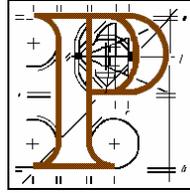


## An Bord Pleanála



## Inspector's Report

**Development:** Construct dwellinghouse, domestic garage, effluent treatment system and soil polishing filter at Cross West, Cross, Cong, County Mayo.

### Planning Application

Planning Authority: Mayo County Council  
Planning Authority Reg. Ref.: 11/626  
Applicant: Sinead O'Malley  
Type of Application: Permission  
Planning Authority Decision: Grant Permission

### Planning Appeal

Appellant: Evelyn Barrett Maye  
Observer: None  
Type of Appeal: Third v. Grant  
Date of Site Inspection: 5<sup>th</sup> June, 2012.

**Inspector:** Mairead Kenny

## **SITE LOCATION AND DESCRIPTION**

The site is located close to the centre of Cross, a small settlement in south Mayo. The village is at the junction of two regional roads, the R334 and R346. The site is close to a county road to the north of the village. The minor road is narrow and poorly aligned in general. In places, including at the road frontage where the proposed site entrance is located, road widening associated with one-off houses has occurred.

The site is a backland plot positioned to the rear (east) of a recently constructed single-storey dwellinghouse. It is of stated area of 0.301 hectares. The site contains some uneven ground and mounds of earth. The access to the site is from the public road to the south-west, to which it connects by way of an entrance driveway associated with a newly constructed dwellinghouse. The latter house is stated to be occupied by the brother of the current applicant.

Photographs of the site and surrounding area which were taken by me at the time of inspection are attached to the rear of this report.

## **PROPOSED DEVELOPMENT**

Permission is sought to construct a one and a half-storey dwellinghouse of stated floor area of 263 square metres and roof ridge height of 6.5 metres. The site layout and site section drawings indicate a finished floor level of 104.65 metres and road level of 111.565 metres compared with heights of 107.150 metres and 112.4 metres measured at the house to the west. The site access road is an extension of the access road to a dwellinghouse to the south-west.

Section 5 of the site suitability assessment recommends the installation of a conventional septic tank and a 'Puraflo' and sets out details regarding invert levels of pipes and other matters. There is a group water scheme in the area and a letter of consent to connect is enclosed.

## **PLANNING HISTORY**

Under Planning Reg. Ref. 07/2157 permission was granted for the dwellinghouse now constructed to the south-west of the current site. The site entrance is indicated to have sight distances of 107 metres to the west and 86 metres to the east.

Under pre-application consultations P16/11/041 the applicant was advised to consider a site at the road frontage but if it was demonstrated that a site at that location is not an option, the planning authority indicated that it may consider the construction of a house on the subject site subject to a number of considerations. These relate to site selection, site size and suitability in terms of wastewater treatment and disposal, access and surface water drainage. In addition the planning authority noted that there are concerns that a dwellinghouse at that location might result in overlooking and the applicant was required to demonstrate that the house would not intrude on the landscape. A single storey house was required.

## **DEVELOPMENT AND OTHER PLAN POLICY**

Under the Mayo County Development Plan 2008-2014 the site is within an area defined as “Structurally Weak”. In such areas the policy is to accommodate permanent residential development and to monitor the operation of the rural housing policy to assess their impacts.

The Sustainable Rural Housing Guidelines set out policy for rural housing in Structurally Weak Areas. The key development plan objective in these areas should refer to the need to accommodate any demand for permanent residential development as it arises subject to good practice in matters such as design, location and the protection of important landscapes and any environmentally sensitive areas.

## **INTERNAL AND OTHER REPORTS**

The planner’s reports indicate concern in relation to house design but consider that the “two-storey front projection” can be omitted by condition. No such condition was attached. The planner also notes that the site is on family lands and that the applicant has demonstrated strong links with the area. The proposed house would be 74 metres from the existing and will not negatively impact on that dwelling.

## **DECISION OF PLANNING AUTHORITY**

The planning authority decided to grant permission subject to conditions including:

- to be in accordance with site layout of 22<sup>nd</sup> December 2011, house plans and elevations of 7<sup>th</sup> February 2012 and garage plans of 19<sup>th</sup> September 2011,
- finished floor level to be 104.65 metres,
- requirements regarding water supply, surface water and wastewater,
- external finishes and landscaping.

## **GROUNDINGS OF APPEAL**

The appellant objects to the location of the house to the rear of her family home. Taking into account the applicant’s housing needs and the sympathetic development of a rural area a site adjacent the road frontage, specifically the site marked for future development by the applicant’s brother, should have been utilised. Permission should not have been granted prior to exploration of all options.

The appellant notes that the applicant’s family lands stretch all the way to the village. The appellant notes that this concern was shared by the planning authority as evidenced by the pre-application consultation and the further information request. The appeal refers to the extent of the family lands and the location of dwellinghouses owned by the

applicant's siblings. She states that inaccurate and misleading information was present to the planning authority in relation to this matter.

In the letter of objection to the planning authority which was enclosed with the appeal, the site is described as an exposed location and somewhat detached from other sites. The dwellinghouse is also described as being directly to the rear of the appellant's house and at an exposed height. The site does not comply with the 2008 guidelines for Mayo relating to rural housing which requires that dwellings are expected to assimilate into the landscape as opposed to being at the highest point of the site.

## **RESPONSE TO APPEAL**

The first party response includes the following points:

- in the pre-planning submission the planning authority noted that if it is demonstrated that a site at the road frontage is not an option, the planning authority may consider construction of a dwelling on the site,
- the house was orientated to ensure no interference with the existing house,
- the house finished floor level and the site landscaping also ensure no impact on adjoining properties,
- the site was selected following a sequential approach and was the only suitable site available to the applicant,
- the only other site with road frontage is to be used for a house for the applicant's brother,
- the house design followed relevant guidelines and has a low ridge and narrow gable and in height is comparable to a bungalow,
- the house is sited to minimise visual impact,
- the ridge height was reduced to 6.5 metres which was the minimal achievable,
- the applicant is intrinsically linked to the community,
- the appellant has not substantiated her claims in relation to other sites being available and the photographs relating to family members' houses are an intrusion and are without substance,
- concerns relating to overlooking/loss of amenity are addressed.

## ASSESSMENT

I consider that the main issues in this appeal relate to rural housing policy, wastewater treatment, house design and landscape integration and the availability of more suitable sites.

**Rural Housing Policy** I consider that the Council's designation of this area as 'structurally weak' is reasonable. On that basis, having regard to the development plan policy and the provisions of the Sustainable Rural Housing Guidelines it would be appropriate to give due consideration to any application by a family member of family lands for a rural dwelling. A map of the family lands is on file and the appellant has annotated this map with the locations of the applicant's family home, places of residents of siblings and other residential plots within the original holding.

In this case I am of the opinion that this application should be favourably considered in principle for a number of reasons. Firstly the applicant in my opinion has demonstrated a connection with the local area in which the site is located. She was born in Cross and has been employed in the village for the last four years and is involved in community activities. Secondly, the location of the site is essentially at the edge of the village of Cross and would be within easy walking distance of all community and other facilities. Third, the applicant does not have a house of her own and resides with her sister. In view of all of the above I consider that a grant of permission for a dwellinghouse for the applicant should be favourably considered.

**Wastewater Treatment** In relation to the proposals for wastewater treatment and disposal the applicant has provided considerable detail in relation to testing undertaken. In view of the location of the site within a regionally important aquifer a 3m trial hole was dug and the site suitability testing for both P and T values were within acceptable limits and no mottling was noted. I am satisfied that the submissions demonstrate that the site is suitable for an individual wastewater treatment unit.

**House Design and Landscaping** The details of the house design in terms of its landscape impact is noted in the appeal and was also raised in the request for further information issued by the planning authority. The applicant's response to the planning authority dated 20<sup>th</sup> December notes that the design incorporates a narrow gable width, a simple t-shaped plan and that the windows and doors are in keeping with the recommendations of the Design Guidelines for Rural Houses. The house design was revised to provide for a roof ridge height of 6.5m. I note that the planner's report refers to a condition to omit the two-storey element of the development and that condition was not attached. I consider that a condition along the lines referred to is neither reasonable or warranted.

In addition to the reasonably sensitive approach to house design, the application submissions include a landscaping scheme and hedgerows to the rear are to be maintained. The ground is undulating but mounding is very localised and levelling of the site is proposed. The site section and finished floor levels demonstrate that the proposed house will not be positioned at an elevated location but in fact will be on ground which is low in comparison to the surrounding landscape and to the appellant's house. I am satisfied that the development is acceptable in terms of its landscape and visual impact and the detail of the house design.

**Availability of More Suitable Sites** The appellant's main concern is that the site selected is fundamentally unsuitable and that it will intrude on her residential amenities and that there are other suitable sites available to the applicant. The applicant addressed this comment stating that the lands with road frontage are either to be inherited by the applicant's brother or would not have adequate sightlines.

I consider that in determining this appeal, the critical issue is not whether there are more suitable sites available, but whether the proposed site is inherently unsuitable or would give rise to adverse impacts on the residential, visual or other amenities of the area. I have addressed all of these matters above with the exception of the impact on the residential amenity associated with the appellant's house. In relation to the appellant's house I have already noted the fact that the site is to be levelled and that the finished floor level of the house will be below that of the appellant's house. In addition, the orientation and design of the house are such that the house faces away from the appellant's property. In addition the separation between the houses is considerable (72m) and extensive site landscaping is proposed. Taking into account all of these factors I conclude that the development would not have any material adverse impact on the residential amenities of the area.

I conclude that the development of this site for a house for the applicant is acceptable in principle and in terms of its detailed design and layout.

## **CONCLUSION AND RECOMMENDATION**

I recommend that permission be granted for the reasons and considerations and subject to the conditions below.

## **REASONS AND CONSIDERATIONS**

Having regard to the "Sustainable Rural Housing - Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in April, 2005, the local nature of the housing need and the suitability of the site for a septic tank, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, would not be prejudicial to public health and would be in accordance with the proper planning and sustainable development of the area.

## **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 submitted the 22<sup>nd</sup> day of December 2011 and by the further plans and particulars received by An Bord Pleanála on the 7<sup>th</sup> day of February, 2012, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the

planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. (1) 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. 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.
- (2) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (1) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or by any person deriving title from such a sale.

**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.

3. The finished floor level of the house shall be at 104.65m as show on the site layout plan submitted to the planning authority on 22<sup>nd</sup> of December 2011.

**Reason :** In the interest of clarify and to ensure that the development integrates in a satisfactory manner into the landscape.

4. (1) The septic tank shall be installed and maintained in accordance with the recommendations of the EPA manual Treatment Systems for single houses.
- (2) Prior to occupation of the dwellinghouse the developer shall submit for the written agreement of the planning authority a certificate from an approved person with professional indemnity insurance stating that the septic tank and 'Puraflo' have been installed in accordance with the terms of the permission and the EPA manual.
- (3) Water supply and drainage arrangements, including the disposal of surface water, shall otherwise comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

5. Prior to commencement of construction of the house, details of the materials, colours and textures of all the external finishes to the proposed house shall be submitted to the planning authority for agreement.

**Reason:** In the interest of orderly development and the visual amenities of the area.

6. The existing hedgerow at the north and west site boundaries shall be retained. In the first planting season following occupation of the house, the site shall be planted in accordance with the landscaping scheme received by the planning authority on 7<sup>th</sup> February 2012.

**Reason:** In the interest of visual amenity.

7. 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. The provisions of section 48 (10) (a) and (b) of the Act shall apply as respects an appeal to An Bord Pleanála in relation to the application of the Scheme.

**Reason:** It is considered reasonable that a contribution be made in accordance with a Development Contribution Scheme made for the area of the proposed development under section 48 of the Planning and Development Act, 2000.

**Mairead Kenny,  
Senior Planning Inspector  
13<sup>th</sup> June, 2012.**