



**An Bord Pleanála**

**Inspector's Report**

**Development:** Construction of a house, garage and associated site works at Ardtrasna, Co. Sligo

**Planning Application**

Planning Authority: Sligo County Council

Planning Authority Reg. Ref.: 15/448

Applicant: Caroline Currid and Ciaran O'Brien

Type of Application: Permission

Planning Authority Decision: Grant

**Planning Appeal**

Appellant(s): Patrick and Catherine Toher

Type of Appeal: 3<sup>rd</sup> Party

Observers: None

Date of Site Inspection: 16<sup>th</sup> July 2016

**Inspector:** L. Dockery

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The subject site, which is roughly rectangular in shape and has a stated area of 0.395 hectares, is located within the townland of Ardtrasna, Co. Sligo. There are views of the sea looking north from the subject site. The local roadway is narrow, but appears to have been recently resurfaced.
- 1.2 The site is currently under grass and in agricultural use. The site slopes downwards in a northerly direction away from the roadway. An agricultural gate allows access to the public roadway. The roadside boundary is comprised of native hedging. The ruins of what is presumably an old cottage are located along the southern boundary of the site.

## **2.0 PROPOSED DEVELOPMENT**

- 2.1 The proposed development, as per the public notices, comprises permission to a new dwelling house, detached garage, onsite waste water treatment system and associated site works at Ardtrasna, Co. Sligo.
- 2.2 The proposed dwelling is contemporary in style guided by traditional form, comprising two rectangular blocks perpendicular to each other, together with a detached garage/gym building. The entire development extends to a stated 198 square metres approximately and the proposed dwelling has a maximum stated height, as revised in the Further Information request, of approximately 5.43 metres. It is single storey in height. The proposed development is to be setback in excess of 23 metres from the public roadway. Elevations are finished partly in render and limestone while the pitched roof will have a grey slate finish.
- 2.3 Water supply is to be from a new connection to the public mains while a septic tank is proposed to deal with wastewater treatment. A new

entrance onto the public roadway is being created with wing walls and boundary wall being finished dry stone field stone.

- 2.4 A letter of consent from the stated owner of the site, Kathleen Bourgeois giving consent to the submission of an application on behalf of Ciaran O'Brien and Caroline Currid for the erection of a dwelling house is submitted. In addition, a letter of consent has been submitted from Alec Henry for a section of his land (hatched green on submitted documentation) to be included in the application in order to provide adequate sightlines and access to the proposed dwelling.

### **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. relates to the relocation of the proposed dwelling on site; Condition No. 4 relates to the use of the proposed garage; Condition No. 5 relates to finishes; Condition no. 6 relates to landscaping and Condition No.s 7 and 8 relate to boundary treatments. All other conditions are standard in nature.
- 3.2 Further information was requested by the planning authority in relation to erection of ridge profile on site and retention of hedgerow whilst achieving adequate sightlines

### **4.0 TECHNICAL REPORTS**

#### Planner's Report

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

#### 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 APPEAL GROUNDS**

5.1 The grounds of appeal may be summarised as follows:

- Proposed development is out of scale with site and area- size is such that it is difficult to sensitively locate in any rural area
- Appears excessive in scale- appearance is more like a clachan; development maintains the appearance of tourism buildings like a visitors centre- three separate buildings each large enough to be a building in their own right- queries floor area of proposed structures- notes substantial size of garage
- Concerns regarding future use of garage and gym area
- Considers proposal to be overdevelopment of a sensitive rural site- reducing the proposal by removing the first floor of one building has not solved the issue
- Proposal out of keeping with pattern of development in the area
- Proposal is contrary to national and local planning policy, namely 'Sustainable Rural Housing- Guidelines for Planning Authorities' (DoEHLG,2005) and Sligo County Development Plan 2011
- Considers that applicant's housing status should be examined
- Concerns that this is a speculative development
- Queries whether Mount Edward, where Ms Currid's family home is, is a village or a rural area for the purpose of assessing housing need entitlement- concludes that it is a village- applicant's family are not farmers or landowners, they own a

house in a village- under Department's 'Sustained Rural Housing Guidelines', the children of those living in villages are not entitled to apply for rural houses

- currently lives 30km from Ardtrasna- queries applicant's compliance with rural housing policy and considers that they do not appear to have demonstrated compliance with the criteria required for a rural generated house- primary employment is not rural based; not demonstrated a genuine need to live in the area; not demonstrated that she has spent a continuous part of her life in the area of the application site; outside 5km radius of a family property and has not claimed exceptional need to live in the area- also considers that Ciaran O'Brien is not compliant with the rural housing policy, being a member of An Garda Siochana stationed in Ballyshannon, from South Co. Roscommon with no connections to rural Sligo
- considers proposal to be contrary to a number of policies in the operative County Development Plan
- considers applicants are incorrect in stating that there is an existing dwelling on site- there are some old ruins which have not been lived for a stated 75 years
- proposal would contribute towards inappropriate ribbon development- sensitive coastal area with multiple designated sites- located in a visually vulnerable sensitive rural landscape, as set out in County Development Plan
- concerns regarding discharging to groundwater in an area of gley soils on a site which is poorly draining with reeds visible
- does not propose to retain any of the existing ruined wall on site- concerns regarding removal of hedgerows
- queries appropriateness of proposed design solution
- no infrastructure in place to serve proposed development- rural road network serving the development should be protected from further development

- concerned as to why no environmental screening of possible impacts from the proposed development
- proposed development will detract from views
- queries whether proposal is acceptable in principle at this location
- concerns regarding removal of existing hedgerow and lack of proposals/drawings in this regard
- concerns regarding impact of proposal on adjoining residential amenity due to noise, disturbance and damage to public road- impacts on visual amenity- impacts on their sea views- setting of poor visual precedent
- setting of poor precedent for opening of entrances onto public roadway- increased traffic and creation of a traffic hazard
- concerns regarding proliferation of wastewater treatment plants
- outlines concerns regarding completed Site Characterisation Form
- proposal would lead to the creation of a precedent for other further development of the applicant lands- ad hoc sporadic development
- if permitted, proposal would depreciate value of client's property
- procedural issue regarding validation of application and nature of further information request by the planning authority

## **6.0 OBSERVERS**

6.1 None

## **7.0 RESPONSES**

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

- Addresses the issue of handling of the Further Information request- the initial further information request was returned to applicant on 24/02/2016 as they had not made a full response to Request- applicant advised during a meeting to amend design of proposed

dwelling- advice was informed through the inspection of the ridge profile- full response to Further Information was submitted by applicants on 09/03/2016 and they were requested to re advertise proposed development

- Includes photograph of erected ridge profile- reflects dwelling as originally proposed and not amended proposal
- subject site falls away from public road and house has been setback in order to reduce its visual impact- overall height of house reduced to 5.58 metres- scope to relocate dwelling 5m to the northwest on site which would have the effect of reducing the FFL- dealt with by condition
- considered that the proposed development would not interfere with any views at this location and will not have any impact on the negative amenities of the area
- Condition No. 4 deals with future use of garage and gym
- considered that applicant has established a rural generated housing need in accordance with the provisions of the County Development Plan
- proposal is considered to be consistent with the provision so the operative County Development Plan
- no dwelling within 100m of proposal and considered therefore that proposal will not have a negative impact on the residential amenities of the area
- No objection from Area Engineer- recognises that the public road is quiet in terms of traffic volume- no objections to roadside boundary being setback
- Environment Section has examined the effluent treatment proposals submitted and consider them to be in compliance with the EPA document 'Code of practice for Wastewater Treatment and Disposal Systems serving Single Houses' (2009)
- Only applicants who comply with rural housing policy for the area will be considered at this location- any further development will be subject to design and siting criteria outlined in CDP

- No dwellings within 100m of the proposed dwelling house, therefore it is considered that the proposed development will not devalue properties in the area

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

- Addresses issue of adequacy of public notices
- Outlines series of discussions with planning authority in relation of submission of Further Information
- Addresses issue of interpretation of Condition No. 3
- Mount Edward is not a village, it is a rural townland outside the buffer zone
- A Land Registry Map and associated Folio of Caroline O'Brien's family home was submitted to planning authority on 16/12/2015- copy attached to submission
- Section 5.7.2b of the Sligo County Development Plan states that a site should be within a 5km radius of their original family home- the actual radial distance of the family home to the application site is 3.89km while the actual road route is 4.87km (not 6-7.7km as cited by appellant)
- Caroline Currid grew up within 3.89km of the application site and attended school in Grange- submits copies of letters in support of her links with the rural area
- Submits copy of marriage certificate of the two applicants
- Clarifies floor area of subject dwelling- 151.578 square metres house with 46.035 square metre detached garage- smaller than average permitted houses in area
- No land is being acquired from neighbouring fields- simply engaged with neighbours to maintain sightlines across their respective properties- considers scale of proposal to be relative to plot size
- Refutes claims made in appeal that there will be removal of hedgerows- Drawing 15-700-04 states that existing hedgerow to be



protected as part of proposed works- dealt with by Condition No. 8 of decision to grant permission

- Siting of dwelling is its proposed location was due to one of key site design drivers, namely existing sycamore tree
- Site once contained a dwelling and outbuildings as shown on 1888-1915 Ordnance Survey Map- at no point was it stated that there was an existing dwelling on the site- the proposed one metre high boundary wall was proposed to be of dry-stone field stone construction utilising stone on the site from the remains of the 1888-1915 dwelling- Condition No. 8a has substantially reduced the quantity of stone required for the proposed access and therefore the remains of this dwelling would now be retained as a landscape feature
- Siting, massing and compositional arrangement has been based on three elements namely deconstruction of original courtyard arrangement, protection of sycamore tree and utilising existing topography
- Addresses statements made in relation to size and design of proposed dwelling
- Impacts on views to Inishmurray Island, Donegal Bay and 21.3km of clear water to the horizon will be unaffected by the proposal- only dwelling in Ardtrasna to permit views over its ridge across the sea to the horizon
- Appellant's property is not visible from the site by virtue of the existing hedgerow proposed to be retained and protected- their dwelling is 120 metres upland of proposed dwelling and is also served by an on-site treatment plant- considers proposal will not have negative impacts on appellants property
- refutes claims made in relation to ownership of site

7.3 A rebuttal to the appeal relating to the proposed waste water treatment plant has been submitted by Francis Davitt, Consulting Engineer and may be summarised as follows

- incorrect of appellant to state that he is a provider, installer or maintainer of wastewater treatment systems- qualifications clearly detailed on Site Characterisation Forms as a site assessor
- under EPA Code of Practice there are 3 no 'T' tests carried out on every site- 5 'T' holes were excavated, 2 of these had medium percolation characteristics and the other three had excellent percolation characteristics- the percolation area was located adjacent to the test holes with the favourable test results
- all tests were taken in excess of 850mm below existing ground level where the soil is too far away from natural drying to be effected by the dry weather- rainfall figures provided for Dec 2015/Jan 2016 showing extremely wet weather, in addition to October- site was inspected by planning authority in Jan and Feb 2016
- refutes claims made in relation to groundwater flows- flowing in a north-westerly direction on this site as indicated on site layout drawing
- public potable water supply located along the roadway on the SE boundary of the site- proposing to use this and have applied to Irish Water for a connection- no wells or springs located within 130m of proposed percolation area
- no rushes on vast majority of the site- of the opinion that they are due to poor husbandry or some other event that took place- bedrock encountered in the trial hole was limestone- the wastewater system and percolation area designed for this site come within EU and national legislation and the depth of the subsoil clearly exceeds the recommended
- stream located 130m to the north of the proposed percolation area- substantially more than the minimum separation distance requirements of 10m recommended by the EPA

7.4 A response to the above on behalf of the third party appellants was received which reiterates many of the points made in the original appeal

## 8.0 PLANNING HISTORY

8.1 There would appear to be no recent planning history on this site

## 9.0 DEVELOPMENT PLAN

9.1 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'.

### P-DCA-1

Policy to generally restrict development in coastal zone specifically between coastal roads and the sea except where it can be demonstrated that it does not detract from views or impact on environmentally sensitive areas

The nearest designated sites to subject site are:

- Ballintemple and Ballygillian SPA (Site Code 0004234)
- Cummeen Strand/Drumcliff Bay SAC (Site Code 000627)
- Drumcliff Bay SPA (Site Code 004013)

9.2 *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'

## **10.0 ASSESSMENT**

10.01 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

### **10.1 COMPLIANCE WITH RURAL HOUSING POLICY FOR PROVISION OF DWELLINGS IN RURAL AREAS**

10.1.1 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.

10.1.2 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 the documentation attached to the file in relation to the applicants links to the area. Caroline Currid is from Mount Edward, within a 5km radius of the subject site. She attended schools locally. Her family are not land owners and the applicants are purchasing the site. She is a sports psychologist and her husband, who is not local to the immediate area

is a Garda, based in Ballyshannon, Co. Donegal. They currently live approximately 30km from the site in Collooney. It is not stated whether they own this property or otherwise. Having regard to this, while the applicant Caroline Currid 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; there are no family lands on which to build and the site is being purchased on the open market. It has not been explicitly stated that this is their first home 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.

## **10.2 IMPACT ON AMENITY OF THE AREA**

10.2.1 I have concerns with regards the impacts of the proposed development on the visual 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 in close proximity to the sea, making it an area where demand for such properties is high.

10.2.2 The subject site is currently under grass and in agricultural use. The proposal is for a single storey dwelling with associated site works. I 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.

10.2.3 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. Its scale, height, bulk and materials are all considered acceptable. 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. I note Policy P-DCA-1 in the operative County Development Plan which seeks to generally restrict development in coastal zone specifically between coastal roads and the sea except where it can be demonstrated that it does not detract from views or impact on environmentally sensitive areas. I note that the subject site is located on the coastal side of this roadway. I consider the policy to limit development at such locations is reasonable and welcomed.

10.2.4 Having regard to all of the above, 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.

### **10.3 OTHER ISSUES**

10.3.1 I note that some of the issues raised within the appeal submission are of a personal nature and are considered not to be planning matters.

10.3.2 Having regard to the separation distances involved and the nature and scale of the proposed development, I consider that there would be no

impacts on the residential amenity of adjoining properties in the area. I also consider that impacts on views would be negligible. I note that the views referred to by the appellants are not protected and that one is not entitled to a view. I have no information before me to believe that the proposal if permitted would lead to devaluation of property values.

10.3.3 In relation to traffic and access issues, I note the report of the Area Engineer. I have some concerns in relation to same. I acknowledge that this is a lightly trafficked roadway and the traffic generated by a single dwelling is anticipated not to be excessive. However the roadway is narrow in width, it is difficult for two cars to pass. I have some concerns that the proposal if permitted would lead to the creation of a traffic hazard or obstruction of road users in the vicinity. I draw the attention of the Bord to this issue.

10.3.4 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.

10.3.5 Issues raised in relation to the validation of the planning application by the planning authority are outside the remit of this appeal. I consider that the public notices adequately describe the development as proposed. Also I have no information before me to believe that the planning authority did not comprehensively assess the public development or to believe that correct procedures were not adhered to.

10.3.6 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.

## **11.0 CONCLUSION**

11.1 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.

11.2 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.

11.3 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.



- 11.4 Having regard to the above, I consider the proposal unacceptable and inconsistent with the proper planning and sustainable development of the area.

## **12.0 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**

26<sup>th</sup> July 2016