



An Bord Pleanála

Inspector's Report

Development: Construction of a house and associated site works at Raghly, Ballinfull, Co. Sligo

Planning Application

Planning Authority: Sligo County Council

Planning Authority Reg. Ref.: 16/34

Applicant: Marian Herity and Karl McDermott

Type of Application: Permission

Planning Authority Decision: Grant

Planning Appeal

Appellant(s): Lorraine Courtney and Ulrike Schwier

Type of Appeal: 3rd Party

Observers: None

Date of Site Inspection: 16/07/2016

Inspector: L. Dockery

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The subject site, which has a stated area of 0.2821 hectares, is located within the townland of Raghly, Ballinfull, Co. Sligo. The site is roughly rectangular in shape and forms part of a larger landholding, all located on the eastern side of the roadway. It is located approximately 10km from the N15 national primary route. The general area is rural in nature, located in close proximity to the coast and there are panoramic views of the sea from the site. There is a residential property located immediately opposite the subject site, while another is located immediately to the north.
- 1.2 The site is currently under grass and in agricultural use. There is an existing agricultural entrance towards the southern end of the lands, as outlined in blue. The roadside boundary is comprised of native hedgerow.

2.0 PROPOSED DEVELOPMENT

- 2.1 The proposed development, as per the public notices, comprises permission to construct a single storey dwelling house, proprietary effluent treatment system (P.E.T.) and percolation area and all ancillary site works at Raghly, Ballinfull, Co. Sligo.
- 2.2 The proposed dwelling is contemporary in style, comprising two rectangular blocks, linked by a glazed element with grassed roof. It extends to a stated 220 square metres approximately and has a maximum stated height of approximately 5.56 metres. The proposed development is to be setback in excess of 29 metres from the public roadway and approximately 2.4 metres from the northern boundary of the site.
- 2.3 The elevations are finished partly in render and stone while the pitched roof will have a blue/black slate finish.

2.4 Water supply is to be from a new connection to the public mains while a septic tank is proposed to deal with wastewater treatment.

2.5 A Habitats Directive Article 6 Report/Screening for Appropriate Assessment was submitted with the application.

3.0 PLANNING AUTHORITY'S DECISION

3.1 Planning permission GRANTED, subject to 13 conditions. Condition No. 1 relates to an occupancy clause; Condition No. 3. Stipulates that the finished floor level of the proposed house shall not exceed 16.80m in accordance with the Site Layout Plan submitted to the planning authority on 05/02/2016; Condition No. 4 relates to finishes; Condition no. 6 relates to landscaping and Condition no. 7 relates to boundary treatments. All other conditions are standard in nature.

3.2 Unsolicited Further information was submitted by the applicants to the planning authority on the 02/03/2016 and 15/03/2016.

4.0 TECHNICAL REPORTS

Planner's Report

The report of the planning officer generally reflects the decision of the planning authority

An Appropriate Assessment- Stage 1 Screening Matrix was undertaken which concluded that Appropriate Assessment was not required.

Environmental Services

No objections, subject to conditions

Area Engineer, Sligo/Drumcliff

Recommends a grant of permission, subject to approval of other departments- conditions attached

Irish Water

No objections, conditions attached

5.0 PRESCRIBED BODIES

5.1 Department of Arts, Heritage and the Gaeltacht

Indicated that Natural Heritage is applicable in this instance

5.2 An Taisce

Application must be determined with regards to:

- The Rural Housing and Amenity Provisions of Sligo County Development Plan 2011-2017
- The rural housing provisions of Section 5.3.2 of the National Spatial Strategy Ireland 2002 and the Sustainable Rural Housing Guidelines for Planning Authorities 2005 which require applicants to establish a rural generated housing need and ensure that key assets in rural areas are protected to support quality of life and economic vitality. Section 4.5 of the Guidelines relates to the protection of water quality.
- The impact of the proposed effluent treatment system must have regard to both the individual and cumulative impact in conjunction with other existing, proposed and approved developments on both surface and groundwater to comply with the EU Groundwater Directive (80/86/EEC)
- Notes that the proposed development is located in a sensitive rural landscape. As such, the Council should ensure that the subject application adheres to objectives)- LCAP-5 and O-LCAP-6 of the Sligo County Development Plan

6.0 APPEAL GROUNDS

6.1 The grounds of appeal may be summarised as follows:

- Outlines site location, description of proposed development, history of site and environs
- Contends that applicant has not demonstrated sufficient need for rural housing at this location- inadequate consideration of the potential of the family lands at Ballymulderry to accommodate the applicant's housing need- contends that family own considerable lands in Ballymulderry and questions why this land is not available for development-
- Considers that applicant is not from the rural community in which the site is located- from Ballymulderry an adjoining townland but distinct from the Raghly peninsula- causeway acts as a natural divide between the two communities- precedent to consider geographical features acting as a divide between distinct communities- cites example of PL21.242034 whereby ABP determined that a road acted as a dividing line between two communities, despite the fact that the application site was within the requisite 5km of the family home- contends that for at least 14 years neither the applicant or family have had any tie to Raghly
- Proposed development would establish an undesirable precedent for development on Raghly- if this development is permitted it will open the floodgates to development on Raghly by people with similar ties as the applicant
- Detrimental impacts on landscape character and visual amenity of the area- considers that previous reasons for refusal in this regard have not been overcome- open landscape with little vegetation to screen development, highly visible within surrounding area and little capacity to absorb new development-

any development on this landholding due to its exposed nature will interrupt the views of the skyline thereby interfering with the scenic coastal amenities of the area- scale of proposed property appears to be almost twice the size of existing properties- siting and design is such that development would be incongruous with the surrounding area- setting back so far from roadway will read as backland development- haphazard form of development in a sensitive coastal location

- Proposal will result in road safety issues- inadequate consideration given of four other entrances within metres of proposed entrance- narrow road with sharp turns- increased traffic due to Raghly's inclusion on Wild Atlantic Way
- Negative impacts on environment by virtue of unsuitable wastewater treatment system
- Potential of overlooking and overshadowing of adjoining properties- no shadow analysis included- elevated site well above any adjoining properties

7.0 OBSERVERS

None

8.0 RESPONSES

8.1 A response was received from the planning authority which may be summarised as follows:

- Considers applicant has established a rural generated housing need which complies with the provisions of the County Development Plan
- Design of proposed dwelling reflects a traditional form of development, that of a dwelling house and associated outbuilding- numerous examples of subject layout exists on

Raghly Head- considers siting and design to be acceptable and that proposed dwelling will cluster with existing development at this location- will not interfere with any protected views- will not have an adverse impact on the residential amenities of the area

- No objection from Area Engineer
- Environment Section considers that the system complies with the EPA document 'Code of practice for Wastewater Treatment and Disposal Systems serving Single Houses' (2009)
- Having regard to the scale, siting and design of the proposed dwelling it is considered that it will not overlook or overshadow adjacent properties

8.2 A response was received from the applicants, which may be summarised as follows:

- Considers appeal to be unfair, unreasonable and malicious
- Have a genuine housing need
- Have been Herity's in Raghly for many generations, see Griffiths Valuation 1847-1864
- Many trying to block any form of development progress
- Confidence in the planning authority to adjudicate on this matter
- Queries if a rural landscape museum is preferable to the vibrant, populated rural area where community lives, farms, fishes, recreates, worships and send their children to school
- Landscape character will not be impacted adversely
- Planning authority have addressed and examined concerns regarding road safety and environmental issues
- Long process of dialogue and review of options

9.0 PLANNING HISTORY

A number of applications were made by the applicant for dwelling house on these lands, all of which were WITHDRAWN prior to a decision issuing (PL14/03; PL13/2015 and PL09/34)

PL12/427

Permission REFUSED for a dwelling house for 4 no. reasons relating to interference with scenic coastal amenities, seriously injurious to amenities of area, setting of undesirable precedent; haphazard form of development; insufficient information relating to proposed effluent treatment system and endanger public safety by reason of a traffic hazard.

It is also noted that there have been a number of permissions for one-off dwellings in the Herity family name within the surrounding area. Details of same are contained within the Planner's report.

10.0 DEVELOPMENT PLAN

The operative Development Plan is the Sligo County Development Plan 2011-2017.

Section 5.7 Rural Housing

Section 5.7.4 Rural House Design and Development Patterns

Section 12 Development Management Standards

Landscape Characterisation Map- outlines Raghly as being a 'Visually Vulnerable' 'Sensitive Rural landscape'.

The subject site is located approximately:

- 590m north of Ballintemple and Ballygillian SPA (Site Code 0004234)
- 81m north of Cummeen Strand/Drumcliff Bay SAC (Site Code 000627)

- 168m east of Drumcliff Bay SPA (Site Code 004013)

Sustainable Rural Housing, Guidelines for Planning Authorities (2005)

- The subject site is located within an area designated as being as 'Area under Strong Urban Influence' within these Guidelines
- Section 3.2.3 deals with 'Rural Generated Housing'
- Section 3.3.3 deals with 'Siting and Design'

11.0 ASSESSMENT

11.01 This application is assessed in terms of Development Plan policy and all other relevant Government Guidelines. I consider that the following are the main issues pertaining to this appeal:

1. Compliance with rural housing policy in relation to provision of dwellings in rural areas
2. Impact on amenity of the area
3. Other issues including traffic, wastewater treatment and impact on Natura 2000 sites

11.1 COMPLIANCE WITH RURAL HOUSING POLICY FOR PROVISION OF DWELLINGS IN RURAL AREAS

11.1.1 Section 5.7 of the operative County Development Plan sets out the general rural development objectives to be considered when assessing an application for a dwelling in the rural area. It has been established that the subject site is located within a rural scenic area, designated as being a visually vulnerable sensitive rural area within the operative County Development Plan. The area is designated as being an 'Area under Strong Urban Influence' within the Sustainable Rural Guidelines. The site is located within a scenic, rural, coastal area and therefore demand for such developments is expected to be high at these locations.

11.1.2 Policy P-RHOU-3 of the operative County Development Plan aims to facilitate rural-generated housing in all areas of the County, while providing for urban-generated housing in Rural Areas in Need of Regeneration, subject to certain policy considerations. I note that while not from Raghly, the applicant Marian Herity is from an adjoining townland Ballymuldorry, less than 0.5 miles from the subject site. It is stated that her family has lived in the area for generations- her mother is from Raghly, her grandmother lived there until she died in 2002. The applicant Marian Herity attended school locally. Based on the information supplied, I am satisfied that the applicant Marian Herity has links with this rural area. However, the question arises as to whether she has a need to live in the area. It is stated on the file that she has permanent employment in Sligo while Karl McDermott is a self-employed IT consultant. The nature of her employment does not appear to be specified. They are renting accommodation and would like to be close to her family in their advancing years.

11.1.3 Having regard to the above, while the applicant does have links to the area, I am not convinced of the need for a dwelling at this location. The applicants' primary employment is not a rural-based activity and there would appear to be no exceptional circumstances pertaining to this case. While I accept their desire to move to the area, I question whether their accommodation needs could be fulfilled within a designated settlement area, where there is adequate service provision rather than within a rural, scenic area such as that proposed where there are is a lack of services and an inadequate road network.

11.2 IMPACT ON AMENITY OF THE AREA

11.2.1 I have concerns with regards the impacts of the proposed development on the visual and residential amenity of the area, together with the precedent that a grant of permission would set for further similar developments in the vicinity. I also note the Development Plan

provisions pertaining to this area in particular the fact that this is a 'Visually Vulnerable' rural area. Having visited the site and its environs, I acknowledge that this is a rural, scenic area surrounded in the most part by the sea. I also acknowledge that the proximity of the site to N15, making it an area where demand for such properties is high.

11.2.2 The subject site is currently under grass and in agricultural use. The site is quite elevated and there are sea views from it to the east and north-west. The proposal is for a single storey dwelling with associated site works. I do have concerns regarding the impacts of the proposed dwelling on the amenity of this scenic rural area. I also have concerns regarding the precedent that a grant of permission may set for further similar developments in the vicinity.

11.2.3 While I acknowledge that the applicants may have links to a nearby rural area, I am not entirely satisfied that they have a housing need and I do question the proposal before me in terms of its impact on the rural environment into which it is proposed to be placed. I do not have issue with the design of the proposed dwelling per se. Its scale, height, bulk and materials are all considered acceptable, although I do consider that the separation distance with the boundary to the north is inadequate. The proposal if permitted as such, may have impacts on the amenity that the residents of the property to the north may enjoy due to the proximity to the site boundaries, together with the extent of glazing proposed on this northern elevation. I question why the applicants have positioned the proposed dwelling so close to the northern boundary of the site considering the overall land-holding that they have.

11.2.4 This is a scenic, rural area in very close proximity to the sea and any development at this location has the potential to detract significantly from the amenity of the area. There are some one-off dwellings in the vicinity but the area remains largely unspoilt. If permitted, the proposal may set an undesirable precedent for further similar developments in

the vicinity and this is an issue of great concern. Having regard to this, I consider that the proposal would form a discordant and obtrusive feature on the landscape at this location; would be seriously injurious to the visual amenities of the area and would set an undesirable precedent for other development in the vicinity. This is considered all the more pertinent considering the designation of the area as being 'Visually Vulnerable' within the operative County Development Plan.

11.3 OTHER ISSUES

11.3.1 In relation to traffic and access issues, I note the report of the Area Engineer. I note that this is a narrow roadway, only wide enough for one car to pass. There is a sharp bend to the north of the site and visibility to the north is poor. I draw the attention of the Bord to this issue and consider that the proposal if permitted may lead to the creation of a traffic hazard or obstruction of road users in the vicinity.

11.3.2 As I have stated above, I note the existing density of development in the vicinity of the site. There are however already a number of dwellings constructed within the immediate vicinity. Water supply is proposed by means of a new connection to the public mains with a septic tank proposed to deal with wastewater. Considering the site location, I can only assume that existing dwellings in the vicinity are currently operating the same systems, namely individual waste-water treatment units. I would have some concerns with regards to the proliferation of such wastewater treatment units in the area, the impacts that they may have on the environmental quality and the possible increase in the likelihood of contaminants reaching water sources in the vicinity. I draw the attention of the Bord to this issue.

11.3.3 Having regard to the nature and scale of the proposed development and/or the nature of the receiving environment and/or proximity 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.

12.0 CONCLUSION

- 12.1 Having addressed the matters arising, I am not satisfied that the proposal is an acceptable form of development at this location. The subject site is located within a rural coastal area, where demand for such properties is expected to be high. I consider that any development at this location has the potential to detract significantly from this rural area and impact negatively on the rural amenities that currently exist. This is acknowledged by the 'visually vulnerable' designation attached to the area within the operative County Development Plan.
- 12.2 The subject site is located in a rural area under strong urban influence, as set out in the "Sustainable Rural Housing Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in April, 2005. Based on the information contained within the appeal, I am not satisfied that that the applicant has established a rural generated housing need for a dwelling at this location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 12.3 It is considered that the proposed development if permitted would form a discordant and obtrusive feature on the landscape at this location; would be seriously injurious to the visual amenities of the area and would set an undesirable precedent for other development in the vicinity. This is considered especially true considering that the area is designated as a visually vulnerable, sensitive rural landscape within the operative County Development Plan.
- 12.4 Having regard to the above, I consider the proposal unacceptable and inconsistent with the proper planning and sustainable development of the area.

13.0 RECOMMENDATION

In light of the above assessment, I recommend that the decision of the planning authority be OVERTURNED and that permission be REFUSED for the following reasons and considerations.

REASONS AND CONSIDERATIONS

1. The subject site is located in a rural area under strong urban influence, as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2005. Based on the information contained within the appeal, the Board is not satisfied that the applicants have established a rural generated housing need for a dwelling at this location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the site, within a rural coastal location, which is designated as a ‘Visually Vulnerable Sensitive Rural Area’ within the operative County Development Plan, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location; would be seriously injurious to the visual amenities of the area and would set an undesirable precedent for other development in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

L. Dockery

Planning Inspector

21/07/2016