



An
Bord
Pleanála

Inspector's Report ABP-318973-24

Development	Retention for front boundary wall and entrance; boundary walls to both sides of property; partially built 48 sqm domestic garage; 4 sqm porch to front of existing dwelling; elevational changes to the existing dwelling and demolition of boiler house and store. Full planning permission is also being sought to complete the partially built garage, complete and alter the existing front boundary wall and entrance, replace existing septic tank and percolation area with new sewage treatment system and ancillary site works.		
Location	Woodpark, Castleconnell, Co. Limerick.		
Planning Authority Ref.	23/284		
Applicant(s)	Vita Navicka & Vitalie Cabac.		
Type of Application	Retention Permission and Permission.	PA Decision	To Grant Retention Permission and Permission.
Type of Appeal	Third Party.	Appellant	Rita O'Dowd.
Observer(s)	None.		
Date of Site Inspection	2 nd August, 2024.	Inspector	Aiden O'Neill.

Context

1. Site Location/ and Description.

The site, c. 0.12ha in area, for which retention permission and permission is sought, is located to the south-east of the L1110, in a rural area c. 245m south-west of the R445 at Daly's Cross and the development boundary of the Castleconnell (as per the Local Area Plan 2023-2029), and c. 4.2km to the north-east of Limerick City.

The site comprises an existing single-storey detached dwelling, c. 66m² in area, in an open setting, with block boundary walls to the north-west and south-east, a feature wall with piers, pedestrian access and vehicular access to the front (north-eastern) boundary, and a detached single-storey domestic garage to the south-west. The rear (south-western) boundary comprises a timber panel fence and hedging and part of a small single-storey shed that is owned by the neighbour (appellant) to the south-west (Woodpark House (RPS: 746)).

The proposed development site forms part of a cluster of 5no. detached principally single-storey dwellings along the south-eastern stretch of the L1110. There are c. 9no. detached single-storey/dormer dwellings along the north-eastern stretch of the L1110.

2. Description of development.

- Retention permission is sought for the front boundary wall, which is set forward c. 2.5m from the original boundary, and splayed entrance; block boundary walls with piers (c. of between 1.5m-2.2m in height each) to both sides of property; partially built 48 sqm domestic garage with roller shutter door and rooflights (c. 3.6m to ridge height); 4 sqm porch to the front of existing dwelling; elevational changes to the existing dwelling, principally the replacement of the pre-cast concrete façade with a smooth plaster finish to all external walls, removal of the chimney, replacement rear door, and revised/replacement fenestration to all elevations; as well as the demolition of a boiler house and store (8 sqm) (this has been fully removed).
- Full planning permission is also being sought to complete the partially built garage, complete and alter the existing front boundary wall and entrance to

include 3no. composite horizontal boards, new composite board pedestrian gate, and new composite board entrance gate, and replace existing septic tank and percolation area with new sewage treatment system and ancillary site works.

- The site has an existing connection to the public mains. Surface water is to be disposed of by means of a soakpit.
- Sightlines of 70m in either direction from the entrance are illustrated on the Site Plan.
- The application was lodged on 1st June, 2023, and a Request for Further Information issued on 21st July, 2023, with a response submitted on 5th September, 2023. A Request for Clarification of Further Information issued on 25th September, 2023 and a response was submitted on 13th December, 2023. A decision to grant permission with conditions issued on 11th January, 2024.

3. Planning History.

The proposed development site has been subject to the following planning history:

22/488 Application for retention of the front boundary wall and entrance, boundary walls to both sides of property, partially built 48 sq.m. domestic garage, 4 sq.m. porch to front of existing dwelling and elevational changes to the existing dwelling. Permission to carry the following works: demolish existing boiler house and store to the side of the existing dwelling, complete the partially built garage, complete the front boundary wall and entrance and ancillary site works. Declared withdrawn on 14th December, 2022 as the applicant had not responded to a Request for Further Information.

Enforcement File: DC-023-22 Warning Letter dated 7th March, 2022 in respect to unauthorised development, which application PA Ref. No. 22/488, and the current application now on appeal, sought to address.

4. National/Regional/Local Planning Policy (see attached)

- Having regard to Map 2.3, the Core Strategy Map, the proposed development site, although in a rural hinterland of Castleconnell (as per the Castleconnell LAP 2023) and Limerick City, is located in the boundary of the Metropolitan

Area Strategic Plan (MASP) for the Limerick Metropolitan Area, incorporating Shannon.

- Objective IN 011 sets out the policies with respect to private waste water treatment.
- Objective TR 037 seeks to ensure that development onto a non-national public road meets the appropriate design and safety standards.

5. Natural Heritage Designations

- At its nearest point, the Lower River Shannon SAC (002165) is located c. 1.2km to the north-west of the proposed development site.

Development, Decision and Grounds of Appeal

6. PA Decision.

The Planning Authority decided to grant retention permission and permission by Order dated 11th January, 2024 subject to 9no. conditions, requiring the existing septic tank to be decommissioned and replaced with a new treatment system, and the new treatment system shall be located and constructed in accordance with the EPA Code of Practice 2021 for Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10). In addition, the front boundary wall and entrance are to be amended to ensure appropriate sightlines.

The planner's reports dated 14th July, 2023, 18th September, 2023 and 8th January, 2024 are the basis for the Planning Authority's decision to grant retention permission and planning permission.

The planner stated that she has no objection in principle to the proposed development. The Request for Further Information and Clarification of Further Information focused specifically on the details of the proposed waste water treatment system, in particular the proposed polishing filter.

7. Third Party Appeal.

The Third Party Appeal sets out the following grounds:

- There is a long history of problems with the septic tank at the applicant's property.
- It has drained on to the appellant's land via a pond and entered a stream traversing the back of the property and enters a large watercourse which enters the Shannon River.
- The appellant has had the water tested a few times and E coli levels are very high (test details dated 27th June, 2023 included as an appendix).
- On 3rd February, 2023, the Council entered the appellant's property without permission and drained the pond. A Council engineer visited the appellant a few days later and apologised, and the appellant demanded that the pond would be restored as it had a population of frogs which had been introduced by the appellant over 20 years ago.
- The pond was drained one month before frog spawning season, and so the frogs have disappeared.
- The appellant's solicitor wrote to the Council (letter dated 9th February, 2023 attached as an appendix to the appeal) but has not received a satisfactory response as far as the appellant knows. The Council said there was no wildlife present.
- 10 days after the pond as drained, the percolation tests were carried out by the applicant and deemed to be acceptable.
- The trench dug out by the Council collapsed and the pond is now more than 3 times the size it was before the Council work.
- There is flooding and the water is draining at a very high level.
- The appellant believes that the drainage works were done to allow the applicant achieve the testing results, which would be impossible to achieve today.
- It will further pollute the land and is a danger to health.
- The appeal seeks to ensure that the development will not result in sewage again coming into the appellant's land.

- The appeal includes photographs of the works carried out on 3rd February, 2023, and the resultant pond afterwards (15th January, 2024).
- A letter from Pierce McGann & Company Consulting Engineers on behalf of the appellant is attached as an appendix to the appeal. The core ground relates to the use of the disputed boundary strip of land for the construction of a treatment bed to service the treatment plant, and the resultant risk to the appellant's health and safety. The test results from the site are defective. There are significant levels of E-Coli within the pond, and the source of this is foul sewerage from the disputed land. Refusal of permission is requested.
- A letter of response from the Council via a firm of solicitors dated 27th February, 2023 to the letter from the appellant's solicitor dated 9th February, 2023 is also attached as an appendix to the appeal. This states that a channel was hand dug, that the works carried out were in an emergency situation to address flooding of neighbouring properties' gardens. In such circumstances, the Council is not obliged to notify the landowner. No pond of water and no wildlife was present. The works have alleviated flooding.

A response was submitted by the applicant's agent, stating the following:

- (a) The disputed land is not included in the application boundary and the treatment unit is positioned within the smaller site and is compliant with the Code of Practice.
- (b) The site assessor is on the Council's approved list.
- (c) An inspection from the Council concluded that the existing treatment plant failed to meet relevant standards and the applicant had to seek permission for a new treatment system.
- (d) The applicant cannot control drainage issues at the neighbouring property.

8. PA Response

- None on file.

Environmental Screening

9. EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.

10. AA Screening

Having regard to the modest nature and scale of development, and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

2.0 Assessment

2.1. Having examined all the application and appeal documentation on file, and having regard to relevant policy, I consider that the main issues which require consideration in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise.

2.2. The main issues are as follows:

- Legal Matters
- Works to the existing dwelling
- Proposed Waste Water Treatment System

2.3 Legal Matters

2.3.1 The appeal refers to the use of a disputed boundary strip of land for the construction of a treatment bed to service the proposed treatment plant, and the resultant risk to the appellant's health and safety.

2.3.2 As is evidenced in the Site Plan that accompanies the planning application, however, the disputed boundary strip of land is not included in the red line boundary of the proposed development.

2.3.3 In this context, I note Section 34(13) of the Planning and Development Act, 2000, as amended, which states that a person shall not be entitled solely by reason of a permission under this section to carry out any development.

2.3.4 Matters pertaining to drainage works carried out by the Planning Authority on the appellant's lands are also outside the scope of this assessment.

2.4 Works to the existing dwelling

2.4.1 The works for which retention permission and permission is sought to the existing dwelling are of a minor nature and do not detract from the character of the existing dwelling or of dwellings in the vicinity. The dwelling will remain a modest structure, with the interventions resulting in a small increase in living space for the existing family that occupy it. The Planning Authority has attached a condition requiring the dwelling (and garage) to be fully rendered as proposed in the drawings, and I recommend that a similar condition is attached to the Board's decision, were the Board minded to grant planning permission.

2.4.2 Equally, the domestic garage to be retained and completed is subordinate in scale to the main dwelling, and is acceptable. I note that the Planning Authority attached a condition restricting the use of the garage to storage purposes and purposes incidental to the enjoyment of the house, and I recommend that a similar condition is attached to the Board's decision, were the Board minded to grant planning permission.

2.4.3 The works to the side boundary walls are acceptable. I note that the Planning Authority has attached a condition requiring amendments to ensure adequate sightlines. I recommend that a similar condition is attached to the Board's decision, were the Board minded to grant planning permission.

2.5 Proposed Waste Water Treatment Plant

- 2.5.1 The principal ground of appeal is in relation to the applicant's proposed waste water treatment plant, its proximity to the appellant's property, and the potential for a public health hazard.
- 2.5.2 The Site Plan as submitted in response to the Clarification of Further Information illustrates that the proposed waste water treatment system is located entirely within the site boundary. It is 3.5m from the applicant's south-western boundary, and includes secondary and tertiary treatment and percolation area.
- 2.5.3 The tertiary treatment area was redesigned in response to the Clarification of Further Information to be almost completely raised above the existing ground level by up to 750mm. This was required by the Planning Authority to address their concern that the site overlies a regionally important aquifer and has a high water table.
- 2.5.4 It is noted that the depth of the trial hole in the Site Suitability Assessment Report dated 28th February, 2023 was 2.4m, below the minimum 3m depth for regionally important aquifers. This, together with the high water table – stated to be 1.35m below ground surface in the Site Suitability Assessment Report – may give rise to concerns over the effectiveness of the proposed waste water treatment plant.
- 2.5.5 However, I note that the Planning Authority, through Further Information and Clarification of Further Information, sought assurances from the applicant that the proposed treatment plant was satisfactorily designed to be in compliance with the EPA Code of Practice for Domestic Waste Water Treatment Systems 2021, and in accordance with the provisions of Objective IN 011 of the Limerick Development Plan 2022-2029.

3.0 Recommendation

- 3.1 I recommend that permission for the development be granted for the following reasons and considerations.

4.0 Reasons & Considerations

Having regard to the provisions of the Limerick Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development will not be seriously injurious to existing visual or residential

amenities, will not be prejudicial to public health, and will not result in a traffic hazard. It is considered that the proposed development is in the interests of the proper planning and sustainable development of the area.

5.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 1 st June, 2023, 5 th September, 2023 and 13 th December, 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 external walls shall be finished in neutral colours such as grey or off-white. Reason: In the interest of visual amenity.
3.	The garage shall not be used for human habitation, commercial use, industrial use or for any other purpose other than for a purpose incidental to the enjoyment of the dwelling. Reason: In the interests of orderly development.
4.	The front boundary wall and entrance shall comply with the requirements of the planning authority for such works. Prior to commencement of development the applicant shall submit such details to the planning authority for agreement in writing. Reason: In the interests of traffic safety.
5.	Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

	Reason: To ensure adequate servicing of the development, and to prevent pollution.
6.	<p>(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.</p> <p>(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.</p> <p>Reason: In the interest of traffic safety and to prevent pollution.</p>
7.	<p>(a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.</p> <p>(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.</p> <p>(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.</p> <p>(d) Surface water soakaways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.</p> <p>(e) Within three months of the commissioning of the treatment system, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent</p>

	<p>treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.</p> <p>Reason: In the interest of public health.</p>
8.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:</p> <p>Reason: In the interest of visual amenity.</p>
9.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0900 to 1300 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>

Relevant Policies

Limerick Development Plan 2022-2028

Section 3.2.1 of the Limerick Development Plan 2022-2029 sets out the principal strategic context for the Metropolitan Area Strategic Plan (MASP) for the Limerick Metropolitan Area, incorporating Shannon, as per the NPF.

The NPF recognizes the Limerick Shannon Metropolitan Area's growth potential with existing third level institutes and international airport and port facilities. The NPF aims to build on these strengths, while improving liveability with key growth enablers, including proposals to implement and extend Limerick City Centre in accordance with the Limerick 2030 Economic and Spatial Plan, enhance opportunities for education and employment and road connectivity to Shannon Airport and Shannon Foynes Port, Cork and Waterford. The NPF also aims to provide a citywide public transport network with enhanced accessibility from the centre to the National Technology Park, university and airport, develop a strategic cycleway network, encourage inner city development and regeneration and develop and diversify the existing communities in the city.

The Regional Spatial and Economic Strategy for the Southern Region (RSES) includes a Metropolitan Area Strategic Plan for Limerick Shannon (MASP) to secure long term transformational and rejuvenation focused city growth.

Section 3.2.3 of the Plan with respect to the Limerick Shannon Metropolitan Area Strategic Plan states that the Limerick Shannon Metropolitan Area Strategic Plan (MASP) Policy Objectives aim to promote a cohesive Limerick Shannon Metropolitan Area with:

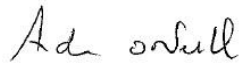
- The City Centre as the primary location at the heart of the Metropolitan Area and Region;
- Compact growth and revitalisation of Limerick City Centre and Suburbs (in Limerick), Mungret and Annacotty;
- Active land management initiatives to deliver housing and employment locations in a sustainable, infrastructure led manner.

Objective IN 011 states that it is an objective of the Council to: a) Promote the changeover from septic tanks to the public foul water collection networks where feasible and to strongly discourage the provision of individual septic tanks and domestic wastewater treatment systems, in order to minimise the risk of groundwater pollution. b) Ensure single house wastewater treatment systems in those areas not served by a public foul sewerage system comply with the EPA Code of Practice for Domestic Waste Water Treatment Systems 2021 as may be amended or updated. c) Require non-domestic wastewater treatment systems in those areas not served by a public foul sewerage system to demonstrate full compliance with EPA Wastewater Treatment Manuals (Treatment Systems for Small Communities, Business, Leisure Centres and Hotels) as maybe amended or updated. d) Ensure all private wastewater treatment systems shall be located entirely within the site boundary. Under no circumstances shall single domestic treatments units or septic tanks be shared between dwellings. e) Ensure that private wastewater treatment facilities, where permitted, are operated in compliance with their wastewater discharge license, in order to protect water quality.

Objective TR 037 Land Uses and Access Standards states that it is an objective of the Council to: a) Ensure that any development involving new access to a nonnational public road, or the intensification of use of an existing access onto a non-national public road meets the appropriate design and safety standards. b) Ensure that on roads that are substandard, either in terms of their width, (less than 3m), alignment, surface condition or junction with the nearest main road, development for one off rural housing will only be considered in exceptional circumstances. This includes applicants who have a demonstrable social need to live on the particular road, where no alternative site is available, or where the only alternative access available is onto a strategic regional road as designated in the Development Plan.

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.



Aiden O'Neill
Planning Inspector

1st September, 2024