



An  
Bord  
Pleanála

## Inspector's Report

### ABP-318065-23

#### Development

Retain works already carried out on site. Renovate and extend cottage. Change use of shed from agricultural building to living accommodation to be renovated as a granny flat/annex building with upgrade to septic tank and percolation bed together with all ancillary site works.

#### Location

Derrycoosh, Castlebar, Co. Mayo.

#### Planning Authority

Mayo County Council

#### Planning Authority Reg. Ref.

2360257

#### Applicant(s)

S & N Energies Limited

#### Type of Application

Permission

#### Planning Authority Decision

Grant

#### Type of Appeal

Third

#### Appellant(s)

John O'Malley & Eibhlín O' Malley

#### Observer(s)

None

**Date of Site Inspection**

06/03/24

**Inspector**

Darragh Ryan

## **1.0 Site Location and Description**

- 1.1. The existing cottage and sheds are located at Derrycoosh, 4km west of Castlebar. The site is located off a local road rural L-57113. The lands at this location are low lying agricultural land. The total site area is 0.1882ha.
- 1.2. There is an existing single storey derelict dwelling and farm sheds on site. To the north of the site is a mature evergreen hedgerow, beyond the hedgerow to the north is a new two storey dwelling house adjacent to the site boundary.

## **2.0 Proposed Development**

- 2.1. The proposal involves the following:
  - Retention of works already carried out on site, including of demolition of rear return of existing cottage and demolition of front porch.
  - Renovate and extend existing cottage (single storey extension 73.87m<sup>2</sup>)
  - Change of use of existing farm building to a one bedroom granny flat of 49.58m<sup>2</sup>

## **3.0 Planning Authority Decision**

- 3.1. The planning authority issued a Decision to GRANT Permission on the 24<sup>th</sup> of August 2023 subject to 12 conditions.
  - C3 – the main house and “independent living unit” shall be retained in single ownership and not be sold separately. The “independent living unit” shall only be occupied only by members of the immediate family of the occupier of the main house.
  - C11 – the effluent treatment and disposal system shall be designed, installed/constructed and maintained in accordance with requirements of the EPA code of practice

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

- The project involves the renovation and extension of an existing cottage in a Rural Area under Strong Urban Influence, as outlined in the Mayo County Development Plan 2022-2028. Additionally, an existing shed is to be renovated into a granny flat. As the cottage is already in existence, there is no requirement for the applicant to demonstrate a social or economic need for this location, as per Objective RHO8 of the development plan.
- The renovation and extension of the derelict dwelling are welcomed. The proposed conversion of the shed into living accommodation for use as a granny flat is also supported, with the recommendation that it cannot be sold or let separately.
- Concerning wastewater treatment, the proposed system meets the necessary separation distances from residential properties, both on-site and neighbouring, as per EPA guidelines. Tests conducted on-site confirm the suitability of the drainage characteristics, and the planned secondary treatment system with discharge to a tertiary treatment system is deemed compliant with the Code of Practice for Domestic Wastewater Treatment Systems.

#### **3.2.2. Other Technical Reports**

None

### **3.3. Prescribed Bodies**

None

### **3.4. Third Party Observations**

There is one number submission on the original file, the issues outlined are largely reflected in the appeal. These will be dealt with in greater detail under Section 6.0 Grounds for Appeal. The detail of objection can be summarised as follows:

- Application Invalid,
- Unauthorised Septic Tank,
- Concern in relation to the proposed new wastewater treatment system,
- Granny flat not in compliance with Mayo County Development Plan
- Rural Housing Policy,
- Size of proposed extension considered excessive to existing cottage
- No legal interest in the application site.

## 4.0 Planning History

### Current Site

PA ref 23/209 – Invalid application

### Adjacent Site to the north

PA ref 14/344 – Permission granted in JANURARY 2015 for the construction of a dwelling house and installation of on site wastewater treatment system

## 5.0 Policy Context

The provisions of the Mayo County Development Plan 2023-2029 relevant to this assessment are as follows:

- **RHP 7** To consider replacement dwellings or development of other structures to habitable homes in all rural areas, subject to normal planning considerations.
- **RHO 5** To advise all rural housing applicants to utilise the Design Guidelines for Rural Housing (Mayo County Council) and core principles of same.
- **RHO 8** Applicants seeking to replace or reuse an existing house or other structure such as a church, schoolhouse or other substantial building in any rural area will not be required to demonstrate a housing need and will be assessed under normal planning considerations.
- **RHO 9** To discourage the demolition and replacement of traditional or vernacular rural houses in order to protect the varied types of housing stock

in rural areas of the County and to preserve the rural built heritage.

Demolition and replacement will only be considered, on a case-by-case basis, where it is clearly demonstrated by way of a suitably qualified structural engineer's report that the dwelling/structure is not reasonably capable of being made structurally sound or otherwise improved.

- **RH0 11** Buildings which are ancillary to existing rural dwelling(s), such as self-isolation units/ granny flats/independent living units or remote working office unit will be considered on their individual merits, subject to compliance with the criteria outlined in Section 2.9 of Volume 2 (Development Management Standards) of the Plan.
- **INO 8** To require development in unsewered areas which includes a septic tank/proprietary effluent treatment unit and percolation area to be rigorously assessed in accordance with the accepted EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses or the EPA Wastewater Treatment Manuals Treatment Systems for Small Communities, Business, Leisure Centres and Hotels, taking into account the cumulative effects of existing and proposed developments in the area.

## **Section 2.9 – Development Management Standards**

2.9.2 Granny Flats / Independent Living Units maybe considered separate to the existing house on site, subject to not exceeding a floor area of 60m<sup>2</sup>. Such units shall be single storey only. Any larger units shall be attached as an extension to the existing house on site.

### 2.9.4 Design Considerations – (ancillary buildings outlined in Section 2.9.2)

- In general, be subordinate to the existing dwelling in its size.
- Reflect the window proportions, detailing and finishes, texture, materials and colour of the existing house unless a high quality contemporary and innovatively designed is proposed.
- Not have an adverse impact on the amenities of adjoining properties through undue overlooking, undue overshadowing and/or an over dominant visual impact.

- Carefully consider site coverage to avoid unacceptable loss of private open space. Such proposals together with all other buildings on site shall not exceed an overall site coverage of 60%
- Where the proposal increases the potential occupancy of the of the overall site, the adequacy of the on-site sewage treatment (in unsewered areas) should be demonstrated by the applicant.

## **5.1. Natural Heritage Designations**

Newport River SAC (Site code: 002144) 5.6km

River Moy SAC (Site code: 002298) 5.6km

## **5.2. EIA Screening**

See completed form 2 on file. Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site as well as the criteria set out in Schedule 7 of the Planning & Development Regulations there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

This is a third-party appeal against the decision to grant permission. The appeal was made by John O'Malley & Eibhlín O' Malley who are local residents and neighbours of the above property. The grounds of the appeal can be summarised as follows:

- **No genuine rural housing need demonstrated for the Independent Unit/ Granny flat.**

- The applicant is a registered building company no details have been included with the application to justify or substantiate the need for an independent granny flat in this instance.
- Mayo county development policies RH011 and RH012 is based on a genuine rural housing need of immediate or close family members. If permitted the development represents two independent living units within the area of Strong Urban Influence
- Condition 3 as imposed by the planning authority does not prevent a future sale of the entire property.
- **Existing Septic Tank represents unauthorised Development.**
  - Original septic tank is located to the south of the property in lands which is not in the applicants ownership.
  - The existing septic tank referred to in the public notices is unauthorised development as it was recently installed on site. The planning status of this existing septic tank has not been properly evaluated or considered.
- **Ground not suitable for safe disposal of foul effluent – current proposal will result in risk to public health.**
  - The location where the percolation area is preposed is prone to ponding of water in times of heavy rainfall
  - The water table was observed to be within 650mm of ground surface.
  - The presence of bedrock within 1500mm of the ground surface indicate the soil may not be suitable for treatment of effluent.
  - No details of raised polishing filter have been submitted
  - Concerns with regard to the T- values stated in the site suitability assessment.
  - The trial hole is full of water which represents a waterlogged site.
  - Discharge of surface water is indicted to be directly adjacent to percolation area which is already waterlogged.



- The soakaway indicated cannot be constructed as a depth of 1.6m is indicated, bedrock is indicated at 1.5m
- The close proximity of waste water treatment system to appellants dwelling will give rise to unpleasant odours
- Concerns with regard to the wording of condition 10 of planning authority report. Does the wording include/exclude independent living unit.
- **Inappropriate Scale and Form of Development Proposed**
  - The proposed extension of approximately 74sqm is almost double the size of the existing cottage.
  - The provision of an additional 74sqm represents 160% increase in total floor area of the cottage
  - The provision of second independent residential unit in a Rural Area under Strong Urban Influence without any stated genuine need or justification presents an undesirable precedent.
- **Other matters**
  - The proposal will result in a loss of residential amenity to appellants property
  - The applicant has not provided a plan to treat and manage for the presence of Japanese knotweed on site.
  - The proposal will result in intensification of traffic movement along this substandard local road.
  - The applicant points out a number of aspects of the planning application that indicate the application should have been invalidated.

## **6.2. Applicant Response**

- A housing need is not required to be demonstrated for the proposed development as outlined. The issues of housing need are irrelevant, the proposal complies with all aspects of Mayo County Development plan with respect to extension of cottage and refurbishment of existing farm building.

- The issues brought up by applicant with regard to an existing unauthorised septic tank are incorrect. The location of existing septic tank has always been the location of the septic tank. No septic tank has recently been installed recently on site.
- The site is satisfactorily capable of treating effluent on site as per site suitability assessment carried out in accordance with EPA code of practice.
- The surface water/storm water will be managed in compliance with storm water management plan submitted with the application.
- The development is designed in accordance with Section 2.9.2 of the Mayo County Development Plan
- There is no increase in traffic as a result of the proposed development. The total number of bedrooms is equal to the current arrangement on site.
- There is no loss of privacy to the appellants with no north facing windows in the proposed plans. All outdoor living spaces and car parking spaces are to the south.
- A plan to manage knotweed on site has been submitted as part of the appeal

### **6.3. Planning Authority Response**

None

### **6.4. Observations**

None

## **7.0 Assessment**

7.1.1. Having examined the application details and all other documentation on file, including the appeal, and having inspected the site and having regard to the relevant national and local policy guidance, I consider the main issues in relation to this appeal are as follows:

- Principle of Development

- Wastewater treatment system
- Design/ Scale
- Other Issues
- Appropriate Assessment

#### 7.1.2. **Principle of Development**

The planning authority has granted permission for the renovation and extension of the existing cottage, as well as the change of use of the shed from an agricultural building to living accommodation intended to be renovated into a granny flat/annex building. The appellant does not contest the renovation of the existing cottage dwelling itself, but rather raises concerns regarding the change of use of the agricultural building to a granny flat. It is argued that this conversion does not align with the objectives outlined in the Mayo County Development Plan, which suggests that the applicant should be required to justify the need for an independent granny flat in this case. The planning authority permitted the development under Objective RH08 whereby it was determined that the renovation of other substantial buildings (the agricultural building) in a rural area would not be required to demonstrate a rural housing need.

7.1.3. I note Objective RH011, pertaining to granny flats, stipulates that each granny flat application should be evaluated based on its own merits, ensuring compliance with development management standards. Section 2.9 of these standards specifies that granny flats or independent living units may be treated as separate entities from the main dwelling if their floor area does not exceed 60m<sup>2</sup> and if they are single-storey structures. The proposed granny flat is for a total floor area of 49.58m<sup>2</sup> and therefore complies with Objective RH011 and Section 2.9 of the Mayo County Development Plan

7.1.4. Having regard to the above I note objectives RH011 and RH08 as outlined in the Mayo County Development Plan do not specify the requirement for a demonstration of a rural housing need to convert an existing agricultural building to granny flat/independent living unit. Furthermore, the Mayo County Development Plan does not specify a requirement for specific occupants to demonstrate their need in residing within a granny flat, thereby allowing flexibility in their utilisation. Having

regard to the provisions as set out in the Mayo County Development Plan I have no objection to the principle of change of use of existing agricultural building to independent living unit/ granny flat. Furthermore, the renovation and extension of vacant cottage dwelling is to be welcomed.

## **7.2. Wastewater treatment system**

- 7.2.1. The appellant argues that the site's unsuitability for effluent treatment is evidenced by marginal percolation values in the soil, susceptibility to waterlogging in the percolation area, and the discovery of bedrock at 1.5 meters depth. Additionally, the provided details regarding distances from dwellings fail to meet EPA code of practice requirements.
- 7.2.2. The subject site is located in an area with a Locally Important Aquifer where the bedrock vulnerability is extreme. A ground protection response of R2<sup>1</sup> is noted. Accordingly, I note the site may potentially be suitable for a treatment system (subject to normal good practice, i.e. system selection, construction, operation and maintenance). Having regard to the concerns of the appellant with regard to the location of existing septic tank on site, I am satisfied the existing septic tank is in the location identified within the site layout plan and the applicant is in full control and ownership of the area for where the current and proposed septic tank is to be located.
- 7.2.3. The trial hole depth referenced in the Site Characterisation Report was 1.5 metres. Bedrock was encountered at 1.5m. It's indicated that the water table was encountered at 0.65m. A T value/sub-surface value of 26.50 was recorded and a P value/surface test was subsequently carried out and a value of 23.33 were recorded. Due to the site's bedrock depth and the results of the Percolation (P) and Trial (T) tests, it's observed that the percolation values are marginal. Considering the presence of an established three-bedroom dwelling on the site and the plan to maintain a total of three bedrooms with a Population Equivalence (PE) of 6, I perceive the proposal as an improvement on the existing system. The required upgrade of the septic tank system will entail catering to a PE of 6, consistent with the

current capacity on the site. In this context, the upgrade and replacement of the wastewater treatment system is deemed an environmental planning gain.

- 7.2.4. Based on the results of the site characterisation report based on EPA CoP 2021 (Table 6.4) the site is suitable for a tertiary treatment system. It is proposed to gravity flow to the secondary treatment unit, pump to the tertiary unit and discharge to 300mm deep gravel distribution layer (Pea Gravel, 10-20mm) in accordance with table the EPA Code of Practice for Wastewater Treatment and Disposal Systems for Single Dwellings <10pe. I note separation distances are in compliance with the EPA code of practice.

I note the Planning Authority conclude that the site is suitable for the treatment of wastewater. I consider the proposal to install a packaged wastewater treatment system in place of existing septic tank system in this instance to be acceptable.

### **7.3. Other Matters**

#### **7.3.1. Design/Scale**

I acknowledge the concerns expressed by the appellant regarding the design and scale of the proposed development. The proposed extension to the cottage, totalling 74 square meters, represents a significant increase in size compared to the existing structure. The site is long and narrow and capable of accommodating the extension without impacting amenity of neighbouring properties. The design detail as submitted indicates a high-quality proposal. Notably, the design ensures that no windows directly overlook the neighbouring property to the north, maintaining privacy. The proposed narrow plan design is in harmony with the rural surroundings, displaying a respectful approach to the site's context.

- 7.3.2. The conversion of the vacant agricultural building situated north of the existing dwelling is deemed a low-impact intervention. This conversion entails no additional floor space or footprint onto the existing building and ensures that there are no windows oriented towards the appellant's property to the north. Consequently, I conclude that the proposed development will not compromise the amenity of neighbouring properties nor establish an undesirable precedent in terms of its size and scale. I therefore consider the development to largely accord with Section 2.9 Development Management Standards of the Mayo County Development Plan.

#### 7.3.3. Storm Water/Surface Water

The concerns raised in the appeal pertain to the possibility of waterlogging in the percolation area on the site. The applicant has submitted a stormwater report, including the results of BRE 365 calculations, as prescribed by the Recommendation for Site Development Works of Housing Areas. Detailed information regarding the sizes and locations of soakaway on the site has been provided. Upon review, I am confident that the applicant has adequately addressed the issue of surface water/stormwater management, mitigating the risk of waterlogging in the percolation area on site. Therefore, I am satisfied that the proposed development is not likely to result in waterlogging issues on the site.

#### 7.3.4. Invasive Species

The presence of Japanese Knotweed at the front of the site has been duly noted. The applicant has furnished an "Invasive Plant Management & Herbicide Treatment Plan" aimed at addressing the knotweed issue on site. The plan outlines a comprehensive 4-year herbicide treatment program followed by a 3-year monitoring regime. Additionally, a detailed management plan has been provided, delineating management objectives, biosecurity measures, site hygiene practices, and planned actions for tackling the invasion.

- 7.3.5. I consider the applicant has successfully identified the knotweed presence on site and has presented a sufficiently detailed plan demonstrating the capacity to effectively manage the invasive species. Moreover, measures ensuring no transboundary contamination have been outlined. Therefore, I conclude that the proposed measures are adequate for addressing the Japanese Knotweed concern.

#### **7.4. Appropriate Assessment**

The site doesn't fall within any designated area. Having regard to the nature and limited scale of the proposed development, and the lack of a hydrological or other pathway between the site and European sites, it is considered that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

## **8.0 Recommendation**

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

## **9.0 Reasons and Considerations**

- a) The provision of a granny flat/annex complies with Objective RH08 and Objective RH011 of the Mayo County Development Plan 2023-2029.
- b) The nature and scale of the development, is in accordance with the Development Management Standards as set out under Section 2.9 of the Mayo County Development Plan 2023 -2029.
- c) The upgrade and replacement of the onsite wastewater treatment system complies with Objective IN08 of the County Development Plan.

Having regard to the foregoing it is considered that, subject to compliance with the conditions set out below, the proposed development would not be seriously injurious to the amenities of the area or the residential amenities of properties in the vicinity of the site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the plans and particulars received on the 20th of August 2023 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The main house and “granny flat/ annex building” shall be retained in single ownership and shall not be sold or let separately.

Reason; In the interest of proper planning and development of the area.

3. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.
- (b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent pollution.

4. The existing septic tank on the site serving the existing dwelling, shall be decommissioned and shall be replaced with a new treatment system. Immediately upon commissioning of the new treatment system, the septic tank on the site shall be emptied (the contents appropriately disposed of) and rendered inoperable by filling with gravel or other suitable fill material and the percolation area shall be thoroughly disinfected.

Reason - In the interest of orderly development, public health and elimination of a public nuisance.

5. (a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021.

(b) Treated effluent from the wastewater treatment system shall be discharged to a raised percolation area which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021.

(c) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the raised percolation area is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.



Reason: In the interests of visual and residential amenity

7. The external finishes of the proposed extension shall be the same as those of the existing dwelling in respect of colour and texture. Samples of the proposed materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

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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Darragh Ryan  
Planning Inspector

19<sup>th</sup> of March 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	ABP 318065-23		
<b>Proposed Development Summary</b>	Retain works already carried out on site. Renovate and extend cottage. Change use of shed from agricultural building to living accommodation to be renovated as a granny flat/annex building with upgrade to septic tank and percolation bed together with all ancillary site works.		
<b>Development Address</b>	Derrycoosh Castlebar, Co. Mayo		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	
		<b>No</b>	No further action required
<b>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?</b>			
<b>No</b>	X		Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
<b>No</b>	X	N/A	No EIAR or Preliminary Examination required

**4. Has Schedule 7A information been submitted?**

<b>No</b>		<b>Preliminary Examination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_