



**Inspector's Report**

**PL21.239745**

**Development:** Changes to permission PL09/483 including changes to site boundaries, relocation of site entrance, move house 3m west.

**Location:** Finned, Easkey, Co. Sligo

**Planning Application**

Planning Authority: Sligo County Council

Planning Authority Reg. Ref. No: PL11/265

Applicant: Dymphna Cavanagh

Type of Application: Permission

Planning Authority Decision: Grant

**Planning Appeal**

Appellant: Dymphna Cavanagh

Type of Appeal: First Party against condition

Observers: None

**Date of Site Inspection** None required

**Inspector:** Siobhan Carroll

## 1.0 SITE LOCATION AND DESCRIPTION

- 1.0.1 The site is located in north-west Sligo in the rural area between Rathlee and the coastal village of Easkey. It is circa 2.5km west of Easkey. The surrounding area is characterised by a number of older cottages along the R297. The site has an area of 0.444 hectares and is relatively flat. The site comprises two pieces of land located to the north and south of the Regional Road the R297. The site is also adjacent to a crossroads and to the west of Finned Bridge.
- 1.0.2 The southern section of the site contains a small farmyard with a cattle shed, pens, cattle crush and a two-storey barn. There is a low, rubble stone wall along the roadside boundary.
- 1.0.3 The north section of the site features a 80m long and 6m wide strip of land which runs between two existing detached dwellings and leads to a field with an area of circa 1,890sq m. The southern section of the site is located within the Recorded Monument SL011-008-Field System.

## 1.1 THE PROPOSED DEVELOPMENT

Permission is sought for changes to permission PL09/483 including changes to site boundaries, relocation of site entrance and the relocation of the house 3m west.

- Site area 0.444 hectares,
- Floor area of proposed dwelling 209.90sq m,
- Floor area of buildings to be demolished on site 120sq m,

## 1.2 THE PLANNING AUTHORITY'S DECISION

### **Internal Reports:**

Area Engineer: No objection

Water Services: No objection

### **External Reports:**

Department of Arts, Heritage and the Gaeltacht Development Applications Unit: It is noted that the proposed development is within Recorded Monument SL011-008 – Field System which is subject to statutory protection in the Record of Monuments and Places established under section 12 of the National Monument (Amendment) Act 1994. Given the location of the proposed development it is possible that subsurface archaeological remains could be encountered during the construction phases which involve ground disturbance. It is our recommendation that Pre-development testing, as described below be carried out at this site and included as a condition in the granting of any planning permission.

### **Submissions**

The Planning Authority did not receive any submissions in relation to the application.

### **Planning Report**

It was concluded that the proposed development would be consistent with the provisions of the Sligo County Development Plan.

### **Decision**

The Planning Authority decided to grant permission subject to 9 no. conditions. Condition no. 6 required the carrying out of pre-development testing on site by a suitably qualified archaeologist.

6.

- (a) The developer shall engage the services of a suitably qualified archaeologist (licensed under the National Monuments Acts 1930-2004) to carry out pre-development testing at the site. No sub-surface work shall be undertaken in the absence of the archaeologist without his/her consent.
- (b) The archaeologist is required to notify the Department of Arts Heritage and the Gaeltacht in writing at least four weeks prior to the commencement of site preparations.
- (c) The archaeologist shall carry out any relevant documentary research and may excavate test trenches at locations chosen by the archaeologist, having consulted the proposed development plans.
- (d) Having completed the work, the archaeologist shall submit a written report to the Planning Authority and to the Department of Arts, Heritage and the Gaeltacht.
- (e) Where archaeological material is shown to be present, avoidance, preservation *in situ*, preservation by record (excavation) and/or monitoring may be required, the Department of Arts, Heritage and the Gaeltacht will advise the applicant/developer with regard to these matters.
- (f) No site preparation or construction work shall be carried out until after the archaeologist's report has been submitted and permission to proceed has been received in writing from the Planning Authority in consultation with the Department of Arts, Heritage and the Gaeltacht.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

### **1.3 PLANNING HISTORY**

Reg. Ref: 09/483 – permission was granted for the demolition of existing sheds, crush and farmyard, refurbishment of existing loft as outbuildings ancillary to the enjoyment of the new house, construction of a dwelling house, proprietary effluent treatment system and percolation area.

### **2.1 PLANNING POLICY**

**The Development Plan in force is the Sligo County Development Plan 2011 2017.**

#### **Chapter 5 – Housing**

- 5.7 – Rural house locations

#### **Chapter 12 – Development Management Guidelines**

- 12.3.20 – Rural house locations
- 12.3.21 – Rural house siting

### **3.0 APPEAL**

A first party appeal was submitted by Gavin Engineering on behalf of the applicant Dymphna Cavanagh. The content of the appeal submission can be summarised as follows;

- The appeal is a first party appeal was made against condition no. 6 and condition no. 9. The Board issued a letter on the 6<sup>th</sup> of December 2011 to the appellant's agent Gavin Engineering which stated that in relation to the appeal against condition no. 9 with regard to the terms of the contribution scheme not being properly applied that this aspect of the appeal must be regarded as invalid and cannot be considered further by the Board.
- Condition no. 6 of the permission granted under Reg. Ref. 2941/11 requires that pre-development testing be carried out on site by a suitably qualified archaeologist.
- Under the previous permission on the site, Reg. Ref. 09/483, permission was granted for the demolition of existing sheds, crush and farmyard, refurbishment of existing loft as outbuildings ancillary to the enjoyment of the new house, construction of a dwelling house, proprietary effluent treatment system and percolation area.
- The appellant states that a condition requiring the employment of a suitably qualified archaeologist was not attached to the previous permission relating to the development of the new dwelling on the site.
- The application is for a slightly enlarged site which is just within the Recorded Monument SL011-008 field system. The proposed dwelling where the

majority of excavation will take place is not located with the Recorded Monument SL011-008 field system.

- The previous application Reg. Ref. 09/483 included a rear entrance to the site which was also within the field system, however the permission was not subject to a condition regarding pre-development testing be carried out on site by a suitably qualified archaeologist.
- The cost of employing an archaeologist to carry out the works would be financially prohibitive to the applicant and could result in her having to postpone the project and possibly abandoning it.

### **3.1 Planning Authority response**

- Under Reg. Ref. 09/483 permission was granted for the demolition of existing sheds, crush and farmyard, refurbishment of existing loft as outbuildings ancillary to the enjoyment of the new house, construction of a dwelling house, proprietary effluent treatment system and percolation area.
- Regarding condition 6 which refers to the requirement for archaeological testing, a portion of the application site lies within the Recorded Monument SL011-008-Field System. The application was referred to the Development Application Unit in the Department of Arts, Heritage and the Gaeltacht who recommended that this condition be attached to any grant of planning permission.

## **4.0 ASSESSMENT**

- 4.0.1 Further to my examination of the planning file and the grounds of appeal that relate to one condition only i.e. Condition No. 6 of the notification of decision of the planning authority to grant permission, and having assessed the documentation and submissions on file, I consider it is appropriate that the appeal should be confined to this single condition. Accordingly I am satisfied that the determination by the Board of this application as if it had made to it in the first instance would not be warranted and that it would be appropriate to use the provisions of Section 139 of the 2000 Act in this case.
- 4.0.2 The appeal site is located in the townland of Finned. Having reviewed the National Monuments maps identifying the recorded monuments in the area of Finned, I noted that the site is located in an area which features a number of archaeological sites. There are four recorded monuments within the vicinity of the site, however it is recorded monument SL-011-008 to which condition no. 6 specifically relates to.
- 4.0.3 The recorded monument SL-011-008 is classified as a field system. The southern section of the site where it is proposed to demolish the existing outbuildings and construct the new dwelling is located within the delineated boundary around the designated field system. The archaeological feature at the site is not visibly evident from the surface and therefore would require the

carrying out of pre-development testing by a suitably qualified archaeologist in order to establish the precise location and nature of the feature.

- 4.0.4 Condition no. 6 requires that pre-development testing be carried out on site, that the archaeologist shall notify the Department of Arts Heritage and the Gaeltacht in writing prior to the commencement of site preparations. It is also required in the condition that the archaeologist shall carry out any relevant documentary research and may excavate test trenches. Where archaeological material is shown to be present, avoidance, preservation in situ, preservation by record (excavation) and/or monitoring may be required. The Department of Arts, Heritage and the Gaeltacht will advise the applicant in relation to matters and site preparation works and construction on site will not proceed until after the archaeologist's report has been submitted and permission to proceed has been received in writing from the Planning Authority.
- 4.0.5 The applicant has appealed this condition on the basis that the previous permission Reg. Ref. Reg. Ref: 09/483 did not include a condition specifying that pre-development archaeological testing be carried out. They state that the employment of an archaeologist would be costly and if required could delay or potentially halt the project.
- 4.0.6 It is recommended in the 'Development Management Guidelines for Planning Authorities' that the basic criteria for assessing whether a condition should be imposed is if it is necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable. In relation to condition no. 6 while I note that the previous permission granted on site (Reg. Ref. 09/483) did not include a condition regarding archaeological testing the configuration of the site has been revised in the current application. The section of the site on the southern side of the R297 has been extended further west into the area which is located within the delineated boundary around the designated field system. Accordingly, site development works and construction would be taking place on an area where there may be archaeological features. Therefore, I would consider that the condition is necessary and relevant to planning and also to the specific development. The Department of Arts, Heritage and the Gaeltacht development applications unit have no objection to the proposed development subject to the provision of the condition.
- 4.0.7 Having regard to the location of part of the site within the archaeological constraint zone of the Recorded Monument and taking into consideration the recommendation of the Planning Authority and the recommendation from the Department of Arts, Heritage and the Gaeltacht development applications unit, I consider that it is appropriate to attach the condition.

## **5.0 CONCLUSION & RECOMMENDATION**

- 5.0.1 Having regard to the nature of the condition the subject of the appeal and based on the reasons and considerations set out below, I am satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and recommend that the said Council be directed under subsection (1) of section 139 of the

Planning and Development Act, 2000 to **Attach** Condition Number 6(a),(b), (c),(d),(e) and (f).

### **REASONS AND CONSIDERATIONS**

Having regard to the location of a section of the site within the archaeological constraint zone of the Recorded Monument SL011-008-Field System and the nature, scale and location of the proposed development it is considered that, subject to compliance with the condition no. 6 (a), (b), (c), (d), (e) and (f) that the proposed development would not detract from the archaeological heritage area. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

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**Siobhan Carroll,**  
**Planning Inspector**  
**20<sup>th</sup> of December 2011**