



An
Bord
Pleanála

Inspector's Report

ABP-317851-23

Development

PROTECTED STRUCTURE: Minor works to Rockvalley House and conversion of the existing coach house to private living quarters, restoration of the ruinous cottage and a new wastewater treatment system and all associated site works.

Location

Rockvalley House, Puckaun, Nenagh, Co. Tipperary.

Planning Authority

Tipperary County Council

Planning Authority Reg. Ref.

2360291

Applicant(s)

Robin & Clare Elwes

Type of Application

Planning Permission

Planning Authority Decision

Grant permission

Type of Appeal

First Party against Condition 1 (b)

Appellant(s)

Robin & Clare Elwes

Observer(s)

None

Date of Site Inspection

9th August 2024

Inspector

Catherine Dillon

1.0 Site Location and Description

- 1.1. The subject site is on the eastern side of the R493, accessed via a driveway leading to a detached two storey dwelling over a basement known as Rockvalley House, a protected structure. There are a number of outbuildings to the northeast of the main dwelling including a 'coach house', dilapidated cottage, a single storey outbuilding and an agricultural shed.
- 1.2. Rockvalley House overlooks Clareen Lough to the north. The site has a stated area of 0.465 ha and is located approximately 300m north of Puckaun village in Tipperary.

2.0 Proposed Development

- 2.1. The proposed development comprises a number of elements that can be summarised as follows:
 - Minor works to Rockvalley House, to include replacing rear external steps and internal alterations to provide a wc, office and two rear wall vents at basement level.
 - Following a further information request the proposed use of the coach house was amended from use as private living quarters to the conversion of the building to a garden room, gym, store and shower room on the ground floor with ancillary storage to the main house on the first floor. Alterations to the coach house building include raising the height of the roof, new timber windows and doors in opes. The coach house would have an overall floor area of 103m².
 - Restoration of the cottage, repair and build back the walls, construct a new slate roof and installation of timber door and windows. The cottage would have a floor area of 15.4m².
 - A new secondary treatment system & soil polishing filter to replace the existing septic tank. The system is proposed to serve the existing dwelling house and converted coach house. The site suitability assessment form indicates the treatment system would accommodate 10PE, 4 bedrooms in the main dwelling and 2 bedrooms in the coach house.

- 2.2. The application was accompanied by an Architectural Heritage Impact Assessment.
- 2.3. The proposal as amended is the subject of this appeal.

3.0 Planning Authority Decision

3.1. Decision

On 24th July 2023, Tipperary County Council issued a notification to grant planning permission for the development, subject to 6 conditions. Conditions of note in the P.A decision are summarised below:

Condition 1(b): Omission of shower room in the coach house.

Conditions 2 & 3: Supervision of works and adequate record of works to protected structures.

Condition 4: The coach house and store to be used only for purposes incidental to the enjoyment of the dwelling house and shall not be used for any residential, commercial or industrial purpose.

Condition 5: Dwelling to discharge to secondary treatment system and polishing filter and works to be carried out in accordance with EPA 2021 Code of Practice.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The initial planning report dated 16th June 2023 concluded the proposed works to Rockvalley House, the coach house and cottage would result in an overall positive impact on the protected structures. The P.A were satisfied that the proposed new on-site treatment system was acceptable. Further Information (F.I) on matters relating to the use of the coach house as a standalone residential unit was issued, as it was considered the development did not comply with points a-e in Section 4.13 of the CDP (outlined in 5.1.3 below) relating to ancillary family accommodation.

3.2.3. The second planning report dated 13th July 2023 was satisfied the issues raised in the F.I response had been addressed. The applicant in their F.I response stated the main objective was to avoid the coach house going into decay due to its ongoing lack of use, and where it was initially proposed to use the coach house as ancillary

accommodation to the main dwelling, the revised proposal was for the coach house to be used as a garden room/gym/store/shower room. The planner's report noted the revised plans and considered given the proposed use of the coach building, a shower room was unnecessary.

3.2.4. Other Technical Reports

Nenagh Municipal District dated 7/6/23: No observations or comments to make.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

None

4.0 Planning History

None

5.0 Policy Context

5.1. Tipperary County Development Plan 2022-2028

- 5.1.1. **Policy 13-1:** Encourage and support the sympathetic restoration, re-use and maintenance of protected structures thereby ensuring their conservation and protection. In considering proposals for development, the Council will have regard to the Architectural Heritage Protection Guidelines for Planning Authorities, (DAHG 2011) or any amendment thereof, and proposals that will have an unacceptable impact on the character and integrity of a protected structure or adjoining protected structure will not be permitted.

5.1.2. Volume 3 Appendix 6 Development Management Standards

Section 4.12 Domestic Extensions

Section 4.13 Provision for Ancillary Family Accommodation: Consideration can be given to building ancillary accommodation as an extension to an existing house where it can be shown that such is required for a family member. Proposals for such development will be required to meet the following design requirements:

- a) There shall be direct internal access to the principle dwelling and the structure shall not form a permanent separate self-contained unit from the principle dwelling.
- b) The extension shall be modest in size and shall not provide more than one bedroom (2 bedrooms in exceptional circumstances).
- c) The extension shall not exceed a gross floor area of 50 square metres.
- d) There shall be no subdivision of the garden or entrance.
- e) The design should ensure that the extension forms an integral part of the main dwelling unit capable of integration for single domestic use when no longer required, and shall not be sold or leased separately.

5.2. Natural Heritage Designations

- 5.2.1. The subject site is not within or immediately adjacent to any designated or Natura 2000 sites. Lough Derg (Shannon) NE shore SAC (site code 002241), Lough Derg SPA (site code: 004058) are c.2.3km and 1.9km respectively to the north west of the subject site. Clareen Lough pNHA (site code: 000929) is c.120m to the north of the site and is hydrologically linked to Lough Derg SAC and SPA.

5.3. EIA Screening

- 5.3.1. The proposed works do not constitute a Class listed in Schedule 5, Part 1 or 2 of the Planning & Development Regulations 2001, as amended. As such, no EIAR or Preliminary Examination is required in this instance. I refer the Board to the completed Form 1 attached.

5.4. The Appeal

5.5. Grounds of Appeal

- 5.5.1. The applicants have appealed condition 1 (b) of the Planning Authority's Notification to grant, which omits the shower room from the coach house. The following points are noted from the appeal submission.
 - The intended use of the coach house is to serve and function subsidiary to the family home by the applicant, serving their own private needs and the application should be assessed on these grounds.

- Development is not inconsistent with County Development Plan policy, and Section 4.13, is not relevant to the appeal proposal.
- The P.A have no role in determining the internal arrangement of the coach house and to omit the shower room is considered unreasonable.
- The provision of the shower room is an essential component of the private use of the property and would not impact on the conservation value of the structure.
- Works to the coach house will contribute to the conservation and preservation of the protected structure.

5.5.2. The first party appeal requests the Board to exercise its discretion under Section 139(1) of the Planning and Development Act, 2000 (as amended), to restrict itself to the consideration of condition no. 1 (b) only.

5.6. **Planning Authority Response**

None

6.0 **Assessment**

6.1. I have read the appeal submission, file documentation and the relevant provisions of the Tipperary CDP and have carried out a site inspection. I consider the main issues in the assessment of this appeal are as follows:

- Scope of the Appeal;
- Consistency with provisions of the Development Plan;
- Merits of Condition 1 (b); and
- Appropriate Assessment.

Scope of the Appeal

6.2. The proposed development is for minor works to Rockvalley house, and the conversion of two buildings within the curtilage of the house namely the coach house and cottage. The development also includes the replacement of the existing septic tank with a new wastewater treatment system and polishing filter. There were no

objections from the public at application stage and no objections in the internal reports of the planning authority to the development. I agree with the P.A the proposed works to Rockvalley House, coach house and cottage would result in an overall improvement to the protected structure and structures within its curtilage.

- 6.3. Having regard to these factors I am satisfied that the only planning matter arising in this case is the appealed condition number 1 (b) and that the appeal may be determined under section 139 of the Planning and Development Act 2000, as amended, and I am satisfied that the proposed development is otherwise in accordance with the proper planning and sustainable development of the area.

Consistency with the provisions of the Development Plan

- 6.4. The coach house as amended in the F.I response is to be used as a garden room, gym, storeroom with a shower room and would have an overall floor area of 103m². I have had regard to the applicant's grounds of appeal which states the configuration of the coach house 'lends itself to the provision of private accommodation ancillary to the main house, at the relative discretion of the owner', and regards Section 4.13 of the CDP, as not applicable in the assessment of the conversion of the coach house as it is not a new structure. Although the coach house is not a new structure, I consider Section 4.13 of the CDP is applicable to the conversion of the coach house if it is to be used for ancillary family accommodation.
- 6.5. Despite the internal arrangement of the coach house being amended from a two bedroom unit to a garden room, store and gym, I note the site suitability assessment for the new wastewater treatment system has been designed to connect to the coach house, and the P.E. of the treatment plant has been designed to accommodate for the coach house to be used as a self-contained residential unit. I acknowledge the internal layout of the coach house was amended during the F.I stage, however the layout is such it could easily be used as a self-contained residential unit, particularly as it would be connected to the new treatment plant.
- 6.6. Section 4.13 of the CDP provides consideration for ancillary family accommodation to an existing house subject to certain criteria being met; inter alia, it can be shown it is required for a family member, there is direct access to the principle dwelling, the structure shall not form a permanent separate self-contained unit, it is modest in size, there is no subdivision of the garden or entrance, and it can be integrated back

to the main dwelling and cannot be sold or leased separately. I note the coach house following the F.I amendments would still be linked to the proposed new wastewater treatment system and have an enclosed garden area with a separate entrance, which suggests it would not form an integral part of the main dwelling, and therefore could be sold or leased separately at the applicant's discretion. The P.A in the F.I request sought the removal of the living accommodation as it did not meet the criteria in Section 4.13 of the CDP. Although the coach house is not a new structure, I would agree with the P.A's application of Section 4.13 in this instance, as the coach house could be used as an independent residential unit.

- 6.7. While it is understandable that the P.A sought to avoid a secondary residential use on this site it is equally reasonable that the applicant has a shower in a gym associated with a domestic use. Additionally, the P.A has enforcement powers under the Planning and Development Act should unauthorised development be carried out. I also note Condition 4 of the P.A's notification to grant restricts the use of the coach house to be used only for purposes incidental to the enjoyment of the dwelling house and shall not be used for any residential, commercial or industrial purpose.

Merits of Condition 1 (b)

- 6.8. The P.A have not commented on the appeal, however, I consider the removal of the shower room would include the removal of the w.c., thus prohibiting the use of the coach house being used as a self-contained residential unit. Although the revised plans removed the 2 bedrooms from the coach house, the inclusion of the shower room, w.c. and connection to the treatment plant would in my opinion enable the coach house to be used as an independent living unit and would not be in compliance with the criteria specified in Section 4.13 of the CDP for such development.
- 6.9. The inclusion of a shower room associated with a gym is not considered unreasonable. Condition 1 (a) of the planning authority's notification to grant requires the development to be carried in accordance with the plans and particulars as amended by way of further information, and condition 4 prohibits the use of the coach house being used for any residential, commercial or industrial purpose. Should the coach house be used for any residential or commercial purposes it would

be contrary to conditions 1 (a) and 4 of the planning permission. I therefore consider condition 1(b) is unnecessary, and recommend it is removed.

7.0 Appropriate Assessment (AA) Screening

- 7.1. I have considered the development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The application did not include an AA screening report. However, Tipperary County Council concluded that the proposed development would not be likely to have any significant effect on Natura 2000 sites, individually or in combination with any other plan or project, and that Screening for Appropriate Assessment was not required.

Location of the site and description of project

- 7.2. The subject site is located approximately 1.9km to the south east of Lough Derg, North-east Shore SAC (site code: 002241) and 2.3km to the south east of Lough Derg (Shannon) SPA (site code: 004058). Clareen Lough pNHA is c.120m to the northern boundary of the subject site.
- 7.3. As previously outlined the development involves minor works to the main dwelling and the conversion of the coach house and derelict cottage and the construction of a new wastewater treatment system with a soil polishing filter. The application was submitted with a Site Suitability Assessment report in accordance with the EPA Code of Practice for Domestic Wastewater Treatment Systems (2021).
- 7.4. The site suitability assessment report states there is no evidence of a percolation trench serving the existing system and that the effluent level in the existing septic tank indicates that the tank is not watertight, and the tank covers are in poor condition. Trial hole tests confirm the presence of deep well drained soils/subsoils but that the gravely silt layer recorded from a depth of 2m downwards was saturated suggesting that the water table does rise to this level during wet periods. The site assessment indicates that there is a locally important aquifer which is moderately productive only in local zones and that groundwater vulnerability is extreme. Ground water protection response matrix (R2¹) indicates that wastewater treatment is acceptable subject to normal good practice.

Potential impact mechanisms from the project

7.5. Having regard to the characteristics of the proposed development in terms of its location, nature and the scale of works, the following issues are considered for examination in terms of likely significant effects on European sites:

- Surface water and ground water pollution

As a result the project has the potential to affect the European sites in terms of the following:

- Changes in water quality.
- Habitat loss or degradation.
- Effects on groundwater dependent habitats.

Relevant European Sites

7.6. Having regard to the location, nature and scale of the project, I consider the following 2 European sites at risk from the project:

- Lough Derg (Shannon) SPA (site code: 004058)
- Lough Derg North east Shore SAC (site code: 002241).

7.7. Clareen Lough pNHA flows into the Johnstown watercourse to the north west of the site which flows into Paulawee Lough and ultimately into the aforementioned Natura 2000 network. There is therefore the potential for surface and groundwater connectivity with Natura 2000 sites. I consider that the assessment for potential impacts on the Natura 2000 network can be limited to Lough Derg North-east Shore SAC & Lough Derg (Shannon) SPA. Table 1 below identifies the relevant European sites.

Table 1: European Sites at risk from the proposed project

Effect Mechanism	Impact pathway	European site	Conservation Objectives	Qualifying Interest features at risk
Changes in water quality.	No hydrological connection.	Lough Derg North-east Shore	To maintain (M) or restore (R) the favourable	Juniper Scrub [5130] (R)

Habitat loss or deterioration. Effects on groundwater dependent habitats.		SAC (site code: 002241) 2.3km to the north west of site	conservation condition of the SAC.	Calcareous Fens [7210] (M) Alkaline fens [7230] (M) Limestone pavements [8240] (R) Alluvial forests [91E0] (R) Yew Woodlands [91J0] (M)
Changes in water quality. Habitat loss or deterioration. Effects on groundwater dependent habitats. Species disturbance.	See above.	Lough Derg (Shannon) SPA (site code: 004058) 1.9km to the north west of the site	Maintain or restore the favourable conservation condition of the bird species and wetland habitat.	Cormorant [A017] Tufted Duck [A061] Goldeneye [A067] Common Tern [A193] Wetland and Waterbirds [A999]

Test of likely significant effects

- 7.25. In relation to potential construction-related impacts, I note that the site is not within or directly adjacent to the European Site, which is located a minimum distance of 1.9km from the development site. There is a hydrological link between Clareen Lough c.120m to the north and the wider drainage network which links to Lough Derg SAC and SPA. There is no watercourse on the site linking it to Clareen Lough. Furthermore, Lough Derg SAC and SPA consist of a substantial water body, which would have significant capacity for dilution of any effects due to its volume. Accordingly, I consider that significant construction-related effects in relation to water

quality are unlikely having regard to the limited scale of the development; separation distances involved; and the presence of substantial hydrological assimilative capacity.

7.26. With regard to habitat / species disturbance at operational stage, it is acknowledged that there will be on-site wastewater treatment. However, I am satisfied that wastewater can be adequately treated on site and would not significantly impact on surface water or groundwater.

7.27. Having regard to the limited scale of the development; the separation distances involved; and the presence of substantial hydrological assimilative capacity; I do not consider that any discharge of surface water associated with the development would be likely to impact on Lough Derg North-east Shore SAC & Lough Derg (Shannon) SPA.

Likely significant effects on the European site(s) in combination with other plans and projects

7.28. In terms of cumulative effects, the development must be considered in the context of various other projects in the area. All extant developments in the area are similarly served by on-site wastewater treatment systems and have been screened out for appropriate assessment. As previously outlined, the proposed development would not be considered to have a significant impact in respect of emissions at construction or operational stage. Similarly, I do not consider that the development is likely to have any such cumulative impact with other developments.

7.29. The application site is not located adjacent or within a European site and there is no risk of habitat loss or fragmentation. The site does not contain suitable habitat for qualifying interests and therefore there would be no potential ex-situ effects. The existing environment includes numerous on-site wastewater systems. The significant distance between the proposed development site and the European Site, and the weak and indirect ecological pathway is such that the proposal will not result in any likely changes to the Natura 2000 network.

Conclusion

7.30. I conclude 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. It is

therefore determined that Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000 is not required.

This conclusion is based on

- The limited zone of influence of potential impacts, restricted to the immediate vicinity of the proposed development,
- Standard pollution controls that would be employed regardless of proximity to a European site and effectiveness of same,
- Distance from European Sites,
- Impacts predicted would not affect the conservation objectives,
- Planning Authority's conclusion on AA screening..

7.31. No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

8.0 Recommendation

8.1. I recommend that the appeal be determined under section 139 of the Planning and Development Act, 2000, as amended and that Condition 1 (b) be removed.

9.0 Reasons and Considerations

Having regard to the layout and intended nature of the use of the coach house as a garden room, storage, and gym ancillary to the main dwellinghouse, it is considered the inclusion of a shower room within the coach house is not unreasonable, and conditions 1(a) and 4 of the planning authority's notification to grant preclude the use of the coach house as an independent residential unit. The planning authority's Condition 1(b) requiring the omission of the shower room is, therefore, not warranted. I therefore recommend Condition 1(b) be removed from the grant of planning permission.

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.

Catherine Dillon
Planning Inspector

11th September 2024

Appendix 1 - Form 1

EIA Pre-Screening [EIAR not submitted]

An Bord Pleanála Case Reference	317851-23		
Proposed Development Summary	Protected Structure: Minor works to Rockvalley House and conversion of the existing coach house to private living quarters, restoration of the ruinous cottage and a new wastewater treatment system and all associated site works.		
Development Address	Rockvalley House, Puckaun, Co.Tipperary		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No	X	N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____**Date:** 28th August 2024