



An
Coimisiún
Pleanála

Inspector's Report ABP-322153-25

Development	a) Retain Dwelling as Constructed & (b) Permission to Complete/Finish Dormer Dwelling Construction with Effluent Treatment System & Percolation Area and all associated site works
Location	Old Pound, Ballybrittas, Co. Laois
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	2460589
Applicant(s)	Richard Dunne
Type of Application	Permission for Retention & Completion
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Teresa and John Connolly
Observer(s)	None
Date of Site Inspection	9 th May 2025
Inspector	Emma Nevin

1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.75 ha. is located in the townland of Ballybrittas and 1.26km north west of Ballybrittas Village. The site is accessed off the L-7160 Local Secondary Road by way of an existing entrance. The site contains a partially constructed dwelling.

2.0 Proposed Development

- 2.1. The development comprises the retention of the dwelling as constructed on site and permission to complete/finish the dormer dwelling including effluent treatment system and percolation area and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission, on 29th November 2024, following further information request, subject to which included standard conditions and the following bespoke conditions:

- Condition 1 referenced the further information.
- Condition 2 relates to occupancy of the dwelling.
- Condition 3 related to finishes, in particular the height of the dwelling.
- Condition 4 relates to landscaping.
- Conditions 6 and 7 relate to potable water and surface water requirements.
- Conditions 8 and 9 relate to site access and electric vehicle charging points.
- Condition 11 relates to Wastewater Treatment System.
- Condition 15 relates to Development Contributions.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports dated 29th November 2024 and 28th February 2025 have been provided.

- 3.2.2. This planning application was assessed under the Laois County Development Plan, 2021 – 2027.
- 3.2.3. The original planning report considered it necessary to seek further information on the following items:
- The Planning Authority notes that the height of the dwelling as stated on the drawings received on 08/10/24, differs from that surveyed by the Enforcement Officer. The Planning Authority has serious concerns regarding the proposed house design, which is unduly high and poorly proportioned in terms of the relationship between the walls and the roof space. The Applicant was requested to submit a revised house design which significantly reduces the overall height of the proposed dwelling and is appropriately proportioned.
- 3.2.4. Following receipt and review of the further information the planners report concluded that *“Having regard to its nature, extent and location, planning history and further information response, it is considered that the proposed development would be compliant with the provisions of the Laois County Development Plan 2021-2027 and with the proper planning and sustainable development of the area”*. Accordingly, permission for retention was refused for the reason set out in Section 3.1.1 above.
- 3.2.5. Other Technical Reports:
- MD Area Engineer – No report at time of writing
 - Environment Section – No report at time of writing.
 - Water Services Section - No report at time of writing.
 - Planning Technician (SSA) – No objection
 - Enforcement - Warning letter issued to the owner of the site on 05/09/24 for the unauthorised development comprising of a roof to a structure in non-compliance with condition no 1 of planning ref 14/269.

3.3. Prescribed Bodies

- Uisce Éireann – no objection subject to condition.

3.4. Third Party Observations

3.4.1. One third party submission was received, the issues raised can be summarised as follows:

- Permission was granted in 2015 to erect a bungalow, however a dormer style roof has now been erected which is contrary to the planning permission granted and to the proper planning and sustainable development of the area.
- An application for a dormer style development was refused previously.
- Current development is not situated as permitted under the planning permission.
- Permission for this development was granted on 09/02/15 and therefore the development is outside the scope of completion of the project.
- Adequate site distance of 3m x 90m in both directions at the entrance to the property as per condition 7(a) and (b) of planning permission granted has not been maintained.

4.0 Planning History

4.1. The following planning history relates to the appeal site:

- 13/305 – Planning Permission refused by Laois County Council on 25th October 2013 to construct dormer style dwelling with proprietary treatment system and all associated works.

The reasons for refusal consider when taken in conjunction with existing and permitted development in the vicinity of the site, the proposed development would consolidate the haphazard and incongruous suburban pattern of development which exists in this rural area and would be contrary to the policies of the Sustainable Rural Housing Guidelines which define ribbon development as 5 dwellings or more located on one side of the road within 250m of road frontage. The second reason for refusal related to the excessive concentration of dwellings served by effluent treatment systems, and the potential risk of contaminated effluent entering the ground or surface waters.

- ABP Ref: 11.244550-14/269 – Planning Permission granted on appeal to An Bord Pleanála (11.244550) on 17th August 2015 to construct new bungalow incorporating a proprietary treatment system and all associated works.

5.0 Policy Context

5.1. Laois County Development Plan 2021 – 2027

- 5.1.1. The subject site is located in the rural designation ‘Area Under Strong Urban Influence’, as per Map 4.1 Rural Area Designations of the Development Plan.

Table 4.4, Rural Area Designation of the Plan states “Those rural areas within easy commuting distance of the main urban centres in County Laois and adjacent counties including the GDA, which are experiencing pressure from the development of urban generated housing in the open countryside. These areas are essentially:-

- The north and eastern areas in the County
- 5 km buffer zones around the Principal town, Key service Town and Service Towns of Graiguecullen and Mountmellick
- National, Strategic Regional Routes and Regional Routes as defined in Section 7

Continued high levels of single rural houses in these locations would inhibit the growth of the County’s urban areas which would result in a failure to achieve the growth targets. It would also cause further deterioration of rural amenities. The key development plan objectives in these areas seeks to facilitate the genuine housing requirements of the rural community as identified by the planning authority in the light of local conditions while on the other hand directing urban generated development to areas zoned for new housing development in towns and village” and “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 Plan also states, that “*It is an objective to recognise the individual housing needs of people intrinsic to the rural areas located within the areas defined as*

‘rural areas under strong urban influence’. Such needs may be accommodated on lands within the rural area under strong urban influence, subject to the availability of a suitable site and normal proper planning and sustainable development criteria. It is an objective of the Council only to permit single houses in the area under strong urban influence to facilitate those with a local rural housing need in the area, in particular those that have lived in a rural area. In order to demonstrate a genuine rural housing need, any of the following criteria shall be met: a) the application is being made by a long term landowner or his/her son or daughter seeking to build their first home on the family lands; or b) the applicant is engaged in working the family farm and the house is for that person's own use; or c) the applicant is working in rural activities and for this reason needs to be accommodated near their place of work; or d) the application is being made by a local rural person(s) who have spent a substantial period of their life living in the local rural area, and, who for family and/or work reasons need to live in the rural area”.

5.1.2. The site is within a Lowland Agricultural Areas.

5.1.3. I reference the Rural Housing Policy Objectives, in particular the following:

- RH1 - Support the sustainable development of rural areas in Laois by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.
- RH 10 - Promote good rural design through the implementation of Rural House Design Guidelines prepared by Laois County Council in Appendix 7.
- Development Management Standards for Rural Housing – DM RH 1 New Dwelling Houses in Rural Areas having particular regard to the following criteria – (a) 30 metres of road frontage, unless a considerable set-back from the roadway exists. (b) Minimum 0.202 hectares (0.5 acres) of site area. (c) Sightlines at the proposed entrance must comply with Laois County Council Parking and Roads Standards indicated in Chapter 10 of the Plan and must be achieved within the boundary of the site only. Excessive removal of hedgerow to achieve adequate sightlines is unacceptable. (d) The

location and design of a new dwelling shall take account of and integrate appropriately with its physical surroundings and the natural and cultural heritage of the area and respect the character of the area. (e) Appropriate landscaping of proposed development using native species. (f) The capacity of the area to absorb further development. In particular, the following factors will be examined; the extent of existing development in the area, the extent of ribbon development in the area, the degree of existing haphazard or piecemeal development in the area and the degree of development on a single original landholding. (g) In the interests of protecting the biodiversity of the rural areas, the ability to provide safe vehicular access to the site without the necessity to remove extensive stretches of native hedgerow and trees. The need for the removal of extensive roadside hedgerow may indicate that the site is unsuitable for development. (h) The ability of a site in an unserviced area to accommodate an on-site waste water disposal system in accordance with the EPA Code of Practice for Wastewater Treatment Systems for single houses (2009), the County Laois Groundwater Protection Scheme, and any other relevant documents / legislation as may be introduced during the Plan period. (i) The ability of a site in an unserviced area to accommodate an appropriate on-site surface water management system in accordance with the policies of the Greater Dublin Strategic Drainage Study (2005). (j) The need to comply with the requirements of The Planning System and Flood Risk Management Guidelines for Planning Authorities, DEHLG (2009). (k) Floodlighting of single family dwellings or the lighting of private roads in rural areas will not be accepted.

5.1.4. The following is also considered to be of particular relevance:

- Appendix 7 Rural Design Guidance.

5.2. Sustainable Rural Housing – Guidelines for Planning Authorities

5.2.1. These guidelines state that development plans should facilitate the housing need of the rural community while directing urban generated housing to settlements. The guidelines go on to state that the housing requirements of persons with a link to the

rural area should be facilitated in the area it arises subject to normal siting and design requirements.

5.3. National Planning Framework (First Revision 2025)

- 5.3.1. National Policy Objective 28 of the National Planning Framework (NPF) states the following in relation to one-off rural housing in the countryside:

Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

- 5.3.2. Additionally National Policy Objective 29 of the NPF states “Project the need for single housing in the countryside through the local authority’s overall Housing Need Demand Assessment (HNDA) tool and county development plan core strategy processes”.

5.4. Regional Spatial and Economic Strategy (RSES) - Eastern and Midland Regional Assembly (EMRA)

- 5.4.1. The NPF and RSES make a distinction between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and rural areas outside these catchments. In such areas a more flexible approach based primarily on siting and design will apply.
- 5.4.2. For some rural areas, urban and commuter generated development has undesirably affected the character and cohesion of these locations. Simultaneously, in less accessible rural locations, population levels have declined, and it has been difficult to sustain basic services and community facilities at these locations.

- 5.4.3. Regional Policy Objective (RPO) 4.80 states that 'local authorities shall manage urban generated growth in Rural Areas Under Strong Urban Influence (i.e. the commuter catchment of Dublin, large towns and centres of employment) and Stronger Rural Areas by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstrable economic or social need to live in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.5. Natural Heritage Designations

- 5.5.1. The subject site is not located within any designated European Sites.
- 5.5.2. The nearest Natura 2000 Site is the River Barrow and River Nore SAC, which is located 5.12km east of the subject site.

5.6. EIA Screening

- 5.6.1. I refer the Coimisiun to the completed Form 1 in Appendix 1. 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

- 6.1.1. A third party appeal has been received by the Teresa and John Connolly against the decision of Laois County Council to grant permission under Reg. Ref. 2460589. The appeal includes a copy of the objection letter sent to the Council and a letter sent to Planning Enforcement and can be summarised as follows:
- The planning history is referenced.
 - Development not completed within the standard 5-year duration of planning permission.

- Conditions of planning permission not adhered to.
- There is a considerable difference in height of the dwelling that was approved – approximately 3 metres in height.
- Enforcement proceedings.
- Retention permission sought and approved.
- National Policy Objective 19 and 20 were not referenced in the planning assessment and it is not apparent that the application has fulfilled the criteria of either.
- Key policies of the Development Plan which the appeal should be assessed against include, HPO 13, DM HS 8, DM HS 14 and DM HS 15.
- Key criteria for protecting existing residential amenities have not been adhered to and are contrary to the proper planning and sustainable development of the area.
- The rural housing policy for Laois has had careful regard to the national advice and guidance as set out in National Spatial Strategy and Sustainable Rural Housing: Guidelines for Planning Authorities (2005).
- The obvious flaunting of planning legislation and the non-compliance to rural planning policy through seeking of retention permission and the height difference and location of the dwelling has fully ignored the amenities of existing and established rural communities and it contrary to the rural policy as set out in the Development Plan.
- Adherence to Planning Legislation – if permission is granted it would undermine the planning process and set an unwarranted precedent for developers to build what they want and seek retention later.
- Concerns regarding the future use of the upper level of the dwelling and the use of roof lights or possible further use of dormer style windows.

6.2. Planning Authority Response

6.2.1. No response received from the Planning Authority.

6.3. Observations

6.3.1. None received.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the third party appellant's submission (the subject matter of this appeal), site inspection and having regard to the relevant policies, objectives, and guidance, I am satisfied that the main issues to be considered are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The main issues in determining this appeal relate to:

- I. Planning History
- II. Principle of Development – National and Local Policy
- III. Impact on Residential and Visual Amenity
- IV. Future Use of dwelling
- V. Water Framework Directive
- VI. Appropriate Assessment, and
- VII. Other Matters.

7.2. Planning History

7.2.1. I note the planning history associated with the site, in particular the permission granted under 14/269, by both Laois County Council and An Bord Pleanála Ref: PL11.244550, for a detached dwelling at this location. I am of the opinion however, notwithstanding the historical planning background, that each case must be considered on its own merits, and that the current application be deemed a new application.

7.2.2. However, as acknowledged by the appellant the current proposed development itself, notwithstanding its modest scale, has not considered the impact on existing residential amenities and has not complied with the planning conditions of the corresponding approval. Notwithstanding the need to consider each application on its individual merits I believe that the permissions historically both 'granted' and

'refused' on the application site, and the surrounds, provide a benchmark or reference against which the merits of the current application may be measured for its compliance with prevailing statutory planning and development frameworks, which facilitate the proper planning and sustainable development of the area.

7.3. Principle of Development – National and Local Policy

- 7.3.1. The appellant references both non-compliance with National and Local Policy. Since the planning application and appeal, the National Planning Framework First Revision has been adopted. As such the references to NPO 19 and NPO 20 have been superseded by National Policy Objective 28 and National Policy Objective 29, respectfully.
- 7.3.2. Under NPO 28, I note that this objective provides for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere. The appeal site is in a rural area under strong urban influence as such the provision of a dwelling in the countryside is based on the core consideration of demonstrable economic or social need to live in a rural area. As this is a retention application for modifications to a dwelling permitted under 14/269/ABP:22 to the same applicant, I am satisfied that the applicant complies with NPO 28 of the NPF in terms of need to reside in the rural area as per the previous application the applicant has close ties to the area and work close to the area.
- 7.3.3. NPO 29, relates to the need for single housing in the countryside through the local authority's Housing and Demand Assessment (HNDA). Section 4.2.2 Single One off Dwellings of the Development Plan states that *"The cluster planning aims to encourage more focused settlements in the country where "Cluster Living" around towns and villages will emerge. Therefore, the estimation of single one-off dwellings over the Plan Period is based on an intervention policy approach, where the number of rural housing is aimed to be restricted to an average of 100 no. of units for each year over the Plan Period, equating a total number of 600 no. one-off dwellings during 2021-2027"*. In this regard, I do not consider that the retention of one dwelling in the Ballybrittas area, which was previously permitted in 2015, would conflict with this objective of the NPF.

7.3.4. Having regard to local policy, is in a “Areas Under Strong Urban Influence” as designated under the rural housing policy of the Laois County Development Plan 2021-2027. As noted in the forgoing, the applicant has demonstrated their housing need under the previous permission granted on site, to which this retention permission is intrinsically linked.

7.3.5. The appellant considers that the development should be assessed against the following objectives:

HPO 13 – “Support the development of serviced sites to address the issue of single one-off dwellings”.

This policy relates to standards for Housing Development, having regard to the instant appeal which pertains to the retention and completion of a dwelling on site and as such I do not consider this policy to be relevant in my assessment.

Notwithstanding, the retention of the wastewater treatment system will be noted in Section 7.8 below.

DM HS 8 – Overshadowing of Dwellings and Open Space *“High buildings or when new buildings are located close to adjoining structures may significantly overshadow dwellings and open space. Daylight and shadow projection diagrams should be submitted for such proposals. The recommendations of ‘Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice’, (B.R.E. 1991) or B.S. 8026 ‘Lighting for Buildings, Part 2 1992: Code of Practice for Day lighting’ should be followed in this regard”.*

While this policy relates to standards for residential development, having regard to the instant appeal which pertains to the retention and completion of a dwelling on site and as such I do not consider this policy to be relevant in my assessment.

Notwithstanding, the impact on residential and visual amenities will be discussed in Section 7.4 below.

DM HS 14 – House extensions/alterations in urban and rural areas *“Extensions and alterations to dwellings should: 1) Be of a scale and position which would not be unduly incongruous with its context; 2) Harmonise with the principal building and fit into the site and surrounding area in terms of scale, bulk, form and materials. 3) The design and finish of the proposed extension need not necessarily replicate or imitate the design and finish of the existing dwelling. More contemporary*

designs and finishes often represent a more architecturally honest approach to the extension of a property and can better achieve other objectives, such as enhancing internal natural light; 4)Not have an adverse impact on the amenities of adjoining properties through undue overlooking, undue overshadowing and/or an over dominant visual impact;5) Be positioned to ensure the privacy and adequate sunlight and daylight to key habitable rooms; Site coverage should be carefully considered to avoid unacceptable loss of private open space”.

The aforementioned policy relates to extensions and alterations to existing dwellings, this appeal pertains to the retention and completion of a dwelling on site and as such I do not consider this policy to be relevant in my assessment.

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”.*

The impact on residential and visual amenities will be discussed in Section 7.4 below.

Conclusion:

- 7.3.6. I am satisfied that the principle of the dwelling to be retained and completed would be acceptable on this site and accords with National and Local policy as noted above. This, however, is subject to the protection of existing residential and visual amenity, which will be discussed further below.

7.4. Impact on Residential and Visual Amenity

- 7.4.1. The appellant considers that the applicant has not considered the impact on existing residential amenities when constructing the dwelling.
- 7.4.2. I consider that the impact on both residential and visual amenities is a key consideration in this appeal. The location of the dwelling as constructed on site, is similar to the footprint of that previously granted. Notwithstanding, the dwelling is located on a large site and is positioned some 17.5 metres and 11.3 metres from the directly adjoining site boundaries. The dwelling is also set back from the roadside boundary by 22.3 metres. Having regard to the layout of the directly adjoining dwellings and the aforementioned separation distances, I am satisfied that the

dwelling does not impact on the residential amenities of the adjoining dwellings/sites by means of overbearing or overshadowing.

7.4.3. I reference the Rural House Design Guidelines, which forms part of Appendix 7 of the Development Plan. This provides guidance in respect to the design of one off dwellings in the countryside. side and rear extensions. In relation to house design it states *“It is important to consider how the scale and form of a proposed new dwelling will affect the setting, its visibility in the landscape, and its relationship to nearby buildings. It is essential that the new building is designed to properly fit the site”,* and *“A dwelling with a large deep plan usually results in an over-scaled building with an expansive roof of shallow pitch. This is one of the reasons why bungalows often appear to be an inappropriate building design - they almost invariably are out of scale and incongruous to the countryside context”*. There is, however, no height restriction for dwellings referenced in the guidance.

7.4.4. The planning history on site is of relevance, permission was granted under Ref: 14/269/PL11.244550 for a detached dwelling on site. Condition No. 1 of this permission stated: *“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 submitted on the 12th day of November, 2014 and on the 15th day of January, 2015, 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”*.

The dwelling had a permitted height of 5.9 metres.

7.4.5. However, the dwelling as construction on site, the subject of this appeal, was modified with the overall height increased to 8.38 metres. The planners report states that the height of the dwelling was clarified by the local authority Enforcement Officer to 9 metres in height. Under the current planning application, Reg. Ref. 2460589, the planning authority sought further information to reduce the overall height of the dwelling. As part of the further information response the applicant reduced the

overall height and roof pitch of the dwelling to 6.9 metres, which was deemed acceptable to the Planning Authority.

7.4.6. Following my site inspection and noting the position of the dwelling relative to the directly adjoining dwellings along this stretch of rural road, I consider that the revised height of 6.9 metres, to be acceptable and will not detract from the visual amenity of this stretch of road and is in keeping generally with the overall height of the dwellings in the vicinity.

7.4.7. In relation to privacy no windows are proposed to the side of the dwelling revised by way of further information, and the ground floor windows and velux rooflights are orientated to the rear garden of the appeal site and therefore will not result in overlooking or lack of privacy.

Conclusion:

7.4.8. As such, I am satisfied that the dwelling to be retained and completed as per the revised plans submitted to the planning authority by way of further information does not impact negatively on adjoining residential or visual amenity.

7.5. Future use of dwelling

7.5.1. The appellant expresses concern regarding the future use of the upper floors of the dwelling and any associated modifications. I note that the provision of dormer windows would be subject to normal planning criteria and/or would require an application for planning permission and would be assessed at that stage. I recommend a condition be included in respect to the use of the dwelling.

7.6. Water Framework Directive

7.6.1. The subject site is not located adjacent to a water body.

7.6.2. The proposed development comprises the retention of dwelling as constructed and permission to complete/finish dormer dwelling construction with effluent treatment system and percolation area and all associated site works.

7.6.3. No water deterioration concerns were raised in the planning appeal.

7.6.4. I have assessed the retention and completion of the dwelling and associated site works 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.

7.6.5. Having considered the nature, scale and location of the project, 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.

7.6.6. The reason for this conclusion is as follows :

- Small scale and nature of the development.
- Lack of hydrological connections.

Conclusion

7.6.7. I conclude that on the basis of objective information, that the proposed 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.

7.7. Appropriate Assessment

7.7.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment and the distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.8. Other Matters

7.8.1. Conditions:

As noted in Section 3.1.1 above permission was granted subject to 15 no. standard conditions.

7.8.2. Planning Legislation:

Various issues have been raised in the appeal in respect to planning legislation and the granting of retention would undermine the planning process and set an unwarranted precedent for developers seeking retention permission. An Coimisiún Pleanála does not have an enforcement function and has no legislative powers to

impose penalties. Matters relating to enforcement and non-compliance with a grant of planning permission are for the Local Authority. The scope of this assessment relates only to the permission sought as described in the development description and illustrated in the drawings submitted.

7.8.3. Wastewater Treatment System:

The subject site is served by way of a connection to the public water main. The applicant proposes to install a septic tank and percolation area. Surface water is disposed to ground by way of on-site soakpit. This arrangement is considered acceptable and there was no objection from the local authority Planning Technician. This arrangement was also permitted under planning ref 14/269/ABP Ref: PL11.244550.

7.8.4. Access:

7.8.5. The site is on a relatively straight stretch of road where the normal rural speed limit applies. I consider there is sufficient room to provide an access with the necessary sight lines and therefore the proposed development would be acceptable with regard to road safety and traffic. This arrangement was also permitted under planning ref 14/269/ABP Ref: PL11.244550.

7.8.6. Construction:

The appeal cites issues experienced during construction; however, this is not a planning consideration and as such I do not consider that the Coimisiun is in a position to draw any conclusions in relation to the matters raised.

8.0 Recommendation

8.1. I recommend that planning permission should be granted, subject to conditions, as set out below, for the following reasons and considerations.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Laois County Development Plan 2021-2027, the location of the site within an established cluster, the modest scale of the dwelling to be retained and completed and the size of the site, it is considered that, subject to

compliance with the conditions set out below, the development to be retained and completed would be appropriate in terms of scale, height and layout, would not adversely impact on the residential or visual amenity of neighbouring properties, nor impact on the character or visual amenity of the existing rural area, would not be prejudicial to public health and would be acceptable in terms of traffic and pedestrian safety. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out, completed, and retained in accordance with the plans and particulars lodged with the application, received by the planning authority on the 8th day of October 2024m, as amended by the further information received on 3rd day of February 2025, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter [unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant]. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.</p> <p>(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of</p>

	<p>confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.</p> <p>This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.</p> <p>Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted [to meeting essential local need] in the interest of the proper planning and sustainable development of the area.</p>
3.	<p>The dwelling shall be occupied as a single residential unit and shall not be used for any other purpose, including short-term letting, unless authorised by a prior grant of planning permission. The principal use of the application site shall remain in private residential use.</p> <p>Reason: In the interests of the proper planning and development of the area.</p>
4.	<p>The existing front boundary [hedge] [fence] [wall] shall be retained except to the extent that its removal is necessary to provide for the entrance to the site.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
6.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during</p>

	<p>the course of the works and the applicant shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: To protect the amenities of the area.</p>
7.	<p>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.</p> <p>Reason: In the interests of sustainable drainage.</p>
8.	<p>(a) The entrance to the site shall be recessed 4.3m behind the front boundary line. Only the recessed space shall be splayed with wing walls, timber fences or stone banks not exceeding 1.2m in height, no other wall shall be constructed to the front roadside boundary. Any external wing walls shall be finished to match that of the proposed dwelling house.</p> <p>(b) Adequate sight distances of 90 metres shall be created and maintained in both directions at the site entrance. The sight distances shall be measured from a point 3 metres in from the road edge and from a driver's eye height of 1.05 metres to an object height of 1.15 metres.</p> <p>(c) All areas forward of the sight splays, excepting access way, shall be grassed up to the metalled edge of the road. No wall, excepting the wing walls for the access, shall be erected as part of the boundary, whether or not such development would constitute 'exempted development' under the terms of the Planning and Development Regulations, 2001 as amended.</p> <p>(d) Any damage caused to the adjoining public thoroughfare shall be made good at the developer's expense to the satisfaction of the Planning Authority.</p> <p>Reason: To ensure the provision of an adequate entrance to the development in the interests of traffic safety.</p>

9.	<p>The developer shall ensure that a clean, potable water supply is provided prior to first occupation which complies with the E.U. (Drinking Water) Regulations, S.I. No. 99/2023.</p> <p>Reason: In the interests of public health, residential amenity and proper planning.</p>
10.	<p>(a) The septic tank/wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application 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.</p> <p>(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.</p> <p>Reason: In the interest of public health and to prevent water pollution</p>
11.	<p>(a) The developer is required to consult with the ESB regarding any overhead power line prior to the commencement of any work on this development.</p> <p>(b) Any external lighting shall be cowled and directed away from the public roadway and adjoining properties.</p> <p>Reason: In the interests of traffic safety and residential amenity.</p>

12.	<p>Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.</p> <p>Reason: In the interest of reducing waste and encouraging recycling.</p>
13.	<p>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 Coimisiun Pleanála to determine the proper application of the terms of the Scheme.</p> <p>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.</p>

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.

Emma Nevin
Planning Inspector

26th June 2025

Form 1 - EIA Pre-Screening

Case Reference	ABP-322064-25
Proposed Development Summary	a) Retain Dwelling as Constructed & (b) Permission to Complete/Finish Dormer Dwelling Construction with Effluent Treatment System & Percolation Area and all associated site works
Development Address	Old Pound, Ballybrittas, Co. Laois
	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)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. <input type="checkbox"/> 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)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here

<input checked="" type="checkbox"/> 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?	
<input type="checkbox"/> 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.	N/A
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	N/A
<input checked="" type="checkbox"/> 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)	Class 10 Infrastructure Projects (b) (i) Proposed development for 1 residential unit, therefore sub-threshold. Preliminary examination 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 <input type="checkbox"/>	
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Form 2 - EIA Preliminary Examination

Case Reference	ABP-322064-25
Proposed Development Summary	a) Retain Dwelling as Constructed & (b) Permission to Complete/Finish Dormer Dwelling Construction with Effluent Treatment System & Percolation Area and all associated site works
Development Address	Old Pound, Ballybrittas, Co. Laois
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (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>The development involves the retention and completion construction of a single storey dwelling house, wastewater treatment system and percolation area along with site entrance and boundary treatments, all on land located in a rural area.</p> <p>During the construction phase, the proposed development would generate waste during excavation and construction.</p> <p>However, given the moderate size of the proposed development, I do not consider that the level of waste generated would be significant in the local, regional, or national context.</p>
Location of development (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,	<p>The site is not located in or immediately adjacent to any European site.</p>

densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	
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).	Localised construction impacts will be temporary. The proposed development would not give rise to waste, pollution or nuisances beyond what would normally be deemed acceptable.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	N/A
There is a real likelihood of significant effects on the environment.	N/A

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)