



Planning and Development Acts 2000 to 2020

Planning Authority: Mayo County Council

Planning Register Reference Number: P19/790

Appeal by Susan Clarke care of McGinty Planning and Development Consultants of Lislary, Ballinphull, County Sligo against the decision made on the 6th day of February, 2020 by Mayo County Council to grant subject to conditions a permission to Owen Ginty care of John O'Hara of Doocastle, Ballymote, County Sligo in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a dwelling house, a car garage, proprietary effluent treatment system, percolation area and all associated site works at Newline Road, Geesala, Ballina, County Mayo, as amended by the further public notice received by An Bord Pleanála on the 4th day of June, 2020.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Appropriate Assessment: Stage 1

The Board agreed with and adopted the screening assessment and conclusions carried out in the Inspector's report that the only European sites in respect of which the proposed development has the potential to have a significant effect are the Belmullet/Blacksod Bay Complex Special Area of Conservation (Site Code: 000470) and the Blacksod/Broad Haven Special Protection Area (Site Code: 004037).

Appropriate Assessment: Stage 2

The Board considered the Natura Impact Statement, the associated documentation submitted with the application, the mitigation measures contained therein, the submissions on file and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development are the Belmullet/Blacksod Bay Complex Special Area of Conservation (Site Code: 000470) and the Blacksod/Broad Haven Special Protection Area (Site Code: 004037) in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the development, both individually, when taken together and in combination with other plans or projects,
- (b) the mitigation measures, which are included as part of the current proposal, and
- (c) the conservation objectives for the European sites.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on these European sites, having regard to their conservation objectives. In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives.

Reasons and Considerations

It is considered that the proposed dwelling which is located in a structurally weak area where it is the policy of Mayo County Council to accommodate any permanent residential dwelling subject to good planning practice, would not, subject to compliance with the conditions set out below, seriously injure the visual or residential amenities of the area, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, 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 on the 13th day of January, 2020, 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 the 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. (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.
- (b) 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 (a) and the date of such occupation.

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.

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 entrance for the proposed development shall be constructed as indicated on the Site Layout Plan submitted to the planning authority on the 10th day of October, 2019. Details of the proposed recessed entrance shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Gates shall open inwards only.

Reason: In the interest of traffic safety.

4. The proposed front boundary wall shall consist of natural local stone the exact height and location of which shall submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. The finished floor level of the proposed dwelling shall be at 13.5 metres AOD as indicated in the Site Layout Plan submitted to the planning authority on the 10th day of October, 2019.

Reason: In the interest of visual amenity and to avoid flooding.

7. The proposed garage/shed shall be used only as a private domestic garage/shed and shall not at any time be used for agricultural, industrial or commercial purposes or be converted for human habitation.

Reason: In the interest of residential amenity.

8. (a) A proprietary effluent treatment and disposal system shall be provided. This shall be designed, constructed and maintained in accordance with the requirements of the planning authority. Details of the system to be used, and arrangements in relation to the ongoing maintenance of the system, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner.

Reason: In the interest of public health.

9. 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.

10. The developer shall inform the Electricity Supply Board of the intention to start work and to arrange for diversion of lines if necessary.

Reason: In the interest of orderly development.

11. Details of all materials, colours and textures of all external finishes to the proposed dwelling and shed shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

12. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Any plants 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.

13. 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.

Stephen Bohan

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2020.