



An
Bord
Pleanála

Inspector's Report ABP-321682-25

Development	Construction of a house and all associated site works.
Location	Rathmoyle, Abbeyleix, Co. Laois
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	2360563
Applicant(s)	Jason Stokes.
Type of Application	Planning permission.
Planning Authority Decision	Grant permission.
Type of Appeal	Third Party
Appellant(s)	Helen Cruickshank.
Observer(s)	No Observers.
Date of Site Inspection	7 th of April 2025.
Inspector	Elaine Sullivan

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1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.03ha and is located within the settlement boundary of Abbeyleigh. It is situated to the fore of an existing dwelling and is accessed from the Rathmoyle Road (L-67203 Local Tertiary Road) which lies to the east of the N77 and the main street in Abbeyleigh. The site is currently vacant and is bounded by a mature hedgerow along its side and rear boundaries.

2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a 2-storey house with site entrance and new front boundary walls and piers and connections to foul and surface water drainage.
- 2.2. The design of the house was altered during the further information stage of the application. The original design comprised a two-storey house with a double pitched roof with side hips and a projecting front elevation. On foot of a request from the Planning Authority the scale of the proposal was reduced, and the roof profile was altered to a dormer roof profile.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority (PA) granted permission for the development subject to 14 no. conditions which were mainly standard in nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The decision of the PA was informed by two reports from the Planning Officer (PO). The first report dated the 20th of February 2024 noted that the site was zoned R1 – Existing Residential and was acceptable in principle. The constrained nature of the site and the prevailing pattern of single storey cottage development in the vicinity was also noted. On this basis the PO recommended that further information (FI) was

requested to reduce the scale of the two-storey proposal to a single storey or dormer dwelling. Additional queries included in the FI request related to the quantum and layout of private open space, the provision of adequate sightlines and the feasibility of connecting to the public water services.

The second report of the PO dated the 9th of December 2024 noted that the applicant had amended the design of the house to a dormer roof profile which reduced the overall height by 1.5m. The PO was satisfied that the provision of 110 sqm of private to the rear of the property was acceptable and that sightlines of 50m in both directions could be achieved. A confirmation of feasibility from Uisce Éireann was also attached to the FI response and acknowledged by the PO.

A response to FI was accepted by the PO and a recommendation to grant permission was issued.

3.2.2. Other Technical Reports

- Roads Office – Portlaoise Municipal District – No objection to the development. Minimum sightlines of 50m to be achieved.
- Water Services Department – Further information was requested regarding the additional demands on existing water infrastructure. A Pre-Connection Enquiry with Uisce Éireann was requested.

3.3. Prescribed Bodies

- No reports received.

3.4. Third Party Observations

- One third party observation was received by the PA. The observer considered that the site was too small to be developed.

4.0 Planning History

05/283 – Outline planning permission refused by the PA in 2005 for a house for reasons which related to overlooking of adjacent property, positioning to the front of

an existing house and contravention of Condition No. 8 of **Ref. Ref. 306/79** which provided for only one dwelling to be constructed on the site.

02/118 - Outline planning permission refused by the PA in 2002 for a house.

306/79 – Planning permission granted by the PA for a detached house subject to 9 conditions. Condition No. 8 required that one house only to be erected on the entire site. (Note - This application is referenced in the appeal).

5.0 Policy Context

5.1. Development Plan

Laois County Development Plan 2021-2027

The subject site is located within the settlement boundary of Abbeylisk which is identified as a Self-Sustaining Town in the Settlement Strategy for County Laois.

The site is zoned 'Residential 1 - Existing Residential', the objective of which is '*To protect and enhance the amenity of developed residential communities*'.

Chapter 4 – Housing Strategy

Housing Development Policy Objectives –

- **HPO 14** - Promote residential development addressing any shortfall in housing provision through active land management and a coordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites, and underutilised sites. This includes backland development, thus promoting a more efficient use of zoned land.

Development Management Standards for Residential Development –

- **DM HS 1** – Residential Housing Development - Applications for residential development will be assessed against the design criteria set out in Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities (2009) and the companion Urban Design Manual: A Best Practice Guide (2009). The Design Manual for Urban Roads and Streets (DTTS and DECLG, 2013) provides guidance in relation to the design of urban roads and

streets, encouraging an integrated design approach that views the street as a multi-functional space and focuses on the needs of all road users.

- **DM HS 6** – Private Open Space – All houses should have an area of open space behind the building line and shall normally be located to the rear. A minimum of 75 sq. m. is required for 3-, 4- and 5-bedroom houses.
- **DM HS 9** – The design and layout of internal space for individual houses should have regard to the targets and standards set out in Table 5.1 of the Quality Housing for Sustainable Communities Guidelines, DCHLG (2007) with regard to minimum room sizes, dimensions and overall floor areas when designing residential accommodation.
- **DM HS 15** - Infill Development in Urban and Rural Areas - Infill development is encouraged in principal where it does not adversely affect neighbouring residential amenity (for example privacy, sunlight and daylight), the general character of the area and the functioning of transport networks.

5.2. Natural Heritage Designations

- No designations apply to the subject site.

5.3. EIA Screening

- 5.3.1. See completed Forms 1 and 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal include the following,

- Properties in the townland are mainly single storey cottages and bungalows. A two-storey house is not in keeping with the character of the area.

- Due to the compact nature of the site, the development would not complement or enhance the locale.
- The four-bedroom house would not have the required 75m² of open space behind the site boundary.
- Should permission be granted the appellant requests that their land is not interfered with and the evergreen hedging bordering the site to the southeast and southwest should be protected. This is to ensure that the appellants privacy is protected.

6.2. **Applicant Response**

- No response received.

6.3. **Planning Authority Response**

- No response received.

6.4. **Observations**

- No observations received.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Impact on Residential Amenity
- Amenity Space

7.2. Principle of Development

- 7.2.1. The subject site is an infill site within the settlement boundary of Abbeylax. The zoning objective for the site is R1 – Existing Residential and, as such, the proposed development is acceptable in principle.

7.3. Impact on Existing Residential Amenity

- 7.3.1. The grounds of appeal raise a concern regarding the scale of the two-storey house in an area where the prevailing pattern of development is single storey. The appellant considers the size of the house to be inappropriate for the site and they contend that the quantum of private amenity space does not meet the requirements of the County Development Plan. The appellant requests that the existing boundary treatments to their property remain in situ and are not removed or damaged by the development.
- 7.3.2. The scale of the proposed house was raised as a concern by the PO in their initial assessment of the application and the applicant was requested to reduce the size. In response, the height of the house by 1.5m by altering the roof profile to a dormer roof.
- 7.3.3. Whilst the prevailing pattern of development immediately surrounding the site is single storey, there is a small development of three dormer houses approximately 40m to the east of the subject site and separated by a greenfield / vacant site. As you travel further east along Rathmoyle Road the house types have more variation in size and style. In terms of visual or overbearing impact from the development, I consider the houses directly to the front and rear of the site to be the most sensitive receptors. Directly facing the site and on the opposite side of the road, is a single storey house with a front garden. The existing house would be orientated to the north-west of the proposed house.
- 7.3.4. Drawings submitted with the application show that the front wall of the proposed house would be set back from the site boundary by approximately 4.6m with a separation distance of 17.28m between the front wall of both houses. There would be a 3m height difference between the ridge of the proposed house and the ridge of the existing house. However, I am satisfied that the separation distance and the

fragmented roof profile would be sufficient to prevent any overbearing impact or significant overshadowing of the existing house.

- 7.3.5. To the rear of the site is a single storey bungalow which is the home of the appellant. There is a level difference of c. 2m between the subject site and the bungalow, which places the ground floor of the house at a similar level to the first floor of the proposed house. A large, mature hedge forms the south-western and southern-eastern site boundary between both properties and is within the appellants property. The front wall of the bungalow is approximately 15m from the site boundary and there would be approximately 25.4m between the opposing windows of both houses. Given the difference in levels between the site, the first-floor windows on the proposed house would offer the most opportunity for the perception of overlooking. Floor plans show the first-floor windows on the rear elevation serving the walk-in-wardrobe area, bathroom and stairs. The Development Plan / Development Management Standard DM HS 6 recommends that a minimum distance 22m should be achieved between opposing first floor windows. As this distance is achieved and the proposed windows would not be serving any main living areas or bedrooms, I am satisfied that the proposed development will not result in direct overlooking of adjoining property. I note that the PA attached a Condition No. 1(a) to the grant of permission which requires the long window serving the stairs to be fitted with obscured glazing. Given the distance between both properties, I do not consider this condition to be necessary.
- 7.3.6. Although I accept that the style of the house would be different to the existing development along this part of Rathmoyle Road, I note that the site is an infill site, close to the centre of Abbeyleigh and is zoned for development. On this basis I am satisfied that the potential of the site can be maximised and that the overall scale and design would not be detrimental or injurious to the existing residential amenity of adjoining houses.
- 7.3.7. As noted above, the existing site boundary along the south-easter and south-western sides is formed by a dense, mature hedge and trees which are within the appellants site boundary. The appellant has expressed concerns that the hedges will be removed and has requested that they be protected to ensure privacy. Damage to private property is a civil issue and is not dealt with through the Planning Act. As such it is not an issue for the Board to consider in this appeal. However, I note that

the drawings submitted with the application state that the existing site boundaries will be retained and any removal or works carried outside of the red line boundary would require permission from third party landowners.

7.4. Amenity Space

- 7.4.1. The appellant submitted that the proposed layout would not meet the Development Plan standards for private open space which requires a minimum provision of 75sqm behind the building line for a 3-bedroom house. The quantum of amenity space was queried by the PA and in response the applicant states that there would be 110sqm of open space to the rear of the property. It is proposed to build a 1.8-2m wall to the rear of the parking area which would enclose the private space to the side and rear of the property.
- 7.4.2. I am satisfied that the proposed development would be of sufficient scale and layout to provide an appropriate level of amenity for future residents. The size constraints of the site are noted and with this consideration, I am satisfied that the quantum of private amenity space to serve the house would be sufficient. Furthermore, I note that current planning policy contained in the *Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities* promotes a more flexible approach to the provision of private open space and requires a minimum of 40sqm for a 3-bedroom house.

8.0 AA Screening

- 8.1. Having regard to the proposed development of a single dwelling with connection to public sewer and public water within the boundary of Abbeyleix town. Surface water will be directed to public sewer/drain. The nearest European Site is the River Barrow and River Nore SAC (site code: 002162) which is located c. 3km to the west of the site. It is considered that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant impact individually or in combination with other plans or projects on a European site by virtue of its scale and location within a serviced urban site.

9.0 Recommendation

I recommend that planning permission is granted.

10.0 Reasons and Considerations

Having regard to the location of the subject site within the settlement boundary of Abbeylax town and zoned as 'Residential 1 - Existing Residential' in the Laois County Development Plan 2021-2027, the separation distance to the existing properties, the location of the infill site in an existing settlement, it is considered that the development would not seriously affect the traffic safety of the area or impact the residential amenity of the area. 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 19th day of November 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 Dwelling, including the external finishes shall be consistent with details received by the Planning Authority on 19th day of November 2024 unless otherwise agreed in writing with the Planning Authority prior to commencement of any development. Stone shall be a natural local stone.

Reason: In order to assimilate the development on this site into the surrounding area, in the interests of visual amenity and the proper planning and sustainable development of the area.

3. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details submitted on 19th day of November 2024. Any plants, trees or hedging 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 order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

4. The applicant shall ensure sightline are achieved at the proposed entrance off the public road. Sightlines are to be measured to the nearside road edge with all structures and vegetation set back outside the sightline triangle.

Reason: In the interest of traffic safety.

5. Any utility poles currently within the roadside boundary set back required by other conditions of this schedule shall be repositioned behind the new boundary, and any surface chambers or manholes within it shall be repositioned in a location or at a level to be agreed with in writing with the Planning Authority. The applicant shall be responsible for the costs of relocating these facilities, for notifying the relevant statutory undertakers, for obtaining any necessary licenses, and for notifying the Planning Authority of the revised locations of such utilities, prior to commencement of development or at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing.

Reason: In the interest of road safety.

6. Any damage to the existing public road, footpath and services resulting from this development shall be repaired by the developer at this own expense, to the satisfaction of the Planning Authority.

Reason: In the interest of orderly development.

7. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

8. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: To prevent flooding and in the interests of sustainable drainage.

9. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Eireann.

Reason: In the interest of public health.

10. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, and between the hours of 0800 to 1400 on a Saturday 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. No dust, mud or debris from the site shall be carried onto or deposited on the public road/footpath. Public roads and footpaths in the vicinity of the site shall be maintained in a tidy condition by the developer during the construction phase.

Reason: To protect the amenities of the area and in the interests of road safety.

12. The developer 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 Sullivan
Senior Planning Inspector

17th of April 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-321682-25		
Proposed Development Summary	Construction of a two storey house with associated works.		
Development Address	Rathmoyle Road, Abbeyleix, 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	Tick if relevant. 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)?			
Yes	X	Class 10b(i) Construction of more than 500 dwelling units	Proceed to Q3.
No	Tick or leave blank		Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	Tick/or leave blank	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No	X		Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Class 10b(i) Construction of more than 500 dwelling units. The proposal consists of 1 no. dwelling on a site size of 0.03ha	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	Tick/or leave blank	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes	X	Screening Determination required

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-321682-25
Proposed Development Summary	Construction of a two-storey house.
Development Address	Rathmoyle Road, Abbeyleix, 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>	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposal consists of 1 no. dwelling within the settlement boundary of Abbeyleix town. The development will consist of typical construction and related activities and site works.</p> <p>Surface water will be discharged to public sewer/drain.</p> <p>Wastewater will be discharged to public sewer.</p>
<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The subject site is not located within any designated site. The nearest site is:</p> <p>The River Barrow and River Nore SAC (site code: 002162) which is located c. 3km to the west of the site.</p> <p>My Appropriate Assessment screening concludes that the</p>

	proposed development would not likely have a significant effect on any European site. The subject site is located outside any flood risk area for coastal and fluvial flooding.	
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	The site size measures 0.03ha. The size of the development is not exceptional in the context of the existing environment. There are existing dwellings adjacent to the proposed site. However, there is no real likelihood of significant cumulative effects within the existing and permitted projects in the area.	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)