.25 Assess the refurbishment and extensions of existing structures having regard to the following: To favourably consider applications for the conversion and reuse of existing traditional farm buildings or rural houses, without applying the local housing need requirement. These properties should be structurally intact and exhibit the essential physical characteristics of a dwelling house.

CPO 9.26 To generally resist the demolition and replacement of traditional or vernacular rural housing, whose character merits retention, in order to protect the varied types of housing stock in the rural area and to preserve the rich built heritage in rural parts of the county.

CPO 9.27 To require an assessment of the existing waste water treatment system by an assessor in the event of a large extension to a property, to ensure the system meets the EPA Code of Practice for wastewater treatment 2009 and any revisions thereof.

5.1.5 The site is located within the **Lough Owel High Amenity Area** and Water Catchment Area.

5.1.6 Recorded monument **Ref WM011-141** is located 1 approx. 45m west of the site boundary

5.2. Natural Heritage Designations

To subject site is

- 0.62 km east of Lough Owel SAC Site Code 00688 and Lough Owel SPA Site Code 004047
- 2.7km south of Lough Iron SPA
- 3.9km east of Scragh Bog SAC
- 7.9km south west of Lough Derravaragh SPA

5.3. EIA Screening

Having regard to the nature, scale and location of the proposed development, there is no real likelihood of significant effects on the environment. The submission of an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A summary of the grounds of appeal is as follows:

- The existing structure has been abandoned for years. The residential use has been abandoned for a considerable length of time. There are no foundations, loosely built stone walls, lightweight roof timbers and eroded tin roof. The restoration of the structure will not happen it will be demolished and rebuilt.

- The applicant must show compliance Westmeath Co.Co. policies, in particular the Rural Housing Needs Objectives of the County Development Plan
- The structure appears on the historical maps as a cluster settlement. It is likely the structure was a homestead of a rented holding and has long since been abandoned.
- There has been no activity around the property since the early nineties. There is no sign of vehicular activity or any change to the landscape. It is noted in the county development plan section 9.9 that the structure should be intact, which is not the case.
- The proposed development is an overly complex arrangement of building forms, the extension is clearly in breach of the requirement to preserve what is attractive in the first place. The applicant should meet with the requirements of CPO 9.1 and CPO 9.2 as the property is in a rural area under strong urban influence.
- The property is within a Water Catchment Area of Lough Owel. The applicant should address how they meet with the Policy Criteria CPO 9.23 of the County Development 2021-2027
- The property is within High Amenity Area of Lough Owel, therefore the applicant must meet with Policy CPO 9.24
- The existing structure is within 50metres of Monument WM011-141 – Class-Ringfort – Rath. Given the close proximity of the monument an archaeological report should be furnished to mitigate any loss of heritage.
- The proposal will result in the loss of residential amenities. The orientation of the ground floor living spaces and outdoor living areas will look directly onto their dwelling to the north-west of the site. The appellants do not have a back garden due to the position of their dwelling on their site. Their private garden is in direct view of the proposed glazed windows and living space. This will have a significant negative impact on their property and diminish their privacy which is unacceptable. The same negative affect will occur to the future residents of the dwelling.

- The existing mature hedgerow is sparse in line with the location of the glazing wall and patio areas. There are no proposals to thicken the hedgerow.

6.1.2 *Existing Structure Abandoned and in Disrepair*

- The structure on the site has no doors, windows, no floors or foundations, insulation or heating, no potable water or sanitary facilities and no electricity. The structure will be removed during construction and replaced because the materials are not to a habitable standard, and the roof is not high enough to meet modern day standards.
- The structure was not used as a dwelling on 1.10.1964. Therefore, the property is a greenfield/ brownfield site. The applicant should have furnished evidence to the planning authority proving its use as a domestic dwelling. There should be a scope of works to determine if the structure is to be rebuilt or restored.

6.1.3 Design

- The proposed development is not sympathetic with the existing structure and the character of the existing structure is not been respected. The design erodes the siting and design qualities of the building and its setting. The proposed floor plan is an over complicated arrangement compared to the simple form of the existing structure.

6.1.4 Development Plan Policies

Section 9.9 of the Westmeath County Development Plan relates to Refurbishments and extensions of existing structures. The existing structure is not deemed to be substantially in tact nor has it been used as a dwelling after 01/01.1094. Therefore, the applicant must:

- Demonstrate compliance with the Rural Housing Need Policies of the CDP as the site is located in an Area of Strong Urban Influence.
- Should comply Water Catchment Policy Objective of the CDP as the property is located in the Lough Owel Water Catchment Area.

- Demonstration the applicant will comply with Areas of High Amenity objective of the CDP as the property is located in the Lough Owel High Amenity Area.

6.1.5 Recorded Monument

There will be impact on the Recorded Monument in close proximity to the subject development.

6.1.6 Neighbouring Residential Amenity

- The appellant's dwelling has existed for hundreds of years. The house is setback into the site with no private amenity space to the rear of the house. All the amenity space is to the front of the house. The proposed development blatantly diminishes the family's privacy. The further information requested a revised design that was not provided. Instead, a buffer of trees being 5metres wide was proposed along their boundary. This is an unrealistic and unacceptable response to the further information.
- There is strong possibility the 5m trees will impact on the neighbouring property by way of root spread or groundwater absorption resulting in subsidence from change in ground conditions. The applicant is relying on vegetation to rectify poor spatial design. The height of the trees is 10-30metres is unacceptable and irresponsible. There will be undue overshadowing onto their property.
- The site layout shows an over exaggeration of the shared boundary. The existing hedge is low and does not provide the required screening.
- There will be overlooking of their property. Separation distances in the development plan relate to housing estates (22m) and not to one off houses.

6.1.7 Land Ownership

- The proposed development does not have legal entitlement to the lane. Mapping of the folio WH21314F shows a strip of land running the entire length of the front boundary. The folio is owned by Mr. Conor Duncan, and he has not given consent to the applicants to cross folio WH595.

6.1.8 Groundwater

- The proposed development is situated where the groundwater is High Vulnerability. Lough Owel Water Catchment has a significant importance. There is a nearby land drain and it runs directly to Lough Owel. The EPA records indicated poor water status for the stream. There is a high risk of pollution by the addition of another wastewater treatment system.

6.1.9 There are bats roosting in the existing structure therefore an ecology report should have been prepared.

6.1.10 **Site Characteristic Assessment Report**

- There is false information in the site characteristic report. The trial holes were only dug to a depth of 1.9m, it should have been 2.1 metres.
- There is no well identified on the site plan, and the appellants well is located north of the proposed treatment plant within 24 metres of it. The application should have been invalidated.
- The Site Suitability Report states that the site has a gradient of 1 in 20, when it has a gradient of 1 in 5 to 1 in 20.
- The visual assessment states there is no surface water ponding, wetlands, or streams within 250m, however there is ponding on the site and a stream within 250m.
- There are no public mains on the lane, therefore the proposal will require a private well which was not included in the planning application. The report indicates connection to the public mains.

6.1.11 The applicant has family land that is suitable for a dwelling within an established family cluster in Walshestown, Mullingar. The development plan has a preference for granting new houses in existing family clusters. Applicants' family home and surrounding lands are more suitable for one-off dwellings beside an existing family holding.

6.2. **Applicant Response**

There is no response on the appeal file.

6.3. Planning Authority Response

There is no response on the appeal file.

6.4. Observations

Cllr Hazel Smyth made an observation on appeal. The following is a summary of the key points made in her submission:

- Fully supportive of the regeneration of the derelict and disused house.
- There are ongoing concerns regarding the water quality and drinking water source at Lough Owel in recent years.
- The location of the site is within a high amenity area.
- CPO 13.28 is to protect the County's lakes, shorelines, and preserve the high amenity areas for use of tourists and day trippers. There are other objectives to improve access to the lakes, and any development should be sensitively sited, designed and screened from the lake by existing topography or vegetation. It is difficult to understand how the development proposal could comply with this.
- Have the NPWS and Irish trails been consulted.
- A thorough hydrologist or hydrogeologist report needs to be carried out to determine the impact the property may have on the groundwater and nearby lake.
- There may be a negative impact on certain species of duck including the shoveler and coot.
- The Department of Housing, Local Government and Heritage asked for information regarding a bat, bird and pine martin survey of the derelict building, which was not carried out by the applicant. Bats and their roosts are protected under Annex IV of the Habitats and Wildlife Act 1976 (as amended). The Westmeath Biodiversity Action Plan, states Lough Owel is the best example of a large, spring fed lake in Ireland and the fringing wetlands support an array of rare plant species, bird and fish populations, with the

adjacent farmlands being feeding grounds for the Greenland White Fronted Goose. These issues require further consideration in the planning application.

- The development potentially seriously contravenes some important elements of the Westmeath CDP including the provision of a dwelling in a High Amenity Zone, further restriction of the lakeshore away from being a public amenity, the omission of an appropriate biodiversity survey and failure to account for the impact on Lough Owel.

7.0 **Assessment**

7.1 I have visited the site, the appellant's property, and considered the appeal file, I consider the following issues to be relevant to this appeal:

- The Existing Structure on Site
- Development Plan Policies
- Design of the Development
- Impact on residential Amenities
- Impact on Landscape
- Sewage Treatment/ Disposal
- Access
- Other Issues

7.2 ***The Existing Structure on Site***

7.2.1 The public notices state the proposal is to renovate and extend the existing cottage on site. The existing structure, my own emphasis, is a small stone building with the red galvanised roof. The ridge height of the structure is 4 metres, and the dimensions are 8.2m x 5.2m. It is impossible to tell when the structure was last used for domestic purposes. There is no evidence to support the structure was used as a dwelling. The public notices refer to the development, '*to renovate and extend the existing cottage*'. The structure is inhabitable. It is not serviced and it has no access to it from the road. It is apparent, the use of the structure has been abandoned for decades.

- 7.2.2 The planning application details state the structure is an 'existing cottage'. There is no evidence in the planning application to establish the former use of the structure. It appears to me the applicant and the planning authority assumed it was used as a dwelling. There is no evidence to indicate when it was last used. This is an important detail in this application because it directly relates to the public notices associated with the planning application, and the relevant development plan policies applicable to the application described in the next section of this report.
- 7.2.3 There is no structural survey carried out to determine if the existing walls or roof are adaptable to current day building standards and specifications. There are no details regarding foundations. The dimensions and footprint of the structure are small proportionately relative to the extension proposed. Based on the evidence on the planning file, the structure cannot be described in planning terms as an existing cottage. The plans include the existing structure incorporated into the new dwelling as a bedroom, yet there is no evidence on file to indicate the structure is adaptable to modern day standards, and saveable in physical terms.
- 7.2.3 In my opinion, the description of the development to renovate and extend an existing cottage is misleading, and does not accurately describe the proposed development, which in my opinion, is a new dwellinghouse. I am strongly of the view this structure cannot be considered an existing dwelling/ cottage. Therefore, the rural housing policies applicable to a new dwelling house are applicable in this instance, see below.

7.3 ***Development Plan Policies***

- 7.3.1 The relevant development plan is the Westmeath County Development Plan 2021-2027. According to Chapter 9 which relates to Rural Development in the County, the subject site is located in a 'Rural Area Under Strong Urban Influence'. Accordingly, the provision of single houses in the countryside is based on the core consideration of demonstrable economic or social need to live in a rural area, siting and design criteria for rural housing and compliance with statutory guidelines and plans.

- 7.3.2 The planning authority granted the proposed development on the basis of the following development plan policy. In Chapter 9 of the Westmeath County Development Plan, there a section addressing the refurbishment and extension of existing rural structures.

It is a policy objective of Westmeath County Council to:

CPO 9.25 Assess the refurbishment and extensions of existing structures having regard to the following: To favourably consider applications for the conversion and reuse of existing traditional farm buildings or rural houses, without applying the local housing need requirement. These properties should be structurally intact and exhibit the essential physical characteristics of a dwelling house.

Under this section there are a number stipulations including the structure must be structurally intact. The meaning of 'intact' is not damaged or impaired in any way; complete. In my opinion, the existing structure is not intact, it is a dilapidated shell of a building. The applicant has not provided sufficient information with the planning application to demonstrate the structure is structurally intact and exhibits the essential physical characteristics of the dwelling house. Therefore, Policy CPO 9.25 is not relevant or applicable to the current development proposal.

- 7.3.3 The site is located 6.6km north of Mullingar in an unspoilt rural area, in close proximity to the banks of Lough Owel. The area is within a designated area under Strong Urban Influence, which determines the relevant national and local planning policy in terms of rural housing. It is a policy objective of Westmeath County Council to:

CPO 9.1 Areas Under Strong Urban Influence

To accommodate demand from individuals for permanent residential development in defined 'Rural Areas Under Strong Urban Influence' who have strong links to the area and who are an intrinsic part of the rural community, subject to good planning practice, environmental carrying capacity and landscape protection considerations. The applicants have to comply with the Local Housing Need criteria as outlined under CPO 9.1 as indicated under Section 5 of this report.

- 7.3.4 In this instance, the applicants have not submitted any evidence to demonstrate their compliance with the local needs policies. This is a vital component

of the submission documents. To consider favourably this planning application in the absence of such important material, sets a highly undesirable precedent for future applications, and it is unfair to previous applicants who have complied with the relevant policy under previous applications. I have already stated I do not consider the building to be structurally intact or exhibit the essential characteristics of a dwelling house. Therefore, the local housing needs requirement is applicable to the applicants. In the absence of compliance Local Housing Need criteria, I consider the proposed development is a contravention of the relevant development plan policy, and it should be refused by the Board on this basis. In my opinion, an abandoned derelict structure cannot be classified as a dwelling/ cottage as stated in the public notices of this application.

7.3.4 Furthermore, the reviving environment and existing landscape is particularly sensitive to new development. In the Westmeath County Development Plan 2021-2027, The site is located in a designated High Amenity Area (Lough Owel), as per Map 64 of the county development plan. Under this designation there are policies to protect the High Amenity areas from inappropriate development, and to reinforce their character and distinctiveness and sense of place. This is discussed in more detail in the next sections of this report.

7.4 ***Design of the Development***

- 7.4.1 The proposed dwelling is an L-shaped configuration. It is a single storey contemporary dwelling with a low profile. It is designed in a series of blocks with varying external specifications. The overall design is vernacular in appearance. The house is a 3No. bedroomed dwelling. The existing structure is 30sq.m. and the proposed works are 190sq.m. on a 0.51ha site.
- 7.4.2 The site rises gently away from the roadside boundary towards the existing structure on site, with a steeper gradient to the rear of the site. The dwelling will be nestled into the contours. There are mature hedgerows along three boundaries of the site. As per the further information submission received by the planning authority on the 21st of March 2023, there will be a 5metres buffer area of native trees to be planted along the northern/ northwestern site boundary, between the existing and proposed dwelling.

7.4.3 In my opinion, the proposed dwelling is modest in scale and profile. In design terms, consider the overall design and layout to be acceptable.

7.5 Impact on Residential Amenities

- 7.5.1 The third-party appellants reside in a single storey dwelling to the north-west of the proposed dwelling. There is an existing shed and a mature hedgerow positioned between the existing and proposed dwellings. There is one large window on the existing dwelling orientated towards the site. However, the mature hedgerow ensures there will be no undue overlooking into both properties during the summertime. I note the photographs taken by the appellant during the wintertime and the native hedgerow was bare leaving clear views between the properties.
- 7.5.2 On appeal it is submitted the existing dwelling is setback deep into the adjoining residential curtilage. There is no private garden area to the rear of the appellant's house. Their private open space area is to the front of the dwelling. They are concerned about the amount of glass in the proposed opposing elevation to their property, and the resultant loss of privacy. In addition, they believe a 5metre buffer area is an exaggerated response to their concerns and will effectively overshadow their property and result in a loss of amenities to their dwelling and garden area.
- 7.5.3 In my opinion, both dwellings are low in profile. There is 35metre separation distance between opposing windows, with a mature hedgerow in between. The proposed northwest elevation facing onto the adjoining residential property has extensive glass features, with the main living areas opening out on to a patio area, all of which face onto the neighbouring property. The planning authority did request a revised design to reduce the perceived loss of privacy and overlooking associated with this elevation. The response from the applicant was to provide a 5metre buffer area between the properties. Whilst I accept the existing hedgerow in summertime provides a high level of screening between the properties, the native species are deciduous, and the front garden area associated and dwelling on the neighbouring property will be exposed during the winter months. I do believe there is scope within the site and the development to design a dwelling where there would be less glass openings facing directly onto the adjoining property. The bedrooms and an enclosed corridor area are located on the residual elevations not overlooking any residential property, while the main living area of the proposed house is looking out onto the

adjoining residential property. I refer to the Further Information requested by the planning authority which stated, *'the planning authority has concerns regarding the impact of the proposal on the residential amenity of the neighbouring property located adjacent to the north site boundary. Namely, the northwest facing habitable windows and external patio area located to the northwest of the site are considered to result in a loss of privacy and overlooking.'* You are requested to submit revised proposals to address this matter'. The applicants did not submit revised proposals, instead they submitted proposal for additional screen planting between the two properties, which was deemed to be acceptable to the planning authority.

7.5.4 I am concerned about the 5m buffer area that was submitted by way of further information in response to the planning authority's concerns for a number of reasons:

- The applicant has not provided any justification for spatial layout of the proposed dwelling which has its main view and communal areas overlooking an existing residential dwelling/ curtilage to the northwest;
- There are three boundaries to the site which have no adjoining residential properties. There is ample scope to design a dwelling that will not impact adversely impact on adjoining neighbouring amenities, or give the perception of overlooking the adjoining property with large expansive glass planes and a patio area;
- Given the orientation of the site, the proximity of the northwestern boundary to both the existing and proposed dwellings, the scale of the development, I consider a 5m buffer area of native planting will look out of place, disproportionate and could negatively impact on the amenities of the existing dwelling to the northwest in terms of overshadowing.

7.5.5 In my opinion, a reasonable compromise would be to redesign the floor plans and windows of the main living area of the house to face the east, west or south site boundaries where there are no adjoining residential properties. The applicants were given this opportunity to revise the design and they chose to provide a 5metre landscaped buffer area between the properties instead. A dense planting of trees along the common boundary is not a reasonable compromise for the poor spatial design of the proposed dwelling.

7.6 Impact on Landscape

- 7.6.1 As stated above, the dwelling is low profile, and is discreetly sited across the contours of a sloping site. The site is located in designated Area of High Amenity as per Map 64 of the Westmeath County Development Plan. It is located on the western side of Lough Owel. The lake is not visible from the site. The dwelling will create a material visual impact on the landscape. However, the visual impact will be minimal apart from the immediate surroundings of the site. It will not be visible in the wider landscape or within Lough Owel. Furthermore, there is ample natural screening on three boundaries of the site, which are to be reinforced with supplementary planting to ensure the development is screened from the surrounding area.
- 7.6.2 Although the site is designated as High Amenity, this designation is associated with Lough Owel and its immediate environs. The site is located an acceptable distance from the banks of the lake, on a low-lying topography. In my opinion, the carrying capacity of site's topography is acceptable for a single storey structure, and the proposed development will not result in an undue loss of existing visual amenities.

7.7 Sewage Treatment/ Disposal

- 7.7.1 The proposed sewage treatment system is a septic tank and percolation area located to the front of the proposed dwelling. According to the site suitability report on file a trial hole 1.m in depth was dug, with no water or mottling present. There were percolation test holes dug too. The T-values achieved demonstrated the soil percolative capacities were suitable for a conventional septic tank and percolation system.
- 7.7.2 The site layout plans fails to indicate the location of the proposed private well, and the existing private well on the neighbouring site. There is no public water mains serving the area. The third-party appellants are correct in stating the trial hole was dug to a dept of 1.9m, however according to the EPA Guidelines notes, in area with locally important aquifers, the trial hole depth should be at least 2.1mtre. I do note from the pictures and the desk study carried out in the Site Characteristic Form that the colour and textures of the soil in the trail hole indicated a free-draining oxidised solid/ subsoil. The T-value obtained on site is characteristic of soil with good percolative capabilities. There is no evidence to suggest otherwise. Apart from not indicating the proposed

and existing private water supply, I am satisfied with the Site Characteristic Report and recommendations because the underlying soil and subsoil has good percolative capabilities.

7.8 Access

7.8.1 The road fronting the site is a narrow cul de sac serving three dwellings and surrounding farms. There is an existing field entrance gate located midway along the roadside boundary of the site. It is proposed to use this access as the access to the dwelling house. The sightlines in both directions are acceptable, provided the hedgerow is maintained and the visibility splays are maintained. The traffic is very light along this road, and the vertical and horizontal alignment of the road ensure the traffic moves at a slow pace. I am not concerned about the traffic implications for the proposed development.

7.9 Other Issues:

- The proposed development is located partly within the zone of notification associated with the Recorded Monument WM011-141 -Class Ringfort. The Department of Housing, Local Government and Heritage requested an Archaeological study of the site. After a request for further information an Archaeological Report was submitted, and it was sent to the relevant Department for review. There were no further concerns regarding the *Rath*.
- The Department of Housing, Local Government and Heritage requested a site survey be carried out by a suitably qualified ecologist to address concerns that the proposed development may cause an adverse impact to the habitat of bats and the pine martin, and other significant populations of wild birds. This report was not requested as part of the further information. The Department also recommended in the event of permission being granted for the proposed development there are 2No. planning conditions to be attached. In my opinion, it would have been prudent of the planning authority to request an ecological survey of the site in terms of possible ornithology and respective habitats associated with the site. Given the proximity of the site to Lough Owel SPA, it is my opinion a bird/bat survey should be carried out on the site prior to any decision to grant planning permission for any development on the site.

8.0 AA Screening

8.1.1 Background:

I note the subject site lies outside of any European site. Lough Owel SPA (Site Code 00688) and Lough Owel SPA (Site Code 004047) are located 620metres east of the site. The planning application includes comprehensive Appropriate Assessment Screening report.

8.1.2 European Sites within 15km of the site

Figure 3 indicates the Natura 200 sites within a 15km Zone of Influence of the site. There are 11No. sites located within a 15km radius of the site.

Natura 2000 Sites	Distance
Lough Owel SAC	0.62km
Lough Owel SPA	0.63km
Lough Iron SPA	2.7km
Scragh Bog SAC	3.9km
Lough Derravaragh SPA	7.9km
Garriskil Bog SAC	8.3km
Garriskil Bog SPA	8.4km
Lough Ennell SAC	8.8km
Lough Ennell SPA	8.8km
Wooddown Bog SAC	10.4km
Glen Lough SPA	12.3km

The closest surface waterbody to the subject site is the Monrow Stream, and its source is located 380m north of the proposed development. Approximately 140metres downstream, the Monrow Stream merges with the Wattstown Stream. Thereafter the Wattstown Stream flows in a northeastern direction into Lough Owel. There is no hydrological and hydrogeological link to any other Natura 2000 sites and the proposed site.

8.1.3 Lough Owel SPA (004047)

Conservation Objective: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA

A056 Shoveler *Anas clypeata*

A125 Coot Fulica atra

8.1.4 **Lough Owel SAC (000688)**

Conservation Objective: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA

The Qualifying Interests are:

1092 White-clawed Crayfish Austropotamobius pallipes

3140 Hard oligo-mesotrophic waters with benthic vegetation of &KDUD spp.

7140 Transition mires and quaking bogs

7230 Alkaline fens

Conservation Objective : To maintain the favourable conservation condition of listed Qualifying Interests in Lough Owel SA

8.2 **Direct, Indirect and Secondary Impacts**

8.2.1 The proposed development is not situated within in any SAC or SPA, therefore no direct impacts will occur through land take or loss of habitat.

8.2.2 **Indirect & Secondary Impacts**

The foul waters will be disposed of within a new sewage treatment plant on site. The closest surface waterbody to the subject site is the Monrow Stream, and its source is located 380m north of the proposed development. Approximately 140metres downstream, the Monrow Stream merges with the Wattstown Stream. Thereafter the Wattstown Stream flows in a north eastern direction into Lough Owel. Therefore the risk of contamination to Monrow Stream/ Lough Owel is very low.

In addition, given the separation distance between the site and the surface water bodies, contamination during the construction stage is not anticipated.

There is no fluvial or pluvial flooding associated with the subject site.

The entirety if the site's groundwater vulnerability is classified as **H-High Vulnerability**. *The groundwater underneath the site is within the Lough Owel Ferns & Mires GWDTE and is classified as good status.*

There will be no surface water discharge from the proposed development.

Therefore, no deterioration in water quality is anticipated.

8.2.3 **Cumulative Impacts**

There was a search carried out of all plans/ projects in the Wattstown area over the preceding five years. There was only permission granted in the area under reference 18/6013, permission for a new water treatment facilities within existing wastewater treatment plant at Portloman. This application was the subject of a NIS, which concluded there were no adverse impacts to the Natura 2000 sites anticipated. Therefore, there are no cumulative impacts anticipated.

- 8.2.4 I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9 **Recommendation**

I recommend the planning authority's decision to grant planning permission for the proposed development be refused.

10 **Reasons and Considerations**

1. Having regard to the location of the site within an Area Under Strong Urban Influence, as identified in Section 9.4 of the Westmeath County Development Plan 2021-2027, which seeks to manage the growth of areas that are under strong urban influence to avoid over-development and to ensure that the development of single dwellings in the countryside are provided based on the core consideration of demonstrable economic or social need to live in a rural area, and having regard to the documentation submitted with the planning application and appeal, the Board is not satisfied that the Applicant comes within the scope of the housing need criteria as per the specific requirements of Policy Objective CPO 9.1 of the Westmeath County Development Plan, 2021-2027. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. On the basis of the information on file, the Board is not satisfied that the nature and extent proposed development is accurately described in the public notices on file, having regard to Policy Objective CPO 9.25 which requires existing structures to be structurally intact and exhibit the essential physical characteristics of a dwelling house. In such circumstances the Board is precluded from granting permission for the proposed development.

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.

Caryn Coogan
Planning Inspector

21/06/2024