



An  
Bord  
Pleanála

## Inspector's Addendum Report

**ABP-317520-23**

### Development

Retention of Guest accommodation structures /works including 10 glamping tents, a wooden wagon and a stable building conversion to 5 bedrooms. Associated facilities including communal tent and WC/Shower block. Steel shipping container and tarp covered seating area and associated wastewater treatment facility

### Location

Martinstown, Suncroft, Curragh, Co. Kildare

### Planning Authority

Kildare County Council

### Planning Authority Reg. Ref.

23414

### Applicant(s)

Edward Booth

### Type of Application

Permission

### Planning Authority Decision

Refuse Permission

### Type of Appeal

First Party

### Appellant(s)

Edward Booth

**Observer(s)**

None

**Date of Site Inspection**

19<sup>th</sup> December 2023

**Inspector**

Emma Nevin

## 1.0 Introduction

- 1.1. This is an addendum report and should be read in conjunction with the original Inspector's report prepared in respect of appeal ref. ABP-317520-23, dated 21<sup>st</sup> February.
- 1.2. Board Direction BD-015326-24 dated 27<sup>th</sup> March 2024 sets out the decision of the Board to defer consideration of the case and to issue a Section 137 notice to parties as follows:

*“a) The Board is of the opinion that the development proposed to be retained, due to design, scale and form may not be considered to be a high quality or sensitive design for their location within the curtilage of a Protected Structure and could, potentially, visually detract from the setting and character of the Protected Structure and as such could be deemed contrary to policy objectives AHO21, AHO32 of the Kildare County Development Plan. Submissions/ observations on the above may be made to the board within three weeks of the day of notice.*

*b) The Board noted the report of the environment section of the planning authority dated June 6<sup>th</sup>, 2023, on file. In addition, having regard to the information otherwise on file, the board noted discrepancies between the calculations between pertaining to the hydraulic and organic loadings generated by the development as stated in the ‘Appendix B site Characterisation Form’ and the figures indicated in the ‘Sources of Effluent Table’, when compared to the hydraulic and organic loadings generated figures stated in the ‘Molloy Environmental’ site suitability report. As such, given the discrepancies and the lack of detail submitted within the planning application and the appeal in respect to the proposals for the disposal and treatment of wastewater on site it is not possible to ascertain whether they installed effluent treatment system and polishing filter is suitable in this instance, particularly given the potential that the system may be oversized to cater for the actual capacity of this site. Submissions/ observations on the above may be made to the board within three weeks of the day of notice”.*

- 1.3. Notice of Board Direction BD-015926-24 was issued to all parties and responses were received from the local authority and the applicant.

- 1.4. The applicant's response was received by An Bord Pleanála on 30<sup>th</sup> May 2024 and a response was received from the Planning Authority on 24<sup>th</sup> May 2024.
- 1.5. The Board considered the submissions and Inspector's report at a Board meeting on 11<sup>th</sup> July 2024 and decided to defer the case (BD-016964-24), noting that:
- *"There is no need for the responses received to be circulated further.*
  - *The file should be returned to the Inspector and an addendum report sought on the responses received following issue of the Section 137 notice."*
- 1.6. This addendum report has subsequently been prepared in response to the Board Direction BD-016964-24 dated 11<sup>th</sup> July 2024.

## 2.0 Background

- 2.1. Appeal ABP-317520-23 concerns an application for a permission for the retention of guest accommodation structures /works including 10 glamping tents, a wooden wagon and a stable building conversion to 5 bedrooms. Associated facilities including communal tent and WC/Shower block. Steel shipping container and tarp covered seating area and associated wastewater treatment facility.
- 2.2. On 8<sup>th</sup> June 2023, the Planning Authority issued a Notification of Decision to Refuse permission for the following reasons:

*"1. The development to be returned constitutes a material change of use of lands and structures associated with Martinstown House. Additionally, the development to be retained is wholly dependent on the current commercial use of Martinstown House and grounds. This current commercial use does not have the benefit of planning permission. Having regard to the foregoing, to grant permission for this development to be retained would constitute the continuation and intensification of an unauthorised use on site, which would be contrary to the orderly development of the site and would therefore be contrary to the proper planning and sustainable development of the area.*

*2. Objective IN O65 of the Kildare County Development Plan 2023-2029 requires the existing developments to not exceed normally accepted standards. Based on the lack of any information in relation to noise in this planning application, the planning authority is not satisfied that the*

*development for retention the “steel shipping container and tarp covered seating area” does not result undue noise/ nuisance to properties in the vicinity and negatively impacts the amenities and depreciate the value of these properties and would therefore be contrary to the proper planning and sustainable development of the area”.*

- 2.3. A first party appeal was received by the Board on 5<sup>th</sup> July 2023. At the time of the determination of the application by the Planning Authority, and the submission of the appeal, the proposed development was subject to the provisions of the Kildare County Development Plan, 2023 – 2029.
- 2.4. Under Section 137 of the Planning and Development Act 2000, as amended, the Board in determining an appeal, may take into account matters other than those raised by the parties and shall give notice to parties and observers in relation to the matters that it proposes to take into account. In this case, the matter relates to the potential impact of the development to be retained on the Protected Structure specifically policy objectives AHO21, AHO32 of the Kildare County Development Plan, 2023-2029, and the discrepancies and lack of detail submitted within the planning application and the appeal in respect to the proposals for the disposal and treatment of wastewater on site whereby it is not possible to ascertain whether the installed effluent treatment system and polishing filter was suitable to cater for the proposed development, particularly given the potential that the system may be oversized.
- 2.5. Following consideration of the original Inspector’s report prepared in respect of appeal ref. ABP-317520-23 dated 21<sup>st</sup> February 2024, Board Direction BD-015926-24, dated 27<sup>th</sup> March 2024 (as noted above) was circulated to all parties to the appeal. A response from the applicant to the Section 137 request from the Board was received on the 30<sup>th</sup> May 2024 addressing the issues raised.
- 2.6. As requested in Board Direction BD-016964-24, dated 11<sup>th</sup> July 2024, submissions are summarised below in this addendum report.

### **3.0 The Applicant’s Response**

- 3.1. On the 30<sup>th</sup> May 2024 the Board received the applicant’s response to the Section 137 request comprising the following:

- Cover letter from SCA Planning and Development Consultants.
- Enclosure 1: Letter from Declan Kearns & Associates.
- Enclosure 2: Letter including Appendices from Molloy Environmental Systems.

3.2. In respect to Objective AHO21 the response references the Architectural Heritage Protection Guidelines and notes that these guidelines, place responsibilities upon owners to maintain them and not to endanger them through neglect and to use them for compatible activity and therefore the elements to be retained in the context of facilitating the continued use of Martinstown House complies with the objective of protecting the curtilage of the Protected Structure.

The applicant again references the guidelines, stating that the most appropriate interventions in the curtilage of a Protected Structure tend to be low key and can be financially economical, and as such the elements that are subject to the application are low key, reversible, temporary, and financially economical in the support of the overall obligation on the landowner to maintain and not neglect the Protected Structure and its attendant grounds.

The applicant further states that the guidelines advise that the evidence presented by a surviving structure should be carefully examined for clues to the understanding of the building, and in this case notes that Martinstown House was not originally a principle primary residence and was a recreational estate with significant British military officers' quarters and equestrian activity throughout, which would be similar to the presentation of the elements under consideration in this appeal. Therefore, the applicant considers that the proposed development is in accordance with the particular objective as interpreted by reference to the superior guidelines prepared by the Government Arts and Heritage Department to inform planning authorities in this regard.

3.3. In respect to Objective AHO 32 the response includes two images of Martinstown House, when events are occurring, and states that there is no physical element that obscures views to the principal elevations of the gothic hunting lodge. The applicant states that the development does not and will not adversely impact on the setting of the Protected Structure or obscure views, particularly across the formal lawn which is very well maintained. In addition, given the extant peripheral woodland, there are no

external views into the demesne and therefore will have no negative impact upon the setting and character of Martinstown House.

The applicant contends that the demesne has always supported events and military encampments. The potential impacts have been minimised and the glamping and carriage accommodation is to the rear of the main building and out of public view of the attendance at events on the front lawn and in the walled garden, and there is no significant impact upon the unique character and setting of the Protected Structure. The structures to be retained are temporary and interesting to users and tent accommodation and marquees would have featured frequently during the historic use and the use is entirely consistent with best practice for Protected Structures.

The submission reiterates that all of the items are reversible, and the Board should be satisfied that the temporary structures could be removed with minimal/no remaining impact on the Protected Structure, its setting and curtilage and on balance have impacted positively in terms of sustaining economic use and viability of the proposed structure. The applicant references that similar conclusions were reached in the inspectors' report under ABP.307991.

- 3.4. In response to item 2, the applicant notes that the Board refers to the Environmental Section report (6<sup>th</sup> June), however this was prepared too late to be considered by the planning department in its overall assessment of the planning application but notes that Water Services Division and Irish Water had no objection to the development subject to condition. The applicant states that the use of Martinstown House is all-year, and the house is a guest house between events, that give rise to a peak demand. The polished effluent discharge percolates to ground in agricultural farmland a significant distance from any boundary or watercourse.

The applicant contends that it is best practice to plan treatment capacity for the maximum demand. However, the Board letter has not clarified what issues of concern arise due to the potential that the system provided may be oversized to cater for the actual capacity of this site. The site has a history of use and capacity, or limitation and capacity is not an issue under consideration in this appeal. The maximum capacity demand is driven by the wedding and other event occasions, not when the accommodation is in use before or after events.

- 3.5. Enclosure 1: The report from Declan Kearns and associates' states that the sources of effluent table figures became corrupted in the original PDF file, and these have now been revised. The actual design hydraulic loadings and organic loadings and the capacity loadings that the installed system can cater for have now been shown. While the installed system is larger than the design, it is noted that the installed system is a Sequential Batched Reactor (SBR) system which is designed to cater for variable flows typical typically generated by wedding venues, sports facilities come hotels etc. where the system can deal with shock loading and buffer tanks and deal with the loadings in a controlled steady manner without overloading the polishing filter. It is stated that these systems are also ideal for this type of venue, where they can deal with long periods of zero flow when the premises are closed or have low use.
- 3.6. Enclosure 2: The report from Molloy Environmental Systems states that the comment that the WWTP may be oversized, is a valid comment, however the underloading aspect of WWTP has much less impact where the SBR systems are concerned and installed.

It further states that Martinstown House occupancy and wastewater treatment requirement is a classic case of the difficulty of providing good effluent treatment where there are very large seasonal variations of occupancy, and this site would be at the upper end of fluctuations in flow rates. The venue has normal intermittent occupancy and operates as a wedding venue, which dictates that any wastewater treatment plant will encounter very large variations in flows including shock loading on wedding days. The design of the wastewater treatment plant for Martinstown House had to take this issue into account. The wastewater treatment plant has the normal buffering combined with an extra buffering tank that only comes into use when there is very high shock loading like during wedding days. The extra effluent accumulated in the buffer tanks is dealt with over the following relatively slack days.

In relation to the proposal, all waste water treatment systems have to be designed to accommodate the maximum of any one day's flow, the SBR buffering and in case of special extra buffering allows the treatment system to be kept to a minimum size in the percolation dispersal area by spreading high load in days over slacker days.



Molloy Environmental Systems state they have experience of SBR installation and particular experience of intermittent occupancy sites like sport facilities, schools, and seasonal active hotels. They also have long experience of the relevant effluent organic content of various facilities and apply that extra experience when designing systems regardless of very general guidance provided by the EPA Small Communities Table 3. To conclude Molloy Environmental Systems state they have full confidence that the wastewater treatment plant installed Martinstown House is the best design that accommodates the large variations in seasonal occupancy.

- 3.7. The applicant states that it is their considered opinion that the wrong section of the Planning and Development Act has been used in this communication as it is inappropriate to use this in the context of the information that came to the notice of the Board by the late preparation of the Environmental Section report. Taking into account the nature of the further information required by the Environmental Section and the detailed investigations required to prepare an adequate standard to allow the Board to assess, it is suggested that Section 132, which is not as time bound as Section 131 and 137 would be the correct section of the Act for the Board to have used.

## **4.0 Planning Authority Response**

- 4.1. Kildare County Council in a response dated 24<sup>th</sup> May 2024, made the following points:
- In regard to point 1 the planning authority would concur with this opinion, the development for retention particularly the stable block converted into 5 no. bedrooms, the communal tent (appears to be an army tent), the wooden wagon/ green cart, the steel shipping container and car tarp covered seating area and the prefabricated WC/ shower block structure are of poor quality and result in an ad hoc pattern of unauthorised development on the site and detracts from the setting, character and cartilage of the Protected Structure and does contravene objectives AHO21 and AHO32 of the Kildare County Department Plan, which seek to protect the curtilage of the Protected Structure and ensure development does not adversely impact the setting of the protecting structure.

- In regard to point 2 the applicant has not demonstrated that the WWTS for retention adequately details the waterflows from the development for the following reasons:
  - The reasoning in the WWTS Declan Kearns report dated the 12th of April 2023 is unclear.
  - The Declan Kearns report dated the 12th of April 2023 states the design of the WWTS was oversized to allow for future development the report is not considered the possibility that this strategy could lead to deficient performance of the WWTS due to overloading.
  - There are arithmetic errors in the Molloy Environmental Report dated 5th of December 2019.

## 5.0 **Assessment**

5.1. Having reviewed the applicant's response and the submission received from Planning Authority, I am satisfied that the main matters to be considered in this addendum report to the original Inspectors report for appeal ref. ABP-317520-23 dated 21<sup>st</sup> February 2024, are as follows:

- Impact on the Protected Structure; and
- The disposal and treatment of wastewater on site.
- Other Matters

### 5.2. **Impact on the Protected Structure**

- 5.2.1. The original Inspector's report (ABP-317520-22, 21<sup>st</sup> February 2024) sets out a detailed assessment on the impact of the development to be retained on the setting and character of the Protected Structure, and this addendum report will refer back to that assessment, whilst addressing any additional points of note in the applicant's response relating to this matter.
- 5.2.2. In relation to applicants' reference to the Architectural Heritage Protection Guidelines for Planning Authorities, 2011, and the historic and continued use of the structure, I note, as per Section 8.2.2 of the original inspectors' report, that the principle of the development was considered acceptable, subject to the character and amenity of the

area not being adversely affected. As such, I do not have an issue with the use of the items to be retained, which are associated with the overall use of the structure, as highlighted by the applicant.

- 5.2.3. The Architectural Heritage Protection Guidelines for Planning Authorities, 2011, are a practical guide for planning authorities and for all others on the protection of the architectural heritage and have a dedicated purpose concerning development objectives ‘for protecting structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social, or technical interest’.

The references to the guidelines in the applicant’s response are noted, however I reference Section 1.7.1 of the guidelines which states that “Planning authorities are empowered to protect the architectural heritage, in the interest of the proper planning and sustainable development within their respective functional areas, and to prevent its deterioration, loss or damage. This will be reflected in the adoption of suitable policies for protecting the architectural heritage in their development plans and giving practical effect to them through their development control decisions”.

Section 6.1.1 further states “Each development plan must include policy objectives to protect the architectural heritage in its functional area. A primary policy should be to take the necessary steps to ensure the protection of the architectural heritage when exercising the development control function so that these structures retain their character and special interest and continue to contribute to the social and economic mix of the planning authority’s functional area”.

Accordingly, regard should be had as part of this assessment, to the policy objectives of the Kildare County Development Plan, 2023 - 2029, specifically Policy Objectives AH O21, AHO 32, which relate to protecting the curtilage of a Protected Structure from inappropriate development that would adversely impact on its setting.

- 5.2.4. In relation to the principal elevations of the structure, the applicant states that the development does not impact on the setting of the Protected Structure or obscure views across the formal lawn and noted the woodland demesne setting. However, I note that the steel shipping container with roller shutter door and the exposed steel structure associated with the seating area, are positioned to the southwest, of the rear elevation, of the main dwelling and are visible from the lawn area to the side of

the main structure and, therefore, detract visually from the setting and character of the Protected Structure.

- 5.2.5. Notwithstanding the temporary and reversible nature of the structures the subject of this appeal, the concerns in relation to their design, location and impact on the Protected Structure remain, as stated under Section 8.3.4 of the previous inspectors' report.
- 5.2.6. In relation to the planning inspector's assessment as part of reference ABP.307991, I note that all appeal cases are assessed and determined on their own merits having regard to the sensitivity of the receiving environment and the specifics of the proposed development.
- 5.2.7. I also note that the Planning Authority in their response concur with the decision that development on the site detracts from the setting, character and curtilage of the Protected Structure and does contravene objectives AHO21 and AHO32 of the Kildare County Department Plan, 2023 - 2029.
- 5.2.8. Having examined the received submissions I consider that no significant new information or comment has been made that would result in a different recommendation to that originally made and as such I recommend that reason for refusal 1 be included.

### **5.3. The disposal and treatment of wastewater on site**

- 5.3.1. The original Inspector's report (ABP-317520-22 21<sup>st</sup> February 2024) sets out a detailed assessment in relation to the disposal and treatment of wastewater and had regard to the further information requested by the local authority Environmental Section, report dated 6<sup>th</sup> June 2024, in particular the discrepancies and lack of information submitted in respect to these proposals. This addendum report will refer back to that assessment, whilst addressing any additional points of note in the applicant's response relating to this matter.
- 5.3.2. I note that the applicant's response includes a revised report of effluent treatment systems and polishing filter which indicates the actual design hydraulic loadings and organic loadings and the capacity loadings for the proposal. This addresses the discrepancies previously noted in the original planning application.

- 5.3.3. The response also provides commentary on the proposed Sequential Batched Reactor (SBR) system proposed, which is designed to cater for variable flows in effluent, whereby the system can deal with shock loading and buffering tanks can deal with the loadings, without overloading the polishing filter. There is an extra buffering tank, which comes into use when there is high shock loading on the system, for example during wedding days/events.
- 5.3.4. The response also notes that these systems are used for venues where the SBR system can deal with both seasonal variations of occupancy and periods of zero flow.
- 5.3.5. Having regard to the information submitted and the clarification provided by the applicant in respect to the proposed wastewater treatment plant by Declan Kearns and Associates and Molloy Environmental Systems, I am satisfied that the system as proposed (i.e. SBR) is suitably sized and is suitable to cater for the type of facility and is designed to accommodate variations in seasonal occupancy.
- 5.3.6. I also note that the Planning Authority in their response referenced the discrepancies and lack of information provided Declan Kearns report dated the 12th of April 2023, which I consider to be addressed as noted above.
- 5.3.7. Having examined the received submissions, I consider that the information submitted by the applicant addresses the concerns previously raised in relation to the proposals for the disposal and treatment of waste water on site. Accordingly, I recommend that reason for refusal No. 2 as per the original inspectors' report be removed.

5.3.8. **Other Matters**

5.3.9. Procedural Issues

The applicant queries the Boards use of Section 137 of the Planning and Development Act, 2000, as amended and suggests that Section 132, would have been more appropriate in this instance, which is not time bound.

I note that Section 132 of the Act relates to the power of the Board to require submissions or documents, etc to enable a decision to be made, whereas Section 137 of the Act relates to matters other than those raised by parties. Section 137 is

considered relevant in this instance as the items raised in the inspectors' report were considered new issues for consideration by the Board.

#### 5.3.10. Miscellaneous Issues:

The applicant has made reference to the economic viability associated with the use of the structure as referenced in the Architectural Heritage Protection Guidelines for Planning Authorities, 2011. However, I do not consider that the Board is in a position to draw any conclusions in relation to the matters raised.

## 6.0 **Conclusion**

- 6.1. With reference to Board Direction BD-015926-24, the applicant's submitted Section 137 response dated the 30<sup>th</sup> May 2024, the submissions from the planning authority with respect to the same, and the relevant provisions under the Kildare County Development Plan 2023-2029, this addendum report as requested in Board Direction BD-016964-24 concurs with the conclusion presented in section 9 of the original Inspector's report, i.e. to refuse permission, however based on the information submitted, the second reason for refusal should be omitted.

## 7.0 **Recommendation**

- 7.1. The recommendation remains that permission be REFUSED subject to the reasons and considerations set out in sections 8.3 and 10.1.1 of the original Inspector's report, and with the omission of reason for refusal 2, Section 10.2, of the original Inspector's report, as set out below:

1. The structures to be retained on site due to their design, scale and form are not considered a high quality or sensitive design for their location within the curtilage of a Protected Structure, and as such, are considered inappropriate development that adversely impacts on the visual amenity, setting, attendant grounds, and the special character of the Protected Structure within its curtilage. The development to be retained would be contrary to Policy Objective AH O21, and Policy Objective AHO 32 of the Kildare County Development Plan, 2023 – 2029 and would, therefore, be contrary to the proper planning and sustainable development of the area.

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.



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Emma Nevin  
Planning Inspector

29<sup>th</sup> July 2024