



An
Bord
Pleanála

Inspector's Report ABP317798-23

Development

Construction of an extension to the rear of house, and park a mobile home on site to be used as living accommodation for the duration of the construction of the extension.

Location

Ballycahane, Ballinahinch, Birdhill, Co. Tipperary.

Planning Authority

Tipperary County Council.

Planning Authority Reg. Ref.

2358.

Applicant(s)

Lorraine Shanahan.

Type of Application

Permission.

Planning Authority Decision

Grant permission subject to 10 conditions.

Type of Appeal

Third Party

Appellant(s)

Steve Edwards.

Observer(s)

None on file.

Date of Site Inspection

7th November 2023.

Inspector

Des Johnson.

1.0 Site Location and Description

- 1.1. The site is located on a narrow local road (L2068), a short distance to the south of the M7 motorway (as the crow flies), and approximately 2km north-west of Killoscully, Co. Tipperary.
- 1.2. There is a single storey semi-detached dwelling on the site. Wooden fencing has been erected along the total site frontage. A setback entrance gives access to a stoned area to the rear of the dwelling on which a large mobile home (which appeared occupied) is sited and two transit vans were parked. A concrete block wall has been erected to the rear of the single storey dwelling along the boundary with the adjoining property. Three flagpoles are evident adjacent to this entrance.
- 1.3. The adjoining semi-detached dwelling has an extension constructed to the rear, and there is a detached single storey cabin like structure in the garden space to the side of this premises. The area to the rear of this premises is grassed and appeared unmaintained at the time of inspection.
- 1.4. The public road to the front of the appeal premises is narrow, with hedgerows either side, no public lighting and no footpaths.

2.0 Proposed Development

- 2.1. The proposal is for the construction of a rear extension to existing house, and to park a mobile home on the site to be used as living accommodation for the duration of the construction of the extension.
- 2.2. The gross floor area of the proposed extension is stated to be 60sqm, the gross floor area of the existing building is stated to be 28sqm, and the mobile home is 37sqm in floor area. The site area is stated to be 0.21ha.
- 2.3. It is proposed to connect the mobile home to an existing 3400 Lt pre-cast septic tank.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 10 conditions. The conditions imposed may be summarised as follows:

1. Standard compliance
2. Mobile home to be removed from the site within 1 month of the occupation of the extension
3. Septic tanks requirements, including the installation of new system and decommissioning of existing septic tank and percolation area.
4. Materials and finishes
5. Landscaping scheme
6. Water connection
7. Demolition/construction works requirements
8. Surface water run-off requirements
9. Requirement to inform the County Council regarding any public services encountered during foundation construction
10. Financial contribution

The Planning Authority's decision was made following the submission of Further Information. This included the following:

- Site Suitability Assessment Report and recommendations for a new effluent treatment system
- Commercial vans are parked on the site and will be when the house renovations and extension are completed. The vans are used for the applicants work
- The mobile home will be used by the applicant as living accommodation for the duration of the construction of the extension
- A landscape plan is submitted with planting schedule

- Irish Water confirmation of a connection is submitted.
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3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning authority requested Further Information regarding several aspects of the proposed development, and a new public notice was published on 1st July 2023.

The Planners Report may be summarised as follows:

1. A new septic tank and percolation area are proposed and site suitability tests are submitted. No bedrock or water encountered in 2.8m trial hole. Site is on a locally important Aquifer with High Vulnerability. The proposed system is certified by the assessor and therefore deemed acceptable.
2. Applicant states that no commercial use is taking place on the site. Commercial vehicles are used by the applicant for work. The mobile home will be used by the applicant and family as living accommodation for the duration of construction of the proposed extension.
3. Landscaping scheme is submitted.
4. No confirmation of feasibility of connection to water supply has been submitted. As there is an existing dwelling on the site, this can be addressed by way of condition.
5. Alleged unauthorised development has been investigated and deemed not to be unauthorised.
6. Cutting of trees is not a planning matter as the trees are not protected. It is a civil matter along a common boundary.
7. Revised newspaper notice was published in the Nenagh Guardian dated 1st July 2023.
8. One observation was received raising issues including alleged commercial activity on the site, absence of public water supply, unauthorised septic tank, overlooking and loss of privacy, boundary concerns, drainage and flooding

risk, health and safety concerns, and traffic safety concerns. All the issues raised were considered by the planning authority.

9. The proposed development complies with the policies and objectives of the Tipperary County Development Plan 2022-2028. The design and layout of the proposed extension is acceptable, there is an existing connection to public mains water supply, and the site is outside a fluvial flood zone.

3.2.2. Other Technical Reports

None on file.

4.0 **Planning History**

No recent planning history recorded.

Warning Letter (dated 24th March 2023) TUD-23-024 relating to the installation of a septic tank/sanitary facilities on the site.

5.0 **Policy and Context**

5.1. **Development Plan**

The Tipperary County Development Plan 2022-2028 applies.

Section 4.12 relates to domestic extensions. Guidelines are outlined which require that generally ground level extensions are to be subordinate to the main dwelling in scale and design and should integrate with the main dwelling, should have regard to the amenities of adjoining property and, where a dwelling is served by an on-site waste water treatment system, the applicant should demonstrate compliance with the EPA Code of Practice.

5.2. **Natural Heritage Designations**

Silvermines Mountains West SAC approximately 2.5km separation

Slievefelim to Silvermines Mountains SPA approximately 2.5km separation

5.3. **EIA Screening**

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

6.0 **The Appeal**

6.1. **Grounds of Appeal**

These may be summarised as follows:

1. The existing septic tank is breaching EPA requirements, and is shown in an incorrect location. False information was submitted with the application. The applicant states that there is a percolation area on the site, but there is not. The application is to connect a mobile home to the existing septic tank that does not meet EPA standards, and there is concern that this may be for an indefinite period. Following a request for further information relating to the existing septic tank, the applicant instead submitted plans for a new septic tank and percolation area.
2. The applicant does not live on the property, and no one has lived there for years. Running water was only installed after the planning decision was made. The existing septic tank was installed in December 2022 without planning permission and has never been used. The unauthorised, unregulated septic tank is close to the appellants property and there are public health concerns.
3. The Site Suitability Assessment report is based on false, inaccurate information.
4. In a Further Information submission, the applicant submitted a landscape plan including hedging along the boundary with the appellants property. The applicant has laid concrete next to this boundary at least 0.5m wide, and erected a 2.3m concrete block wall next to the existing tree boundary. The proposed hedging cannot be planted due to the wall/concrete footings. The submitted landscape plan cannot be implemented as required in Condition 5 of the permission granted.

The 2.3m high wall is not in line with the interests of visual amenity in this rural setting.

5. The site is being used commercially. There is parking and loading/unloading of large commercial vehicles in connection with the applicant's removals business. The appellant is concerned that the commercial use of the site will increase. A large number of commercial vehicles should not be allowed to park at a residential address. The site is served by a small country lane only wide enough for 1 vehicle.
6. The proposed extension is only 0.5m from the boundary. This will impact on the appellants' right to light. The boundary wall is already blocking light.

6.2. **Applicant Response**

None on file.

6.3. **Planning Authority Response**

None on file.

6.4. **Observations**

None on file.

6.5. **Further Responses**

None on file.

7.0 **Assessment**

7.1. I submit that the key issues to be addressed in this appeal are as follows:

- Submitted documentation
- Septic tank issues
- Alleged commercial use of the site
- Access

- Impact on the amenities of adjoining property

7.2. Submitted documentation

The submitted Site Layout Plan with the application to the Planning Authority does not accurately reflect the development on the ground as observed at the time of my site inspection. In particular, a new site access arrangement to the side of the existing dwelling is evident, including double wooden gates and wooden fencing splays, the orientation of the mobile home appears incorrect, and a concrete block wall to the rear of the dwelling along the boundary with the adjoining semi-detached dwelling is not shown. The revised Site Layout Plan submitted by way of Further Information contains similar inaccuracies. There is no evidence submitted to indicate that the new access and front boundary treatment are authorised.

7.3. Septic tank issues

The original, public notice (published 25th February 2023) states that the proposal is to construct an extension to the rear of existing house, and to park a mobile home on the site to be used as living accommodation for the duration of the construction of the extension. The planning application form states that the mobile home is to be connected to existing septic tank. The submitted Site Layout Plan shows a septic tank and three percolation trenches to the south east of the proposed extension. Following requests for Further Information a revised public notice was published on 1st July 2023 stating that significant further information had been submitted relating to the installation of a new effluent treatment system. The submitted revised Site Layout Plan indicates a revised siting for the septic tank and percolation area (5 x 18m percolation trenches).

7.4. There is evidence that the “existing” septic tank/sanitary facilities on the site are unauthorised and were subject to a Warning Notice issued on 24th March 2023. The original application Site Layout Plan shows the mobile home connected to the unauthorised septic tank whereas the Further Information Site Layout Plan dated 2nd July 2023 shows the mobile home connecting to the proposed septic tank and percolation area. At the time of inspection, the mobile home appeared to be occupied.

7.5. The planning permission granted relates to the application documents as modified by Further Information submitted on 2nd July 2023 and 29th July 2023 (revised public

notice). The permission (Condition 2) requires the mobile home to be removed from the site within 1 month of the occupation of the extension for reason of protecting the amenities of the area and controlling the intensity of use on the site. Condition 3 specifies requirements in respect of the proposed septic tank and also, requires “the existing septic tank and percolation area shall be decommissioned once the proposed system is operational, the subject area backfilled and all contaminated soil removed to a licensed operator”. Based on the information on file, I conclude that the mobile home is connected to an unauthorised septic tank and could remain so connected for an unspecified period up to within 1 month of the occupation of the proposed extension, which is required, as part of the extended dwelling, to connect to the proposed septic tank and percolation area. On this issue, I conclude that the proposed development would be directly facilitated by the continued use of an unauthorised septic tank/sanitary facilities.

7.6. Alleged Commercial Use

The appellant states that the site is being used for commercial purposes. I did not witness any commercial activity at the time of inspection, although two transit vans were parked on the site. The proposed development, as advertised in public notices, does not include any proposal for the commercial use of the site.

7.7. Access

The surrounding road network is substandard, but appears to be lightly trafficked. There is an existing dwelling on the site and submitted drawings indicate that this has two bedrooms. The proposed extension to the dwelling, providing hall, kitchen, living room and toilet/shower would, by itself, be unlikely to generate significant additional traffic movements on the local road network and, as such, I conclude is acceptable.

7.8. Amenities of adjoining dwelling.

The proposed extension is single storey with a flat roof. It provides for a new access and hall to the north-east elevation. There are no windows or doors facing on to the adjoining dwelling to the south-west. The appellant contends that the proposal would result in the loss of light to his property. Having regard to the design and scale of the proposed development and its orientation relative to the adjoining property, I

conclude that the proposed development would not result in any significant loss of light or injury to the amenity of the adjoining property.

7.9. Appropriate Assessment Screening

Having regard to the nature and scale of the proposed development, the receiving environment, the separation distances, and the absence of any pathway to European sites, it can be concluded that the proposed development, in its construction or occupation, alone or in-combination with other plans or projects, would not give rise to any significant effects on any European site, having regard to their qualifying interests and associated conservation objectives. As such, there is no requirement for a Natura Impact Statement in this case.

7.10. Conclusion

I conclude that the submitted documentation submitted with the application and by way of Further Information does not accurately show the extent of existing development on the ground. Based on the information on the file and from observations made at the time of inspection, I conclude that the proposed development would be facilitated by existing unauthorised development on the site and. as such, the granting of permission would be contrary to the proper planning and sustainable development of the area.

8.0 Recommendation

8.1. I recommend that planning permission be refused.

9.0 Reasons

1. It is considered that the proposed development, if permitted, would be facilitated by existing unauthorised development on the site. In particular, the mobile home is connected to a septic tank and percolation area for which there is no evidence of a planning permission, and is accessed by an access from the adjoining road for which there is no evidence of a planning permission. In such circumstances, the Board considers that the granting of permission for the proposed

development would be contrary to the proper planning and sustainable development of the area.

2. The Board is not satisfied that the Site Layout Plans submitted with the original application to the Planning Authority on 6th March 2023, or submitted to the Planning Authority by way of Further Information on 2nd July 2023, accurately depict the extent and layout of existing development on the site.

Des Johnson
Planning Inspector

13th November 2023

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.