



An
Bord
Pleanála

Inspector's Report

ABP-320051-24

Development	Demolition of shed, construction of split level extension, treatment plant, bored well, new vehicular access and associated site works.
Location	Sweet Ivy Cottage, Ballinastockan, Blessington, Co. Wicklow.
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	2460038.
Applicant(s)	John O' Donoghue.
Type of Application	Permission.
Planning Authority Decision	Grant Permission (8 no. conditions)
Type of Appeal	Third Party.
Appellant(s)	Keith Carroll.
Observer(s)	None.
Date of Site Inspection	1 st October 2024.
Inspector	Ciarán Daly

1.0 Site Location and Description

- 1.1. The subject site, located is c0.8km north-east of the Ballyknockan settlement, c.3km outside of the village of Lacken and c.6.7km to the south-east of Blessington, is within the Blessington Lakes Areas (an Area of Outstanding Natural Beauty (AONB)). The appeal site consists of a single storey semi-detached house of vernacular design close to the public road and a relatively small shed in corrugated iron that is in disrepair and which is located uphill somewhat to the south-west side of the dwelling. There is a driveway located above the public road in front of the house and the slope of the site rises significantly to the rear towards the south-east.
- 1.2. There is a semi-detached cottage dwelling with rear extension located adjacent to the dwelling to the north-east and there are number of dwellings along the eastern roadside further to the north-east. To the south-west of the site there are two fields and then further south there are dwellings located intermittently along the road.
- 1.3. There are views from the site and adjacent public road over Poulaphouca Reservoir and the surrounding area to the west. The elevated position of the site is of note and parts of the rear garden, which was overgrown, are located adjacent to trees and plants which offer screening to the middle portion of the site.
- 1.4. There is a ringfort – rath (SMRS WI010-020---) located c.150m downhill to the north-west of the site.

2.0 Proposed Development

- 2.1. The proposed development is for:
 - Demolition of a shed,
 - Construction of a split level extension,
 - Treatment plant,
 - Bored well,
 - New vehicular access.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Wicklow County Council decided to grant permission for the proposed development subject to 8 no. conditions. In relation to the 8 no. conditions the following are of note:

- Condition no. 2 requires finished floor levels to accord with a drawing received at further information stage.
- Condition no. 3 requires adherence to the landscaping scheme submitted at FI stage.
- Condition no. 4 requires the setting back of the boundary wall and the entrance detail as set out in the FI drawing.
- Condition no.s 5 and 6 are standard domestic waste water treatment system conditions.

3.2. Planning Authority Reports

3.2.1. The first Planning Report requested further information in relation to the absence of ground level details, clarification of the slope of the land to the rear where the percolation area is to be located, sightlines, contradictions between the planting and boundary wall treatment, lack of detail regarding the front boundary and entrance treatments, details for the gradient of the driveway and details of the slope of the land where the soakaway is to be located.

3.2.2. The detailed drawings and sections submitted were considered to address the concerns of the Planning Authority including in relation to gradients, levels, boundaries and sightlines. In relation to the site levels for the percolation area, the sections through the site were considered to show the percolation area in line with the Code of Practice. In relation to the soakway, it was noted that the aco channel set back from the public road to achieve a fall to the soakaway was acceptable.

3.2.3. It was therefore recommended that permission be granted subject to 8 no. conditions.

3.3. Other Technical Reports

Roads Department: Further Information requested in relation to sightlines.

Municipal Drainage Engineer: No objection subject to conditions.

Environmental Health Officer (EHO): Further information sought in relation to slope of the land for the percolation area.

Following receipt of further information:

Roads Department: No objection subject to conditions.

EHO: No objection subject to conditions.

Municipal Drainage Engineer: No objection subject to conditions.

3.4. Prescribed Bodies

- Uisce Eireann: No objection subject to conditions.

3.5. Third Party Observations

One third party observation was submitted from Keith and Michelle Carroll who live at the adjacent site and the issues from which are generally covered in the grounds of appeal with the exception of issues raised in relation to inadequate site notices and availability of documents.

4.0 Planning History

23/60112: Subject Site. Application withdrawn for demolition of shed and two storey part single storey extension to the rear and side of existing cottage along with wastewater treatment plant with soil polishing filter and bored well and new vehicular access.

22/1059: Subject Site. Application withdrawn for demolition of shed and two storey part single storey extension to the rear and side of existing cottage along with wastewater treatment plant with soil polishing filter and bored well and new vehicular access.

01/5407: Adjacent Site. Permission granted by the Planning Authority for a two storey rear extension and sunroom side extension to house.

98/8549: Adjacent Site. Permission granted by the Planning Authority for a waste water treatment system.

5.0 Policy Context

5.1. Wicklow County Development Plan 2022-2028 (CDP)

5.1.1. Under the CDP, the subject site is located outside of any settlement boundary and is located in the Ballynastockan rural area. The nearest designated settlement is the Ballyknockan settlement which is c. 0.8km to the south-west of a Level 8 (Type 2) village settlement.

5.1.2. In terms of local policy, Chapter 6 (Housing), Chapter 8 (Built Heritage), Chapter 12 (Sustainable Transportation) and Chapter 13 (Water Services) of the CDP are relevant. Volume 3 (Appendix 1) includes relevant design standards.

5.1.3. In terms of the subject appeal, the following Sections are of relevance:

- CPO 12.54 (Protect local rural roads)
- CPO 13.16 (Private WWTS for single rural houses)
- CPO 17.36 (AONB Landscape assessment)
- Appendix 1 (Development and Design Standards)
 - 2.1.9 Entrances and sight lines
 - 3.1.8 House extensions

5.2. Relevant Guidance

5.2.1. Having considered the nature of the proposal, the receiving environment, and the documentation on file, I am of the opinion that there are no directly relevant Section 28 Ministerial Guidelines but that the following national guidance document is relevant:

- Code of Practice : Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) (Environmental Protection Agency, 2021).

5.3. Natural Heritage Designations

5.3.1. The subject site is located c.0.5km from the Poulaphouca Reservoir Special Protection Area (SPA) and Poulaphouca Reservoir Proposed Natural Heritage Area (PNHA) (site code 004063) and is 0.9km from the Wicklow Mountains Special Area of Conservation (SAC) (site code 002122) and the Wicklow Mountains SPA (site code 004040).

5.4. EIA Screening

5.4.1. See completed Form 1 appended to this report. The proposed development is not a class of development specified in Part 1 or Part 2, Schedule 5 of the Planning and Development Regulations 2001, as amended. Therefore, screening for EIA is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third party appeal was lodged by Keith Carroll, Ballinastockan, Lacken, Blessington, Co Wicklow. Mr Carroll has indicated that he is the owner of the adjacent dwelling house property. The grounds of appeal can be summarised as follows:

- Serious issues with the proposed wastewater treatment system for the site and its effects on the site and surroundings including:
 - As the Site Characterisation Report was not prepared within 12 months of the planning application, an updated Site Characterisation Report should have been requested.
 - Inaccuracies in the Site Characterisation Report and Planner's Report in that the distance to the nearest stream was incorrect, the slope was understated, and the site is unsuitable for the installation of a domestic waste water treatment system.
 - The re-profiling of the ground suggested at FI stage would result in the rock being within 0.15m of the ground surface over part of the polishing filter area and lowering the ground would endanger the boundary wall structure with the appellant's property.

- The actual size of the soil polishing filter would be 11sq.m. and not the 45sq.m. recommended in the Site Characterisation Report.
- There are environmental issues/risks with pumping effluent such a distance uphill and no mention is made of fail safe measures in the event of a power failure, breakdown of equipment or in relation to leakages.
- The percolation tests did not take account of the seasonality of the water table and there is a strong flow of ground water discharges out of the exposed rock at the rear during winter months. The water is collected in a drain at the rear of the dwelling, and travels underground and discharges into a stream across the road and this stream discharges into Poulaphouca Reservoir. There is a risk that any contamination of the groundwater in the vicinity of the soil polishing filter will endanger the stream.
- The soil polishing filter will be located at a higher level that the cover level of the existing well on the appellant's site which serves his dwelling and there is a risk of contamination of the water in the appellant's existing bored well and the domestic water supply may become unsafe.
- The proposed bored well c.4m from the front wall of the appellant's dwelling and within 20m of his bored well is likely to affect the water quality and supply from the well and should be located at a more suitable location on the site.
- Drilling the well risks structural damage to the adjoining wall.

6.2. Applicant Response

None.

6.3. Planning Authority Response

None.

7.0 Assessment

I consider the main issues in determining this appeal are as follows:

- Wastewater Treatment System.
- Location of the Proposed Bored Well.
- Design

To note, in terms of procedural matters and the alleged irregularities in terms of the nature and timing of the erection of the site notice, I note that both matters were considered acceptable by the planning authority and were not raised in the grounds of appeal. I am satisfied that this did not prevent the concerned party from making representations. The above assessment represents my de novo consideration of all planning issues material to the proposed development.

7.1. Wastewater Treatment System

7.1.1. It is noted that this is an existing dwelling and past wastewater disposal arrangements appear to have been unsatisfactory. The adequacy of the proposed water treatment system was reviewed by the EHO and Planning Authority at application stage and following receipt of further information. The further information response in relation to the slope and the section drawings for the location of the percolation area did not give rise to any significant concerns on their part.

7.1.2. The appellant argues that the wastewater treatment system is not suitable for the site/development by reference to a number of issues including the failure to prepare the Site Characterisation Report within 12 months of the application and states that an updated Site Characterisation Report should have been requested. It is noted that the Site Characterisation Report submitted is dated 04/01/2022 and that the application date is 29/01/2024 and that there is over a two year period between the two dates and the date of this report. I note that no such requirement is outlined in the Code of Practice : Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) which is the relevant guidance document in this regard and given that it appears that no significant changes have taken place on the site in the last two plus years and that

the EHO examined the proposal, I see no reason to request an updated Site Characterisation Report on this basis.

7.1.3. The Site Characterisation Report states that there is a “*stream 350m north*” of the subject site and the appellant has asserted that this is incorrect, that there is a stream 120m to the north-east of the site. Noting the absence of evidence in this regard and having reviewed the EPA map of water features for the area, I am not persuaded that a material inaccuracy has been made on the Site Characterisation Form.

7.1.4. In relation to the percolation tests, the appellant has taken issue with the time of year these were conducted and asserts that they fail to take account of the seasonality of the water table. I note from the EPA Code of Practice : Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) that this is not necessarily a relevant consideration/requirement in this instance and that the procedure outlined in Appendix D (Percolation Test Procedure) has been followed and I have no significant concerns in relation to same.

7.1.5. I have reviewed the Site Characterisation Report prepared by Trinity Green Environmental Consultants. The relevant guidelines in relation to such systems are the EPA Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent ≤ 10 (2021). The bedrock aquifer is considered poor with extreme vulnerability noted. The report indicates that the site falls within the R1 response category where an on-site system is acceptable subject to normal good practice

7.1.6. Per the 3 no. subsurface percolation tests, the T-value was noted to be 14.22 with soakage considered good and in relation to the surface percolation test the result was a value of 12.64 with the soakage in the topsoil noted to be good. I note that the Site Characterisation Report states the depth of the trial hole (to bedrock) to be 1.5m (the reference elsewhere to a 3m depth where no water table or bedrock was encountered appears to be an error) and that this is the depth at which granite was encountered. It was recommended that the soil filter is constructed by building up the lower part of the area to ensure in excess of 1m of soil under the distribution gravel for R1 groundwater protection response. Noting Table E1 of the EPA Guidance I consider that, should

permission be granted, this matter can be dealt with by condition to ensure the stated depth per the report and the EPA standards.

7.1.7. While the applicant's report found a septic tank system to be unsuitable, a secondary treatment system and soil polishing filter or a tertiary treatment system and infiltration / treatment area were identified as suitable options. The survey and report results are noted to be consistent with Table 6.3 (Minimum Depths) of the EPA guidance and this can be ensured by condition. The proposal for a secondary treatment system with soil polishing filter is consistent with Table 6.2 of the EPA guidance, noting the Groundwater Protection Response and the separation distance to the well on the adjacent site is c. 62m. I consider it is consistent with Table E1 (Response Matrix for DWWTSs) of the EPA Code of Practice.

7.1.8. The issue in relation to the slope of the site for the percolation area was addressed to the satisfaction of the EHO and the Planning Authority at F.I. stage by the submission of section drawings and cover letter. The submitted section shows the percolation area at the c.255.9m level on a flat area which would be created via excavation of part of the hillside at the rear of the subject site and partially raising the ground level. Due to this position, I note no significant landscape impacts from such excavation and based on the drawings submitted it appears that this is feasible. The drawing states "*no water table or bedrock encountered to a depth of 3.0m min 900mm unsaturated insitu soil under gravel layer achieved*". This reference to 3m appears to be an error as elsewhere the report clearly identifies a 1.5m depth to bedrock. The lowering of the ground level would result in the rock being within 0.15m of the ground surface but it is proposed to achieve the required depth by "*building up the lower part of the percolation area thus ensuring there is in excess of 1m of soil under the distribution gravel*".

7.1.9. In relation to potential impact on the boundary wall structure of the appellant's property, I do not consider this to be a material planning issue and I note that, should potential damage be an issue, a grant of permission would not confer automatic legal authority to carry out the development in any event per as Section 34(13) of the Planning Act states, a person is not entitled solely by reason of a permission to carry out any development.

7.1.10. While the Site Plan drawing submitted at FI stage does not suggest the area of the soil polishing filter to be less than 45sqm as required by the Site Characterisation Report, should permission be granted, this can be ensured by standard condition requiring adherence to EPA standards and no significant issue arises in this regard.

7.1.11. In relation to fail safe measures for the wastewater treatment systems to deal with potential failure or leaks and the location of the wastewater treatment system above the bored well on the appellant's adjacent site, I note the c. 62m separation distance from the well and I recommend that, should permission be granted, a condition requiring adherence to EPA standards and to the requirements of the Site Characterisation Report be included.

7.1.12. It is noted that the appellant has presented no expert evidence to refute the submitted Site Characterisation Report and given the assessment above, together with the assessment of the EHO and the Planning Authority, I am generally satisfied that the Applicant's proposals for the disposal and treatment of wastewater are consistent with CPO 13.16 (Private WWTS for single rural houses) of the Development Plan and with the EPA guidance, and I note no significant issues in this regard in relation to his proposal associated with the extension of the existing dwelling.

7.1.13. Should the Board consider granting permission for the proposed development, I recommend the inclusion of a condition which shall require the design and installation of the proposed WWTS to comply with the EPA Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent ≤ 10 (2021).

7.2. Location of the Bored Well

7.2.1. While there is a response from Uisce Eireann on the file in relation to the requirement for a connection agreement, this is not applicable as no public mains connection is proposed. In relation to the separation distance of the proposed well from the adjacent property and adjacent well serving the appellant's dwelling, with separation distances of c.4m and within 20m noted respectively, I note that no expert evidence has been presented that the proposed well is likely to affect the water quality and supply from the adjacent well. The EHO noted no issue with same and as a result,

I do not consider that there is a requirement for the proposed well to be located at a different location on the site. I do not consider that any significant negative planning impacts are likely to arise and I recommend that permission be granted accordingly.

7.3. Design

7.3.1. While the appellant has raised no issues with the principle of the extension and new vehicular entrance, for completeness I note that the proposed rear extension, which would step up on the site towards the rear, would be of such a scale and location on the site so as not to give rise to significant negative impacts in terms of overbearing, overlooking or overshadowing.

7.3.2. Due to the modest scale of the proposed extension and its position set back from the front building line, and noting the submitted Site Visual Impact Assessment Report prepared by Landscape Design Ltd, I note that the extension would integrate with the dwelling and the streetscape and would not give rise to any significant impact on the Blessington Lakes landscape with no undue impacts noted on views. In this regard, and combined with the landscaping scheme for the site and clarification of levels, I have no significant concerns in relation to general compliance with the following policies: CPO 6.44 (Well designed rural housing), CPO 17.35 (Landscape classification hierarchy), CPO 17.36 (AONB Landscape assessment), CPO 17.38 (Protect listed views and prospects) and Appendix 1 (Development and Design Standards) for House Extensions (3.1.8). Should permission be granted, the PA's condition in relation to levels is recommended to be included for clarity.

7.3.3. In relation to the new vehicular access, the concerns of the Council's Roads Department (area engineer) in relation to sightlines were addressed following the response to FI item no. 3 and I recommend that the PA's condition be followed in this regard. Also addressed were the landscape boundary treatments and I note no concerns in relation to hedgerows which can be addressed by the PA's condition. I consider that the proposal in this regard generally complies with CPO 12.54 (Protect local rural roads), CPO 17.14 (Protection of hedgerows) and CPO 17.23 (Retention of hedgerows). I note no significant issues arise that cannot be dealt with by the recommended conditions, including in relation to drainage matters, and I recommend that permission can be granted.

7.3.4. There are no significant issues noted in relation to the demolition of the non-habitable shed which is acceptable.

8.0 AA Screening

8.1. I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

8.2. The subject site is located in a rural area c.0.5km from the Poulaphouca Reservoir Special Protection Area (SPA) (site code 004063) and is 0.9km from the Wicklow Mountains Special Area of Conservation (SAC) (site code 002122) and the Wicklow Mountains SPA (site code 004040).

8.3. The proposed development comprises demolition of a shed, extension to dwelling, vehicular entrance, wastewater treatment system, new bored well and associated works. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:

- the small scale and domestic nature of the development with a wastewater treatment system that would be compliant with EPA guidance,
- the distance from the nearest European site and the intervening land uses,
- taking into account the screening determination by the Planning Authority.

8.4. I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

9.0 Recommendation

9.1. I recommend that planning permission be granted for the reasons and considerations set out below.

9.2. 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.

10.0 Reasons and Considerations

Having regard to the provisions of Wicklow County Development Plan 2022-2028, the modest scale and nature of the development and the prevailing pattern and character of the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of traffic safety and convenience, and would not seriously injure the visual or residential amenities of the area or be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 further plans and particulars received by the planning authority on the 10th day of May 2024, 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 landscaping scheme shown on drawing number JOH-DON/LMP/001, as submitted to the planning authority on the 10th day of May, 2024 shall be carried out within the first planting season following substantial completion of external construction works.

In addition to the proposals in the submitted scheme, all new boundary planting within the site boundary shall be native hedgerow or trees.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be

replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity

3. (a) The roadside boundary wall shall be set back as detailed on Drawing no. 24.004 as submitted to the planning authority on the 10th day of May, 2024.

(b) The entrance detail shown on Drawing no. 24.004 as submitted to the planning authority on the 10th day of May, 2024 shall be amended such that the wing walls and associated pillars shall not exceed 0.8m in height within 2.4m of the public road.

Reason: In the interest of traffic safety.

4. (a) The wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application on the 29th day of January 2024 and shall be in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)” – Environmental Protection Agency, 2021.

(b) Treated effluent from the septic tank/ wastewater treatment system shall be discharged to a percolation area/ polishing filter which shall be provided in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)” – Environmental Protection Agency, 2021.

(c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/ wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

Reason: In the interest of public health.

5. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site and such drainage shall accord

with the details set out on Drawing no. 24.004 004 as submitted to the planning authority on the 10th day of May, 2024. 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 flooding or pollution.

6. Details of the materials, colours and textures of all the external finishes to the dwelling extension shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Only natural stone shall be used and reconstituted stone shall not be used other than for cills and door surrounds.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

7. Site development and building works shall be carried out only between the hours of 07.00 to 19.00 hours Mondays to Friday inclusive, between 08.00 to 14.00 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.

Reason: In order to safeguard the residential amenities of property in the vicinity.

11.1. Ciarán Daly
Planning Inspector

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-320051-24		
Proposed Development Summary	Demolition of shed, construction of split level extension, treatment plant, bored well, new vehicular access and associated site works		
Development Address	Sweet Ivy Cottage, Ballinastockan, Blessington, Co. Wicklow		
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	No further action required
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			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)
			Conclusion
No	X		No EIAR or Preliminary Examination required
Yes			Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____