



An
Coimisiún
Pleanála

Inspector's Report ABP-320928-24

Development

Retention permission for alterations to previously approved planning permission (Reg. Ref. 93/272) and the retention of 3 no. domestic sheds and all associated site works.

Location

Arus Suain, Killeshin, Carlow, Co.
Laois, R93 H879

Planning Authority

Laois County Council

Planning Authority Reg. Ref.

2460441

Applicant(s)

Eugene Smartt

Type of Application

Permission

Planning Authority Decision

Grant Permission and Retention
Permission

Type of Appeal

Third Party

Appellant(s)

Lee Coyle

Observer(s)

Gerard and Ann Moore

Date of Site Inspection

25th July 2025

Inspector

Elaine Power

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Appendix 1: Form 1: EIA Pre-Screening

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1.0 Site Location and Description

- 1.1. The appeal site is located at Arus Suain, in the rural townland of Killeshin, c. 2km west of Killeshin Village. Co. Laois and c. 5km west of Carlow town. The site fronts onto the R430, which is characterised by ribbon development on both sides of the Road.
- 1.2. The appeal site is linear in shape with a length of c. 180m has a stated area of c. 0.234ha. It accommodates a dormer bungalow, 3 no. sheds and associated open space and has an existing vehicular access onto the R430.

2.0 Proposed Development

- 2.1. The proposed development comprises the retention of alterations to a previously approved house (Reg. Ref. 93/272) comprising the construction of a porch to the front elevation, the addition of a window and patio doors to the northwest facing elevation, changes to rear elevation to include the removal of back door, internal alterations and the relocation of septic tank and percolation area. Retention permission is also proposed for 3no. domestic sheds, and all associated site works at, Carlow, Co. Laois.

3.0 Planning Authority Decision

3.1. Decision

Retention permission was granted subject to 5 no. standard conditions.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

The planners report dated 12th September 2024 provided a summary of the site location, a description of the proposed development, environmental considerations, third-party submissions, planning history, policy context and raised no concerns regarding the proposed development

3.2.2. *Other Technical Reports*

None

3.3. Prescribed Bodies

None

3.4. Third Party Observations

An observation was received from the appellant, Lee Coyle. The concerns raised are summarised below:

- The relocation of the septic tank raises a potential risk of contaminating surrounding soil and water sources which poses a threat to local ecosystems.
- The number of domestic sheds constructed on the property appears to be excessive and out of keeping with the character of the area, which negatively impacts on the visual amenity of the area.

4.0 Planning History

Reg. Ref. 93/272: Retention permission was granted in 1993 for a dormer bungalow, septic tank and bored well.

5.0 Policy Context

5.1. Laois County Development Plan 2021 -2027

The appeal site is located in the open countryside, outside of the settlement boundary for Killeslin. Due to its proximity to Carlow town, it is identified on the Core Strategy Map 2.2 as being an Area Under Strong Urban Influence.

Appendix 7 of the development plan is the Rural Design Guidance. With regard to Windows and Doors it provides the following guidance. The elevational appearance of a building is determined more than anything else by the positioning, size and design of door and window openings.

- The total area of window and door openings needs to be in proportion to the scale and style of the house.
- Gable end and north facing walls will usually benefit from a lower ratio of opening to wall.

- Windows should usually line-up over each other - although a carefully considered contemporary design can result in a visually balanced elevation with less regular pattern of openings.
- The size of opening should reflect the function of the room - very small bathroom, cloakroom or landing windows can contribute to the composition of a façade by contrasting with more expansive openings to principal living areas.
- Irregularly-sized windows and elaborate bay windows should be avoided

It further notes that the addition of outbuildings or extensions can be one of the most controversial parts in the design of a house. The key objective is ensuring that the main house is clearly seen as the dominant element. The scale and detail of additions, garages in particular, should match the balance of the house and be subservient to it.

With regard to porches the guidance notes that protruding bay windows and elaborate porches should be avoided.

5.2. Natural Heritage Designations

The River Barrow and River Nore SAC is located c. 1.7km northeast of the subject site.

5.3. EIA Screening

- 5.3.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Please refer to Appendix 1 attached to my report.

5.4. Water Framework Directive (WFD) Screening

- 5.4.1. Please refer to Appendix 2 of this report. The River Fushoge (Fushoge_20) IE_SE_14F030250 flows around the appeal site, with the nearest surface water body, c. 150m northeast of the site. It has a good water body status. The groundwater body is the Shanragh IE_SE_G_124, which also has a good water body status.

- 5.4.2. No water deterioration concerns were raised in the planning appeal.
- 5.4.3. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the development to be retained, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.
- 5.4.4. The reason for this conclusion is as follows:
- The small scale and nature of the development for retention
 - Location-distance from nearest water bodies
 - Lack of hydrological connections
- 5.4.5. I conclude that on the basis of objective information, that the retention of the development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

6.0 The Appeal

6.1. Grounds of Appeal

The third-party appeal from Lee Coyle is summarised below.

- The dilapidated state of the building negatively impacts on the visual amenities of the surrounding properties, which are well maintained and reflect the local character.
- The appearance of the building could have a negative impact on property value in the locality.
- The building does not contribute positively to the environment.

- Concerns regarding the structural integrity of the building, which appears to have sunken in one location. The walls are notably unstable creating a real potential for collapse. This result in a safety concern for anyone on the site.
- Planning permission should not be granted until a structural assessment is carried out and remedial works to secure the building and ensure it meets safety standards. To allow this structure to remain without substantial improvements would set a negative precedent for development in the area.
- The building cannot be safely occupied for storage.

6.2. **Applicant Response**

None

6.3. **Planning Authority Response**

None

6.4. **Observations**

The observation from Gerard and Ann Moore is summarised below:

- A portion of one of the sheds is located on lands that are outside of the ownership of the applicant. A photograph of the lands within the ownership of the observers Gerard and Ann Moore is attached with the submission and includes a portion of the appeal site.

6.5. **Further Responses**

None

7.0 **Assessment**

- 7.1.1. Having examined the appeal details and all other documentation on file, including the observations received in relation to the appeal, and inspected the site, and having regard to relevant policies and guidance it is my opinion the proposed development comprises 3 no. distinct elements, in this regard (1) the retention of the works to the

house, (2) the retention of the 3 no. domestic sheds and (3) the relocation of the septic tank.

7.2. I consider that the main issues in this appeal are as follows:

- Works to the House
- Domestic Sheds
- Wastewater
- Legal Issues

7.3. ***Works to the House***

7.3.1. The works to the house comprise the construction of a porch to the front, the addition of a window and patio doors on the side elevation, changes to rear elevation to include the removal of a back door and internal alterations.

7.3.2. The front porch has a floor area of c. 2sqm, with a window on the western elevation. It has a flat roof with a height of c. 2.6m. The materials match the existing dwelling. Appendix 7 Rural Design Guidance of the development plan states that elaborate porches should be avoided. I am satisfied that scale and design of the porch to be retain is appropriate and does not impact on the character of the dwelling. I have no objection to the retention of the front porch.

7.3.3. It is also proposed to retain the removal of a door on the rear elevation of the house and the retention of double doors and a window on the side elevation of the house. Appendix 7 Rural Design Guidance of the development plan states that the total area of window and door openings needs to be in proportion to the scale and style of the house and that the size of opening should reflect the function of the room. I am satisfied that the alterations are in accordance with the guidance set out in Appendix 7 and I have no objection to their retention.

7.3.4. The development description also states that internal alterations would be retained. The information submitted does not detail the alterations. However, as the house is not a protected structure and the internal alterations would not impact on the external appearance of the dwelling it is not considered a relevant planning matter in this

instance. It is also noted that no concerns are raised by the planning authority or the third parties regarding any internal alterations to the existing house.

- 7.3.5. Overall, it is my opinion that the alterations to be retained the existing house are minor in nature and do not materially impact on the character of the house and the are in accordance with the with the guidance set out in Appendix 7 of the development plan. It is noted that no concerns were raised by the planning authority or the third parties regarding the alterations to the existing house.

7.4. Domestic Sheds

- 7.4.1. The proposed development includes the retention of 3 no. domestic sheds. The sheds are referred to as Shed 1, Shed 2 and Shed 3 on the submitted documentation.
- 7.4.2. Shed 1 sits at the sites rear boundary, c. 0.8m from the rear elevation of the existing dwelling. It comprises a single room for storage purposes with a floor area of c. 5.3sqm and a lean to roof with a maximum height of 2.1m. The shed is finished in render and has a single door on its side elevation.
- 7.4.3. Shed 2 is located c. 0.8m from the side elevation of the existing dwelling and c. 5m from the sites rear boundary. It has a floor area of c. 40sqm and has a pitched roof with a maximum height of 4m. The drawings submitted indicated that that the internal layout comprises 3 no. separated areas for storage purposes with windows on the side and rear elevations and doors on the front and side elevation. The information submitted states that the shed is of block concrete construction. During my site visit on the 25th July 2025, it was noted that Shed 2 is well maintained.
- 7.4.4. Shed 3 is located in the northwest portion of the site, c. 52m from the side elevation of the existing dwelling. It is noted that the Observers Gerard and Ann Moore state that this portion of the site is within their ownership. Legal Issues are addressed below.
- 7.4.5. The shed has a floor area of c. 43sqm with a lean to roof with a maximum height of 2.6m. The drawings submitted indicated that that the internal layout comprises a single area for storage purposes with windows on the front, rear and side (southern) elevations and a single door on the front elevation. The information submitted states that the shed is of block concrete construction.

- 7.4.6. During my site visit it was noted that She 3 is in a state of disrepair and the area around the shed is overgrown. The third party raised concerns regarding the negative visual impact of a building on the appeal site. While the appeal does not specify which building it is my assumption that the appeal is referring to Shed 3. The concerns raised regarding the negative visual impact are noted. However, having regard to the nature and relatively limited scale of the shed I am satisfied that it does not significantly negatively affect the visual amenities of the surrounding area.
- 7.4.7. The third party also raised concerns that the retention of a building on site could result in a potential for a safety hazard. Again, it is my assumption that the appellant is referring to Shed 3. While this concern is noted, having regard to the nature and relatively limited scale of this structure, and its location within the garden of a private dwelling. I am satisfied that that it does not represent a significant safety risk to the public. I am also satisfied that there is no requirement for a structural assessment of the structure to be submitted to fully assess the impact of its retention.
- 7.4.8. Overall, having regard to the size of the site (0.234ha) and its linear shape I have no objection to the number, size or siting of the sheds within the appeal site, It is my view that they do not negatively impact on the visual amenities of the surrounding area and do not pose a safety risk to the general public. If permission is being completed it is recommended that a standard condition be attached that these structures to be retained shall be incidental to the enjoyment of the existing house and shall not be used for habitable purposes, any commercial or non-domestic use.

7.5. **Wastewater**

- 7.5.1. The proposed development includes the retention of the relocation of the previously approved septic tank and percolation area. Retention permission was granted under Reg. Ref. 93/272 for a dormer bungalow, septic tank and bored well. The drawings submitted indicated that the original percolation area located to the southeast (side) of the house. The septic tank and percolation area to be retained are located to the northwest (side) of the house. Table 6.2 of the 'EPA Code of Practice for Domestic Waste Water Treatment Systems' (DWWTS) sets out minimum separation distances between DWWTS and a number features including domestic wells, on-site house, neighbouring houses, watercourses, drainage ditches, percolation areas, surface

water soakaways and public roads. The information submitted indicates that the system to be retained reaches and exceeds the recommended separation distances set out in the EPA Code of practice. A site suitability assessment was not submitted with the application. However, the site was assessed as part of the previous application (Reg. Ref. 98/272) and was considered suitable by the planning authority for a DWWTS. Having regard to the relatively limited size of the site and the limited separation distance between the approved location and the proposed location to be retained I am satisfied that the subject site is suitable for the retention of the DWWTS and would not result in a potential risk of pollution to the water well supply or have a negative impact on water supply for existing properties. It is also noted that the planning authority raised no concerns in this regard

7.6. Legal Issues

- 7.6.1. Concerns are raised in the Observers Gerard and Ann Moore that a portion of the appeal is within their ownership and that retention permission should not be granted for a development on lands outside of the applicant's ownership. While this concern is noted Section 5.13 of the Development Management Guidelines for Planning Authorities advise that the planning system is not designed as a mechanism for resolving disputes about rights over land and that these are ultimately matters for resolution in the Courts. Section 34(13) of the Planning and Development Act 2000 (as amended) states, 'a person shall not be entitled solely by reason of a permission under this section to carry out any development'. As issues in relation to ownership are ultimately civil / legal issues it is considered that the issue of a right of way should not form the basis of a refusal of permission / retention permission.

8.0 AA Screening

- 8.1. In accordance with Section 177U of the Planning and Development Act 2000, as amended and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European sites in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required. This determination is based on:

- The small scale and nature of the works to be retained.
- The separation distance from nearest European site, and
- The lack of a direct or indirect pathway to any designated site.

9.0 Recommendation

It is recommended that permission be granted subject to conditions.

10.0 Reasons and Considerations

Having regard to the provisions of Laois County Development Plan 2021-2027, to the small scale and nature of the development to be retained in the context of the appeal site and the prevailing pattern and character of development in the rural area it is considered that subject to compliance with the conditions the development to be retained does not materially or adversely affect the character of the existing dwelling and does not seriously injure the visual amenity of the area or residential amenities of property in the vicinity. 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 retained in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The sheds shall not be used for human habitation, commercial use, industrial use or for any other purpose other than a purpose incidental to the enjoyment of the dwelling.

Reason: In the interests of residential amenity.

3. Within 3 months of the date of this decision the applicant shall pay to the planning authority a financial contribution in respect of public infrastructure and

facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Elaine Power

Senior Planning Inspector

31st July 2025

Appendix 1: Form 1 - EIA Pre-Screening

Case Reference	320928-24
Proposed Development Summary	Retention permission for alterations to previously approved planning permission (Reg. Ref. 93/272) and the retention of 3 no. domestic sheds and all associated site works.
Development Address	Arus Suain, Killeshin, Co. Laois, R93 H879
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	☒ Yes, it is a 'Project'. Proceed to Q2. ☐ No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
☒ No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
☒ No, the development is not of a Class Specified in Part 2,	

Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
☐ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☐	Screening Determination required (Complete Form 3)
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

Appendix 2: WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Bord Pleanála ref. no.	320928-24	Townland, address	Arus Suain, Killeshin, Co. Laois.
Description of project		Retention permission for alterations to previously approved planning permission (Reg. Ref. 93/272) and the retention of 3 no. domestic sheds and all associated site works.	
Brief site description, relevant to WFD Screening,		The site comprises a one-off dwelling in the rural area, which is characterised by ribbon development.	
Proposed surface water details		This is an existing dwelling with associated driveway and private open space. Surface water run off is drained to a soak pit within the site.	
Proposed water supply source & available capacity		The existing house is served by a private well. There are no proposals to connect the 3 no. sheds to the water supply.	
Proposed wastewater treatment system & available capacity, other issues		The existing house is served by a septic tank. There are no proposals to connect the 3 no. sheds to the septic tank. The location of the previously approved septic tank is to be retained as part of this appeal.	

Others?						
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body.	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
River Waterbody	500m northeast	Fushoge_20	Good	Under review	No pressures	No direct pathway
Groundwater Waterbody	Underlying site	Shanragh IE_SE_G_124	Good	Not at Risk	No pressures	No direct pathway
Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.						

CONSTRUCTION PHASE							
No.	Component	Waterbody receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	N/A						
OPERATIONAL PHASE							
2.	Surface	Fushoge_20 IE_SE_14F03 0250	Surface water would flow by gravity to the soak pit on site.	Spillage	Soak pit	No	Screened out
3.	Ground	Shanragh IE_SE_G_124	Pathway exists but poor drainage characteristics	Spillages	Soak pit	No	Screened out
DECOMMISSIONING PHASE							
4.	NA						