



An Bord Pleanála

Inspector's Report

Development: Construction of 4 no. houses and all associated site works at Downhill Road, Knocknalyne, Ballina, Co. Mayo

Planning Application

Planning Authority: Mayo County Council

Planning Authority Reg. Ref.: P15/467

Applicant: Knocknalyne Ltd

Type of Application: Permission

Planning Authority Decision: Refuse

Planning Appeal

Appellant(s): Knocknalyne Ltd

Type of Appeal: 1st Party

Observers: Brusna Valley Preservation Society

Date of Site Inspection: 30/03/2016

Inspector: L. Dockery

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The subject site, which has a stated area of 1.0084 hectares, is located in the townland of Knocknalyre or Downhill, Ballina, Co. Mayo. The site is accessed from a local roadway off the N59, and this local roadway is adequate in width and alignment. The site is located to the south of the Knocknalyre housing development and to the east of the Twin Trees Hotel. A single dwelling is located on the adjoining site to the east while a car park is located to the south-west. The River Brusna is located to the south of the site, on the opposite side of the roadway and this river forms part of the River Moy Special Area of Conservation (Code 002298).
- 1.2 The site is currently under grass and is well screened from the public roadway by native hedgerow. This is a substantially elevated site rising greater than 14 metres from roadway to the northern boundary. ESB lines currently traverse the site. An agricultural gate currently provides access. A number of one-off dwellings are evident in the vicinity. The area could be described as rural, almost sylvan in nature and the site is located outside of the 50kph speed limit.

2.0 PROPOSED DEVELOPMENT

- 2.1 The development as per the submitted public notices comprises permission for the construction of 4 no. five-bed detached (two-storey) dwelling houses with domestic garages, together with all associated site works and connections to all public utilities. It was noted that this application was previously granted permission by Ballina Town Council under P08/2950 (Mayo County Council revised planning reference number 08702950).

3.0 PLANNING AUTHORITY'S DECISION

Planning permission was REFUSED for two no. reasons as follows:

1. Having regard to the existing deficiency in the provision of public sewerage facilities to serve the site and the applicant's proposal to:
 - a. have four separate pumping stations on site
 - b. Connect into a private sewer

it is considered that the proposed development if granted, would result in a proliferation of pumping stations in an area that is not serviced and would establish an undesirable precedent for similar development in the area. Notwithstanding the current residential zoning on site, it is considered that the proposed development would be premature, prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

2. Insufficient evidence has been submitted with the application to determine whether:
 - a. The development is at risk of flooding and that the development would not increase flood risk on the relevant catchments
 - b. The development will have significant impacts on the adjacent Natura 2000 site
 - c. That surface water generated by the development can be disposed of adequately

In the absence of the above information, it is considered by Mayo County Council that the proposed development is therefore contrary to the proper planning and sustainable development of the area.

3.2 The applicant granted an EXTENSION OF TIME on the subject application until 19/12/2015.

4.0 TECHNICAL REPORTS

Planner's Report

The issues raised in the planning officer's report are largely reflected in the decision of the planning authority.

Report states that applicant was advised at pre-planning that the proposal to pump wastewater into a private sewer would not be permitted.

Area Engineer- Roads Design

Grant, subject to conditions

Executive Architect

Conditions attached which include for the lowering of the overall height of the houses by 2 metres

Senior Archaeologist

An archaeological assessment must be submitted

Mayo National Roads Design Office

Application does not raise any issues for the National Road System that needs to be addressed or conditioned by Mayo NRDO

Transport Infrastructure Ireland

The Authority will rely on the planning authority to abide by official policy in relation to development on/affecting national roads, as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012).

5.0 APPEAL GROUNDS

5.1 A first party appeal was received and may be summarised as follows:

- Houses were previously granted full planning permission under Ref. 08/702950
- No section of Development Plan which precludes the use of such pumping stations
- Significant number of similar such developments in Ballina urban area- cites examples- common practice as these pumping stations are reliant and efficient
- Land is zoned residential- also zoned as being one of the first parcels to be developed before any other in urban area, as per varied Development Plan
- Queries how the proposal can be premature when lands have been recently zoned for preferential development (outlined in blue on Development Plan maps)
- In relation to issue of private sewer- it is owned by the applicant not another entity
- Subject site formed part of a larger landholding- all lands within that larger landholding have now been developed with the exception of the subject site
- Considers that many of issues raised in refusal should have been dealt with by a request for further information
- In relation to issue of flooding, considers that development could never be at risk as it is 3-4 metres above Bunree River
- Considers that the proposed development could not impact on any Natura 2000 site due to its low density and proposal to be built in middle of field- no construction along boundaries- no disturbance to boundaries with exception of front boundary
- Local knowledge states that Bunree River has never flooded close to the boundaries of the site
- Probable that section of front boundary wall will be removed by local authority for road widening

- In relation to issue of surface water, it can be disposed of indeed river- virtually all developments in Ballina deliver their surface water into the River
- Queries assessment of planning application by planning authority

6.0 OBSERVERS

6.1 An observation received from Brusna Valley Preservation Society may be summarised as follows:

- Concerned that property registration details not included in application
- Proposed drainage of surface water from the site into the Brusna River, which in turn flows into the famous River Moy would be detrimental to the area's environment and also to economy
- Thousands of fisherman come from around the world annually to fish in River Moy, any pollution caused by contaminated water would impact greatly on tourism
- Roots of trees would be damaged by laying of pipes
- Maps are incorrect, no watermains exist in this part of Downhill Road- Ballyholan Water Scheme ends nearly 70ft from point indicated by developer- Ballina watermains extend only as far as Twin Trees hotel
- No application made to Irish water for connection
- Insufficient sightlines
- Obstruction and damage to road by construction vehicles- no widening of road is possible due to location of Brusna River- concerns regarding damage to 100 year old chestnut trees by such vehicles

- Concerns regarding proposed sewage pipes- blockages and odours
- Concerns regarding implications of removal of hill on site
- Concerns regarding flooding of subject and adjoining sites due to elevated nature of site
- Flooding over the years along this stretch of road, in particular in 1989- know of no residents who have lived in area over 70 years as stated by applicant
- This is Brusna River and not Bunree River as cited in documentation
- Front boundary wall is a Protected Structure- any road widening is unlikely
- Approach road is narrow and can only accommodate one car at a time
- Site supports a number of species including pheasant, rabbit, red squirrel, hedgehogs and pipistrelle bats- EIS should be carried out
- This is a scenic route/walkway- proposed development would detract immeasurably from the area as a tourist attraction
- Site was previously for sale
- Proposal out of character with area and contrary to proper planning of the area

7.0 RESPONSES

7.1 None

8.0 PLANNING HISTORY

08/702950

Permission GRANTED for development of 4 no. five bed detached, two-storey dwelling with domestic garages and all associated site works and connection to public utilities

15/27

Application WITHDRAWN for development of 4 no. five bed detached, two-storey dwelling with domestic garages and all associated site works and connection to public utilities

9.0 DEVELOPMENT PLAN

The Mayo County Development Plan 2014-2020 is the operative Development Plan for the area.

Castlebar-Ballina are defined as a Linked Hub within the County Development Plan 2014

Ballina Town and Environs Plan 2009-2015 applies

The subject site is located within the town boundary and is designated for Phase 1 Residential development

There are no Protected Structures on this site

The site is located immediately north of the Moy SAC (Site Code 002298)

The Brusna River is located in Flood Zone A (Cfram)

10.0 ASSESSMENT

10.0.1 I have examined all the documentation before me, including the reports of the Planning Authority, the appeal submission and observation and I have visited the site and its environs. I am assessing this appeal de novo. The main issues pertaining to this appeal are as follows:

1. Principle of proposed development
2. Drainage issues
3. Flooding
3. Appropriate Assessment
4. Other Issues

10.1 PRINCIPLE OF PROPOSED DEVELOPMENT

10.1.1 The proposed development provides for the provision of four no. detached dwellings with garages, all served by individual pumping stations. The subject site is located within the town boundary and is designated for Phase 1 Residential development, as defined in the Ballina Town and Environs Development Plan 2009-2015. The site is located outside of the 50 kph speed limit, a considerable distance from the town centre in an area where there are deficiencies in drainage infrastructure. The immediate area is currently rural in nature, with the roadway inadequate in width and alignment. It is located immediately to the north of the River Moy SAC. I note that there are lands much closer to the town centre, also zoned residential that do not have Phase 1 priority for development. Considering the sewage deficiencies, the location of the site a considerable distance from the town centre and the fact that the proposed development is dependent on individual pumping stations, I query why this particular tract of land was zoned for Phase 1 priority, over and above other lands, which at

first glance would appear more suitable. I draw the attention of the Bord to this issue.

10.2 DRAINAGE ISSUES

10.2.1 The first reason for refusal which issued from the planning authority stated that having regard to the existing deficiencies in the provision of public sewerage facilities to serve the site and the proposal to have four separate pumping stations on site connecting into a private sewer, it was considered that the proposal, if granted would result in a proliferation of pumping stations in an area that it not serviced and would establish an undesirable precedent for similar developments in the area. They continued by stating that notwithstanding the current residential zoning on the lands, it was considered that the proposed development would be premature, prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

10.2.2 I note that there are no direct public main connections to the site and that connection is via a private sewer. I also note that no details of the proposed pumping stations or sewer lines are on file. I have read the submissions, as detailed above, of the first party in particular with regards the contention that there are numerous other similar type developments operating on such pumping stations. I also acknowledge that the private sewer into which it is proposed to connect is stated to be within the ownership of the applicant.

10.2.3 Notwithstanding the points made by the first party, I have severe reservations with regards this element of the proposed development. I concur with the opinion of the planning authority that existing deficiencies exist in the system, in that there is no direct mains connection to the site. I have no information on file as to the expected timeframes of when these deficiencies are likely to be addressed by the planning authority. It is my opinion that until such time as the deficiencies have been adequately addressed by an appropriate mains

system, that the current proposal or any similar type proposal on these lands is premature. I also concur with the planning authority in their assertion that four separate pumping stations on site connecting into a private sewer, if granted would result in a proliferation of pumping stations in an area that it not serviced and would establish an undesirable precedent for similar developments in the area. I again pose the question as to why this area of land has been prioritised for Phase 1 residential development when such deficiencies exist.

10.2.4 Having regard to all of the above, I consider the proposal to be premature, could be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

10.3 FLOODING ISSUES

10.3.1 The subject site is located to the north of the River Brusna, which is located in Flood Zone A on the Cfram mapping system. No flood risk assessment has been carried out nor has any assessment under Article 6 of the Habitats Directive. As has been stated above, the site is substantially elevated above the roadway and surface water flows from the site in a southerly direction. Site levels are stated as being 9.40 metres on the roadway rising to 23.5 metres at the northern edge of the site. This is a level difference in excess of 14 metres. A substantial amount of excavation works are required in order to accommodate the proposed development and inadequate information has been submitted in relation to this. A retaining wall is proposed with again inadequate details regarding same submitted.

10.3.2 The second reason for refusal raised the issues of insufficient evidence having been submitted with the application to determine whether the development is at risk of flooding and that the development would not increase flood risk on the relevant catchments, together with the issue of to whether or not surface water generated by the development can be disposed of adequately. The appeal submission does not address

either of these two issues in any substantive way and I consider that insufficient information has been submitted on which to carry out a comprehensive assessment of the proposal.

10.3.3 Having regard to the lack of information on file in relation to this issue, I am taking a precautionary principle. The proposed development must be considered to be inconsistent with the proper planning and sustainable development of the area.

10.4 APPROPRIATE ASSESSMENT

10.4.1 The subject site is located immediately to the north of the River Moy Special Area of Conservation (Code Ref. No. 002298). This site comprises almost the entire freshwater element of the River Moy and its tributaries including both Loughs Conn and Cullin. The site is designated for its Raised Bog, Rhynchosporion Vegetation, Alkaline Fens, Old Oak Woodlands, Alluvial Forests, White-clawed Crayfish, Sea Lamprey, Brook Lamprey, Atlantic Salmon and Otter. The Moy system is one of Ireland's premier salmon waters and it also encompasses two of Ireland's best lake trout fisheries in Loughs Conn and Cullin. Although the Atlantic Salmon is still fished commercially in Ireland, it is considered to be endangered or locally threatened elsewhere in Europe and is listed on Annex II of the E.U. Habitats Directive. The Moy is a most productive catchment in salmon terms. The Conservation Objective is to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species.

10.4.2 This issue has not been addressed anywhere in either the original application or appeal submission. No screening exercise has been undertaken nor has a NIS been submitted. I have serious concerns considering the proximity of the subject site to the designated SAC, the proposal to use pumping stations to deal with sewage and discharge surface water into the Brusna River. On the basis of the information

provided with the application and appeal I am not satisfied that the proposed development individually, and in combination with other plans and projects would not be likely to have a significant effect on the European Site No. 002298 in view of the site's conservation objectives. I draw the attention of the Bord to this issue.

10.5 OTHER ISSUES

10.5.1 I have no information before me to believe that the planning authority did not undertake a comprehensive assessment of the proposed development. The appellant contends that the issues raised in the reasons for refusal should have been dealt with by means of a request for Further Information. I do not concur with this assertion. There is a substantial lack of information on file. Considering this lack of information, all relating to major issues of concern, I consider the planning authority were correct in their decision. The appellant had the opportunity to address these issues now at appeal stage, but again no additional information of substance addressing these issues has been forthcoming.

10.5.2 Contrary to the assertions made in the submitted observation, there are no Protected Structures on this site.

10.5.3 There is some debate on file regarding the name of the river which flows to the south of the site. It is marked as the Brusna River on the OS maps and it is this name that I have referred to in my report.

10.5.4 The local roadway is adequate in width and alignment and unsuitable for additional traffic. I have concerns that the proposed development, if permitted, may endanger public safety by reason of a traffic hazard or obstruction of road users in the vicinity.

10.5.5 I have serious concerns regarding the height, design and scale of the proposed development. While I acknowledge the residential development to the north of the lands, I am of the opinion that this is essentially a suburban type development within a rural area. This is a

substantially elevated site and any development on the site will be prominent and visually obtrusive. This is especially true considering the height of the proposed dwellings, in excess of 9.5 metres in height. They are essentially three storey dwellings on an elevated site outside the 50kph speed limit in an area that is currently rural and sylvan in nature. I again draw the attention of the Bord to this issue.

10.5.6 No landscaping plan has been submitted with the application or appeal submission. No details of existing or proposed planting, no tree surveys, no plans for retention of roadside or other boundaries have been put forward. This is considered wholly inadequate considering the location of the site, adjacent to the River Moy SAC, in what is essentially a rural area.

11.0 CONCLUSION AND RECOMMENDATION

11.1 Based on the above, I recommend that the decision of the planning authority be UPHELD and that permission be REFUSED for the proposed development.

REASONS AND CONSIDERATIONS

1. Having regard to the proposal to use four no. pumping stations and connect to the public system via a private sewer due to deficiencies in the provision of public sewerage facilities in the area, it is considered that the proposed development is premature at the current time; would result in a proliferation of such systems in an unserved area and would set a undesirable precedent for similar type developments in the vicinity. The proposal is therefore considered to be prejudicial to public health and inconsistent with the proper planning and sustainable development of the area.

2. Considering the location of the site proximate to the River Brusna, which is designated as Flood Zone A on the Cfram mapping system, together with the elevated nature of the site, it is considered that it has not been adequately demonstrated whether or not the proposed development would result in possible flooding and also whether surface water can be adequately disposed of. In the absence of such information, the Board must take a precautionary approach and therefore the proposed development must be considered to be inconsistent with the proper planning and sustainable development of the area.

3. On the basis of the information provided with the application and appeal the Board is not satisfied that the proposed development individually, and in combination with other plans and projects would not be likely to have a significant effect on the European Site No. 002298 in view of the site's conservation objectives and would therefore be contrary to the proper planning and sustainable development of the area.

L. Dockery

Planning Inspector

20th April 2016