



An
Bord
Pleanála

Inspector's Report ABP-320765-24

Development	Proposed outline planning application for a house and all associated ancillary site works.
Location	Skeagh, Aghaboe, Co. Laois.
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	2360551
Applicant(s)	Anthony Ferns
Type of Application	Outline Permission
Planning Authority Decision	Grant outline planning permission
Type of Appeal	Third Party
Appellant(s)	John Clooney
Observer(s)	None
Date of Site Inspection	13/12/24
Inspector	Ronan Murphy

1.0 Site Location and Description

- 1.1. The subject land is located at Skeagh, Aghaboe, Co. Laois, which is a rural area located c. 8km to the south-east of Borris-In-Ossary, 1.5k to the west of the M7 / M8 interchange and 900m north of Aghaboe.
- 1.2. The subject site has an area of c. 0.382ha and is accessed off a small, unmetalled laneway which would appear to predominantly provide access for agricultural machinery to the surrounding field network. The access laneway has a distance of c.1.4km and passing is limited to agricultural gates. The laneway is accessed from the R434, a local tertiary road.
- 1.3. The site is rectangular in shape and is bound to the south and west by existing hedgerows and to the north and east by the wider field network of the area.
- 1.4. The site is generally flat and is not under tillage or used for pasture at the time of the site visit.

2.0 Proposed Development

- 2.1. The application seeks outline planning permission for the following:
 - A dwelling with a gross floor area of 200m².
 - A 4000-litre (4m³) septic tank and percolation area.
 - New private well (location not shown)
 - New vehicle access.
 - All associated site works.
- 2.2. As this is an application for outline planning permission, no details of the design or layout of the proposed house have provided.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 The planning authority decided on 12 August 2024 to grant outline planning permission subject to 4 conditions including conditions relating to no development

taking place until an application for permission has been granted, full details of the proposed dwelling are submitted to the planning authority, the entrance being recessed 4.3m behind the front boundary line, adequate sightlines created at the entrance and at the intersection of the R434 and a financial contribution.

3.1.2 The decision was in accordance with the planning officer's recommendation.

3.2. Planning Authority Reports

3.2.1. There are two planning reports on file. The first planning report dated 16/2/24 notes that the appeal site is within an area designated as Structurally Weak Area as shown on Map 4.1 of the *Laois County Development Plan 2021-2027*. The planning report states that a dwelling can be accommodated on site without a negative impact on residential or visual amenities of the area. The site is 500m from the river Gulley which does not form part of the designated River Barrow and River Nore SAC but is a tributary of the river Nore.

3.2.2. The planners report notes that the proposal includes the provision of a septic tank and percolation area, grey water would be disposed of by way of an underground soakpit. The proposed dwelling would be served by a private well. The site suitability assessment has deemed that the site is suitable to accommodate the proposed wastewater treatment system. The proposal was referred to the staff officer with responsibility for Site Suitability Assessment and no objection was received.

The site would be accessed from a new recessed entrance located to the western side of the land boundary. The planning officer's report notes that the access would be form a private laneway, with no other dwelling accessing this lane. Sightlines of 60m in both directions are achieved. The application was referred to the Municipal District Engineer who was satisfied with the proposal. The private lane to the proposed development is accessed off the R434 which is a Strategic Regional Road. The planning report notes that the required 180m sightlines cannot be achieved, therefore Further Information should be requested to allow the applicant to address this matter. In addition to this, the applicant was invited to respond to concerns received from a third-party objector relating to the access to the proposed development which provides access to a number of fields and is a private lane constructed to access these fields and was never

meant to for property development, lack of utility services to the site and impact on biodiversity. Further information was requested.

3.2.3. Other Technical Reports

- **Western Area Roads Department:** Report dated 16/1/24 outlining that the access laneway has adequate sight lines but the access to the site should be moved 60m eastward. The Roads design office may have comments relating to the intersection of the access road to the R-434
- **Planning and Broadband officer:** Report dated 3/1/24 stating that the proposal is in accordance with the Code of Practice Domestic Wastewater Treatment Systems for Single Houses.

3.2.4. A further information response was received on 19/7/24 on two items including:

- Drawings demonstrating sightlines of 180m at the intersection of the access road and the R-434
- A written response to the objection received to the proposal.

3.2.5. The Further Information planning report dated 7/8/24 notes that the applicant has responded to the Further Information request and that the further information response was assessed by the Municipal District Engineer who, subject to conditions did not have any objection to the proposed development. In addition, the planning officer was satisfied that the applicant has sufficient legal right to access the private lane and that the site can be serviced. The Further Information planning report notes that the road design section of Laois County Council has responded to the proposed development stating that the laneway is not in charge and that the proposal would have to be assessed on access to a secondary road. There is no record of this response on file.

3.3. Prescribed Bodies

No reports on file.

3.4. Third Party Observations

No observations on file.

4.0 Planning History

No planning history associated with the subject site.

Site to the east – c.150m

Reg. Ref. 11/65. Planning permission granted, consequent to outline permission for a bungalow, septic tank and percolation area and all associated site works.

Reg. Ref. 07/2164. Outline planning permission granted for a dwellinghouse with septic tank and percolation area and all ancillary site works.

These applications do not relate to the current applicant.

5.0 Policy Context

5.1. Development Plan

5.1.1 The *Laois County Development Plan 2021-2027* is the operative plan for the area. Map 2.2 and Map identify the subject land as being within the Structurally Weak Areas. Table 4.4 states that to help stem decline and strengthen structurally weak areas, it is an objective of the Council that in general, any demand for permanent residential development should be accommodated, subject to meeting normal planning and environmental criteria.

The following policy objectives are relevant:

RH 3: states that it is Council policy to consider a single dwelling in the countryside subject to meeting the criteria in Table 4.4 in relation to Structurally Weak Areas.

RH 4: states that rural housing should have regard to the *Sustainable Rural Housing: Guidelines for Planning Authorities* (DEHLG, 2005) and the '*EPA Code of Practice: Wastewater Treatment Systems for Single Houses* (2009)'

RH 10: seeks to promote good rural design through the implementation of Rural House Design Guidelines prepared by Laois County Council in Appendix 7.

DM RH 1 states that new dwelling houses in rural areas shall be assessed against a number of criteria to ensure that a rural site is acceptable in principle.

DM RH 4 Wastewater Treatment (Unsewered properties) seeks to ensure that wastewater treatment for single houses meets with the requirements of the EPA Code of Practice 2009 and subsequent updates.

National Biodiversity Plan 2023-2030

The plan includes five strategic objectives aimed at addressing existing challenges and new and emerging issues associated with biodiversity loss.

5.2. EIA Screening

5.2.1 Having regard to the nature and scale of the proposed development and the nature of the receiving environment, 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 stage, and a screening determination is not required. Please see Form 1 in Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A third party appeal has been submitted by John Clooney against the decision of Laois County Council to grant outline planning permission. The grounds are summarised below:

- The subject site is in a remote rural area, the proposal would impact on habitats for wildlife including foxes, hares, and cuckoos.
- The access to the site is via a small country lane off the R434 which was made by farmers to service the parcels of agricultural land. The lane is only 8 feet wide in places and is a rough surface only suitable for agricultural use.
- A river runs through the site and is a direct tributary of the river Gully, which is known locally for wild salmon, questions whether a septic tank on the site would impact on water quality.
- The site is distant from electricity supply and water supply, connecting the site may impact on the countryside.

- Rural housing should be for a family from the area.

6.2. Applicant Response

6.2.1 A response has been submitted by Des Kilmartin Design Service on behalf of the applicant. The response can be summarised as follows:

- All landowners on the laneway have rights to access of the laneway and there is no legal restriction on the use of the laneway for access for a dwelling.
- The land has been in the ownership of the applicant's family for a number of years.
- No hedgerow is proposed to be removed along the laneway. The agricultural machinery using the land are the same width as any construction traffic.
- The application includes a septic tank and bored well and therefore there would be no disturbance required to provide a connection to the group water scheme.
- The proposed development is 400m from the River Gully and the proposal is not a potential threat to the river. The site is not within a conservation area and there is no protected flora and fauna species.
- The septic tank far exceeds the minimum separation distances as required by the EPA Code of Practice and therefore does not pose any threat to the existing river and its habitats.

6.3. Planning Authority Response

- There is no response from the planning authority.

6.4. Observations

- No observations have been received.

6.5. Further Responses

- No further responses have been received.

7.0 Assessment

7.1 Having inspected the site and reviewed the documents on file, I consider that the appeal can be addressed under the following headings:

- Principle of development
- Biodiversity
- Traffic Safety
- Wastewater Management / Water supply
- Appropriate Assessment

7.2 Principle of development

7.2.1 The appeal site is located in open countryside within an area of Laois which is designated as 'Structural weak Area' in Map 2.2 'Laois Core Strategy Map.' Table 4.4 '*Rural Area Designation*' states that to help stem decline and strengthen structurally weak areas, it is an objective of the Council that, in general, any demand for permanent residential development should be accommodated, subject to meeting normal planning and environmental criteria. The proposal for a dwelling in this structurally weak area of County Laois is considered to be acceptable in principle, subject to normal planning considerations.

7.3 Biodiversity

7.3.1 The grounds of appeal outline concerns in relation to the impact that the proposed development would have on the wildlife of the area. In addition to these concerns are also outlined in relation to the removal of hedgerows along the access track to the subject land.

7.3.2 In response the applicant has stated that the appeal site is not within a conservation area and do not contain any protected flora and fauna. In addition to this the applicant states that the appeal site is a relatively small portion of the overall landholding and that the remainder of the land holding will be retained in its current form and that there would be minimal disruption to wildlife.

7.3.3 I note the concerns of the appellant in relation to potential impacts on wildlife in the area. However, having regard to maps 11.1, 11.2, 11.3 and 11.4 of the *Laois County*

Development Plan 2021 to 2027 I note that the subject land is not within any protected areas (including Special Areas of Conservation, Special Protection Areas, Natural Heritage Areas, or Nature Reserves). In addition to this, I have consulted the EPA website and note that the appeal site is not included in any designated sites.

7.3.4 Given that the appeal site is not included in any designated sites, I do not consider that the development of a dwelling at this location would have a detrimental impact on flora and fauna. I would agree with the planning officers in this respect.

7.3.5 I also note that appellants concern in relation to the removal of the hedgerow along the roadside boundary of the appeal site. In response to this, the applicant's response states that no hedgerow is proposed to be removed along the access lane. While this is an application for outline permission and therefore detailed plans have not been submitted, I note that the site layout plan demonstrates that the existing hedgerow on site would be maintained and would be supplemented where required. Therefore, I am satisfied that the hedgerow would be retained in place.

7.4 Traffic Safety

7.4.1 The ground of appeal highlights concerns in relation to the access to the proposed dwelling stating that the small county lane is a track which is only suitable for agricultural vehicle.

7.4.2 The Western Area Roads Department was satisfied that the existing access has adequate sight lines. However, the Western Area Roads Department also that the entrance from the site be moved eastward to allow for a 60m sightline from the sharp bend on the lane. In their report the planning officer states that the alteration of the access is not required in this case, as adequate sightlines are already achieved, and any movement would require the removal of existing hedgerows which would have a detrimental impact on biodiversity in the area. Having considered that plans submitted with this application I would agree with the Western Area Roads Department that the entrance should be moved eastward. This would ensure appropriate sightlines on the narrow access track. If the Board is of a mind to grant outline planning permission, then I would recommend that a condition to this effect is included.

7.4.3 I note the concerns of the appellant in relation to the use of the laneway to access the proposed dwelling. Neither the Western Area Roads Department nor the planning officer outlined any concerns in relation to the use of the lane to provide access to the

proposed dwelling. I further note that the planning officers report states that the Roads Design Section of Laois County Council stated that the lane is not taken in charge. I make the Board aware that I undertook a site visit on 13/12/24 (one week after storm Darragh) and used the access lane to get to the site. The proposed dwelling would be c.1.4km from the R434 and the access laneway is unmetalled, narrow and the ground conditions on the day were relatively saturated and heavy. It was noted that there were no passing bays for vehicles going in opposite directions to pass.

7.4.4 Having considered the foregoing I am not satisfied that the road network serving the site is adequate to serve residential traffic in a safe manner. The access lane includes long sections where there is no safe passage for passing vehicles and the unmetalled surface may not be suitable for standard cars in times of heavy rain. In my opinion, increasing the level of non-agricultural levels of traffic by permitting residential development would not be appropriate and therefore refusal is recommended.

7.4.5 The access lane is accessed via the R434 which is designated as a Strategic Regional Road in the *Laois County Development Plan 2021-2027*. Policy Objective **Trans21** states that sightlines of 180m must be achieved within the site boundary only and not require any set back of adjacent boundaries on 3rd party lands. While the proposed development would not exit directly onto the R434, the use of the junction of the R434 and the lane which accesses the appeal site would be intensified and therefore there is a need for sightlines of 180m to be achieved at this junction. In this regard drawing No.'s 23-124-002 and 23-124 003 both lodged by way of response to a Further Information request show that sightlines of 180m can be achieved in both an easterly and westerly direction at this junction. In addition to this, the planning officers report notes that the removal of hedgerow at this location is not required.

7.4.6 Having considered the drawings submitted to Laois County Council and policy **Trans21** of the *Laois County Development Plan 2021-2027* and having been on site, I am satisfied that the proposal would not endanger pedestrian or vehicular traffic and would not constitute a traffic hazard.

7.5 Wastewater Management / Water supply

7.5.1 It is proposed to install an effluent treatment system and associated percolation area on site. Water is proposed to be supplied by way of a private well.

7.5.2 I refer the Bord to the Site Characterisation Form which shows that the percolation tests carried out on site suggests that the soils and subsoils inherent on the site have adequate percolation and infiltration qualities to accommodate a proprietary wastewater treatment system.

7.5.3 The form shows that soli is a grey/ brown Podzolic with the subsoil being till derived from limestone with no bedrock or water table encountered. The percolation tests yielded T values of 30.97 and no ground water was encountered, this would comply with the standards set out in the EPA Code of Practice: *Domestic Waste Water Treatment Systems (Population Equivalent ≤10) 2021*.

7.5.4 The table below demonstrates the separation distance of the Domestic Wastewater Treatment System set out in Table 6.2 of the EPA Code of Practice: *Domestic Waste Water Treatment Systems (Population Equivalent ≤10) 2021*.

Feature	Set back required	Set back achieved
Alongside Domestic Well	25m	Location of domestic well not provided
On-site House	7m tank / 10m infiltration area	18m tank / 12m infiltration area
Road	4m	10m
Site boundary	3m	7m
Water course / stream	10m	450m

Table 1: Septic tank / percolation area setbacks

7.5.5 While Table 1 above shows that the proposed septic tank and percolation area would comply with a number of the separation distances required by the EPA Code of Practice: *Domestic Waste Water Treatment Systems (Population Equivalent ≤10) 2021*, the site plan submitted with this application does not give a location for the proposed domestic well to service the proposed development. Therefore, there is no way to determine if the proposed septic tank and percolation area would be appropriately set back from the well to comply with the EPA code. Given the lack of information provided in this respect, I am not satisfied that the septic tank and percolation area would comply with the setbacks outlined in the EPA Code of Practice: *Domestic Waste Water Treatment Systems (Population Equivalent ≤10) 2021*. As a

consequence, I cannot confirm that that the proposal would not be prejudicial to public health. Therefore, refusal is recommended. I make the Bord aware that the consideration of the location of the private well and its separation distance from the septic tank and percolation area is a new issue.

8.0 AA Screening

- 8.1. I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended. The proposed development is in a rural area of County Laois, c. 8km to the southeast of Borris-in-Ossary. The proposal comprises of outline permission for the construction of a new dwelling, septic tank including percolation area, vehicular access, and ancillary site works.
- 8.2. The subject land is not directly adjacent to a European site. The closest such site to the appeal site is the River Barrow and River Nore SAC which is located c. 4km to the north-east of the site. it is noted that there is no hydrological connection between the site the River Barrow and Rive Nore SAC.
- 8.3. Having considered the nature, scale, and location of the proposed development 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 relatively small scale of the proposal for which outline planning permission is requested.
 - The location of the development and its distance from the closest European Site
- 8.4. I consider that the proposed development would not 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 outline planning permission be refused for the reasons outlined below. I reiterate to the Board that the concerns in relation to the location of the private well and the set back from the septic tank and percolation area is a new issue in the

context of this appeal and the Board may wish to consider issuing a s.137 notice in this regard.

10.0 Reasons and Considerations

1. The site is located on a long, narrow, unmetalled lane which is substandard in terms of the lack of passing bays. The Board is not satisfied that the additional traffic movements that would be generated by the proposed development can be safely accommodated on this substandard lane and as such would endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the lack of information relating to the location of the private well to service the proposed development and its set back from the septic tank and percolation area, the Board is not satisfied that the applicant has demonstrated that the proposed wastewater system has been designed to comply with the requirements of the EPA Code of Practice *Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)* 2021 and that effluent from the development can be satisfactorily treated and disposed of on site. The proposed development would therefore be prejudicial to public health.

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.

Ronan Murphy
Planning Inspector

19 December 2024

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320765-24		
Proposed Development Summary	Proposed outline planning application for a house and all associated ancillary site works.		
Development Address	Skeagh, Aghaboe, Co. Laois		
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			Proceed to Q3.
No	X		No further action required
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 relevant quantity, area or other limit specified [sub-threshold development]?			
No			
Yes	X	Class 10 (b) (i) Construction of more than 500 dwelling units.	Proceed to Q4

4. Has Schedule 7A information been submitted?		
No	x	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-320765-24	
Proposed Development Summary	Proposed outline planning application for a house and all associated ancillary site works	
Development Address	Skeagh, Aghaboe, Co. Laois	
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development. Is the nature of the proposed development exceptional in the context of the existing environment.</p> <p>Will the development result in the production of any significant waste, emissions, or pollutants?</p>	<p>The proposal is for the outline permission for the construction of a dwelling in the rural area. This is not an exceptional type of development in this rural area.</p> <p>The development involves treatment and disposal of effluent to ground. Subject to compliance with the relevant standards this will not result in pollution. Disposal of storm water to onsite soakpit will not result in significant pollution. Emissions from cars will not be significant.</p> <p>Therefore, the development will not result in the production of significant waste, emissions, or pollutants.</p>	No
<p>Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and / or permitted projects?</p>	<p>The proposed house for which outline planning permission is requested has an area of c.200m². This is a relatively small development in this rural context.</p> <p>There is no real likelihood of significant cumulative effects with other permitted developments.</p>	No

<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?</p>	<p>There are no significant ecological sensitivities on the site. There are existing hedgerows bounding the site. The development will not significantly impact on existing hedgerows.</p> <p>There is no information to show that the development will impact on any protected species.</p> <p>The River Gullie is c 400m from the site. Having regard to the separation distance and lack of hydrological or ecological pathways between the development and the river, the development does not have potential to significantly affect the river.</p>	<p>No</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA is not required.</p>		