



An  
Bord  
Pleanála

## Inspector's Report PL16.248123

<b>Development</b>	Construction of house and garage, WWTS and ancillary works
<b>Location</b>	Beltra, Carrowmore Lacken, Ballina, Co. Mayo.
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	P16/955
<b>Applicant(s)</b>	David Fagan and Teresa Kelly
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	David Fagan and Teresa Kelly
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	27/04/2017
<b>Inspector</b>	Gillian Kane

## **1.0 Site Location and Description**

- 1.1. The subject site is located in an elevated rural area, approximately 10km north-west of Killala in Mayo. The rural, sparsely populated area is dominated by dramatic scenery and coastlines towards Kilcummin Bay and Head. The subject site is covered in grassland, with a wire fence bounding the narrow rural road to the south. A large commercial forest forms the western boundary to the site.
- 1.2. Photographs and maps are attached in Appendix 1.

## **2.0 Proposed Development**

- 2.1.1. Planning permission was sought for the construction of a house and garage of (total floor area 261sq.m.) and on-site waste water treatment system on a site of 0.58ha.
- 2.1.2. The application was accompanied by an Ecological Assessment & AA Screening Report, a Site Suitability Report and the consent of the landowner to the making of the application.

## **3.0 Planning Authority Decision**

- 3.1.1. **Planning Report:** No other permissions granted at this elevation. Proposed development is the same as that previously refused save minor revisions to location and height. Fundamental reasons for previously refusing are applicable to this application also. Proposed dwelling is to be located at highest point of the site. Previous refusal regarding visual impact applies. Concerns regarding high water table and suitability of site for safe treatment and disposal of waste water. Refusal recommended.
- 3.2. **Planning Authority Decision**
  - 3.2.1. On the 8<sup>th</sup> February 2017 Mayo County Council issued a notification of their decision to REFUSE planning permission for the following reasons:
    1. The proposed development is located on an elevated and visually prominent site and therefore a dwelling house at this location would constitute an obtrusive feature on the landscape. It is considered that the

proposed development would detract from the rural character and scenic amenities of the area and would interfere with views from the local road network. The proposed development would conflict with the policies of the Mayo County Development Plan 2014-2020, would seriously injure the amenities of the area and the proposed development would interfere with the character of the landscape or prospect of special amenity value or natural interest or beauty, any of which it is necessary to preserve.

2. It is considered, having regard to the boggy and wet nature of the site, following a relatively dry winter, that the ground conditions on site are not suitable for the safe treatment and disposal of effluent having regard to the high water table present on site, when inspected by Mayo County Council personnel. The proposed development would therefore be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

#### **4.0 Planning History**

- 4.1.1. Planning Authority reg. ref. **PL16/421** Application for outline permission sought for a house, domestic garage and on-site WWTS was withdrawn.

#### **5.0 Policy Context**

##### **5.1 Sustainable Rural Housing Guidelines for Planning Authorities**

- 5.1.1 The guidelines refer to criteria for managing rural housing requirements whilst achieving sustainable development. Among the policy aims identified for sustainable rural housing are;
  - Ensuring that the needs of rural communities are identified in the development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated.
  - Managing pressure for overspill development from urban areas in the rural areas closest to the main cities and towns such as the gateways, hubs and other large towns.

- The planning authority should establish if the proposal is intended to meet a genuine rural housing need.

5.1.2 According to Map 1 Indicative Outline of NSS Rural Area Types the subject site is located in an area which is classified as being an **Area under Strong Urban Influence**.

5.1.3 The guidelines stress that development driven by cities and larger towns should generally take place within their built up areas or in areas identified for new development through the planning process. Appendix 3 of the Guidelines state that the key development plan objectives in these areas should be on the one hand to facilitate the housing requirements of the rural community as identified by the planning authority in the light of local conditions while on the other hand directing urban generated development to areas zoned for new housing development in cities, towns and villages in the area of the development plan. In addition, policies will also normally include references to:

- The types of situations considered as constituting rural generated housing.
- Measures that will be put in place to facilitate the availability of an appropriate level of housing options in smaller settlements for other housing requirements,
- The criteria that will be applied by the planning authority generally in assessing rural generated housing proposals e.g. in relation to evidence of an applicant's links to the area in question, and
- The measures to be adopted to ensure that development permitted to meet the requirements of those with links to the rural community continues to meet the requirements for which it was permitted.

5.1.4 The Guidelines require that new houses in rural areas are sited and designed to integrate well with their physical surroundings and generally be compatible with:

- the protection of water quality in the arrangement made for onsite wastewater disposal facilities

- the provision of a safe means of access in relation to road and public safety and
- the conservation of sensitive areas such as natural habitats, the environs of protected structures and other aspects of heritage.

#### 5.1. **Mayo County Development Plan 2014-2020**

5.1.1. The subject site is located in an unzoned rural area, outside the boundary of the nearest urban area. Map 3 of the development plan shows the area as being a structurally weak area.

5.1.2. Policies of the development plan relating to rural housing include:

**P-06** It is the policy of the Council to support the sustainable development of the countryside and rural villages in the County.

**RH-01** It is an objective of the Council to ensure that future housing in rural areas complies with the Sustainable Rural Housing Guidelines for Planning Authorities 2005 (DoEHLG), Map 1 Core Strategy Conceptual Map and the Development Guidance document of this Plan.

5.1.3. **RH-02** It is an objective of the Council to require rural housing to be designed in accordance with the Design Guidelines for Rural Housing (Mayo County Council). Consideration will be given to minor deviations from the guidelines where it can be demonstrated that the deviation will not have an adverse visual impact on the landscape or on local residential amenity in the Area.

5.1.4. Volume Two of the plan provides the development management standards for the County. **Section 2.3.2** states that in areas classified as Structurally Weak Areas (as classified in Appendix 9 Rural Area Types Map) permanent residential development (urban and rural generated) will be accommodated, in particular special consideration will be given to the provision of housing in rural areas that have sustained population loss since 1951, subject to good planning practice.

5.1.5. **Section 2.3.4** of volume Two states that in areas along the sea, estuaries and lake shore lines (referred to as scenic areas) only planning permission for replacement housing, extensions or where a farmer has no other land

except in those areas will be allowed and the scenic views will be protected as much as possible.

5.1.6. The area of the subject site is designated as being part of the 'North Coastal Plateaux' in the **Mayo Landscape Appraisal**. Section 2.5 of the appraisal describes the area as "a thin strip of often steeply sloping terrain, which has a combination of pasture and moorland on its planar seaward slopes above sea cliffs and abrupt gullies. This unit has an abrupt coastline in comparison to the other coastal units." The appraisal notes that the R314 skirts the mild, upper seaward slopes in an east-west direction. Due to the uncomplicated straight arrangement of this coast, and the elevated road level, stunning vistas of a considerable distance along the coastline are available. The main concern for natural linear features such as coastlines and ridgelines is to avoid penetration by development that will interrupt and reduce the integrity of such elements. Smooth terrain, as is characteristic of this unit, allows vistas over long distances against a planar surface without breaking up fore and middle ground. In such terrain, distances can appear shorter and development closer or larger. As a result, development can have a disproportionate visual impact in such terrain, due to an inherent inability to be absorbed, physically or visually.

5.1.7. **Map 3a** of the plan shows the subject site is located in Policy Area 1: Montaine Coastal Zone. The landscape assessment states that the area is visually distinct in County Mayo landscape terms as it incorporates, in a relatively small area, two dramatic landscape attributes being a steep and rugged shoreline and mountains rising immediately above. These elements make it a desirable setting for visitors and also particularly sensitive to inappropriate development. Policies for the area are:

- **Policy 1** Recognise the substantial residential development existing in some locations and the further pressures for residential development in this policy area.
- **Policy 2** Facilitate appropriate tourism and amenity development in a progressive and clustered manner, where feasible, that reflects the scale, character and sensitivities of the landscape.

- **Policy 3** Encourage development that will not have a disproportionate effect on the existing character of the coastal environment in terms of location, design, and visual prominence.
- **Policy 4** Consider development that does not significantly interfere or detract from scenic coastal vistas, as identified in the Development Plan, when viewed from areas of the public realm.
- **Policy 5** Encourage development that will not interrupt or penetrate distinct linear sections of primary ridge lines and coastlines when viewed from areas of the public realm.
- **Policy 6** Preserve any areas that have not been subject to recent or prior development and have retained a dominantly undisturbed coastal character.
- **Policy 7** Consider development on steep slopes, ensuring that it will not have a disproportionate or dominating visual impact on the surrounding environment as seen from areas of the public realm.

5.1.8. **Section 3** of the plan designates ‘vulnerable areas’ and includes the coastline from Killala to Killary Harbour. **Section 3.1(b)** of the assessment states that policy with regard to areas designated as vulnerable is that to be considered for permission, development in the environs of these vulnerable areas must be shown not to impinge in any significant way upon its character, integrity or uniformity when viewed from the surroundings. Particular attention should be given to the preservation of the character and distinctiveness of these areas as viewed from scenic routes and the environs of archaeological and historic sites.

5.1.9. Policies for the protection of the landscape include:

5.1.10. **LP-01** It is an objective of the Council, through the Landscape Appraisal of County Mayo, to recognise and facilitate appropriate development in a manner that has regard to the character and sensitivity of the landscape and to ensure that development will not have a disproportionate effect on the existing or future character of a landscape in terms of location, design and visual prominence.

- 5.1.11. **LP-02** It is an objective of the Council that all proposed development shall be considered in the context of the Landscape Appraisal of County Mayo with reference to the four Principal Policy Areas shown on Map 3A Landscape Protection Policy Areas and the Landscape Sensitivity Matrix (Figure 3), provided such policies do not conflict with any specific objectives of this Plan.
- 5.1.12. **LP-03** It is an objective of the Council to protect the unique landscape of the County which is a cultural, environmental and economic asset of inestimable value.
- 5.1.13. **VP-01** It is an objective of the Council to ensure that development does not adversely interfere with views and prospects worthy of preservation and protection as outlined on Map 4, or on the views to and from places and features of natural beauty or interest (e.g. coastline, lakeshores, protected structures, important historic sites) when viewed from the public realm.

## 6.0 The Appeal

- 6.1.1. A first party appeal of the Council's decision can be summarised as follows:
- Following an indication that a previous application was to be refused, the proposed dwelling was re-designed, incorporating smaller fragmented elements of structure and a significantly lower roof level in an effort to reduce the scale.
  - The proposed dwelling is not 1.5 .storey as stated by the Council. There is no first floor accommodation, nor any potential for any. The maximum gable width is 6m, with an eaves height of 2.7m and a ridge height of 5.8m. The proposed dwelling is broken into three smaller elements to reduce the visual impact in accordance with the Rural Design Guidelines. The poles referred to in the Planning Report indicate the impact of the previously proposed dwelling. It is submitted that the proposed dwelling is significantly different in terms of scale, form and height than that previously proposed.



- The Mayo landscape appraisal states that the significance and extent of the impacts of development in policy area 1, with careful siting and good design can be minimised to an acceptable level. It is submitted that the low profile single storey dwelling, set against mature forestry and the proximity of established residential development constitutes an acceptable level of impact.
- There are 4 no. dwellings on the road to the west of the subject site. Traffic is minimal and the subject site is not visible from the main approach road. Proposed landscaping of native trees and shrubs will further reduce and ameliorate the visual impact. (photos submitted).
- Contrary to the assertion of the Council the proposed dwelling will not be visible from Kilcummin Head or Strand (3km distance). The distance is such that the visual impact is negligible and therefore cannot be considered to be seriously injurious to or interfere with the character of the landscape. (photos submitted).
- The applicant's parents live to the south-east of the site. It is necessary for the applicants to live close given Mrs Kelly's medical condition.
- The trial holes were dug on site in May 2016. The 2m hole was intended to provide a visual indicator of the depth to bedrock, stratification, structure and colour of the soil and not as a measure of the percolation properties of the soil. Trial holes will alter over time and cannot be interpreted as representative of the undisturbed properties of the sub-soil. The water level in the trial hole is as a result of surface water and compression of the surfaces of the walls of the trial hole. It is stated that the subject proposal complies with the EPA Code of Practice.
- The Board is requested to grant permission.

## 6.2. **Planning Authority Response**

6.2.1. None on file.

## 7.0 **Assessment**

On reading of all documentation submitted with the appeal, I consider the issues to be:

- Rural Housing Policy
- Visual Impact
- Site Suitability
- Appropriate Assessment

### 7.1. **Rural Housing Policy**

- 7.1.1. The subject site is located in an area designated as being under Strong Urban Influence in the Sustainable Rural Housing Guidelines for Planning Authorities. This national guidance on rural housing states that in areas under a strong urban influence the key objective should be to facilitate the housing requirements of the rural community whilst directing urban generated development to cities towns and villages. Rural generated housing is defined as being housing needed in rural areas within the established rural community by persons working in rural areas or in nearby urban areas. Urban generated housing is defined as housing sought by persons living and working in urban areas.
- 7.1.2. I note that Map 3 of the Mayo development plan shows the area as being a structurally weak area, in contrast to the designation of the area as being under strong urban influence in the Map 1 Core Strategy Conceptual Map of the Sustainable Rural Housing Guidelines. I note that the Mayo CDP designation does not include the immediate hinterland of Killala as being under urban influence, again in contrast to national guidance. Where disparities lie between national and local policy, national policy should take precedence. I consider this approach to be in keeping with policy RH-01 of the Mayo County development plan which states that it is an objective of the Council to ensure that future housing in rural areas complies with the Sustainable Rural Housing Guidelines for Planning Authorities 2005 (DoEHLG), Map 1 Core Strategy Conceptual Map and the Development Guidance document of this Plan.

- 7.1.3. The applicant has stated that they need to live in this location as one of the Applicants parents who lives nearby has a medical condition. A letter from the applicant's mothers GP is attached to the appeal. No details are given about the applicant's employment or their general housing need. It is not possible therefore to determine if the housing need is urban or rurally generated. I am satisfied that the proposed development is not in accordance with policy RH-01 of the Mayo County Development Plan and the policy noted in Volume Two of the plan which states that in areas along the sea, estuaries and lake shore lines (referred to as scenic areas) only planning permission for replacement housing, extensions or where a farmer has no other land except in those areas will be allowed and the scenic views will be protected as much as possible.
- 7.1.4. I am satisfied that the Applicant has not demonstrated compliance with national or local policy on residential development in un-zoned rural areas under strong urban influence. This issue was not raised in the Planning Authority's reasons for refusal but was raised by the applicant in the appeal. Nonetheless the Board may wish to consider it a 'new issue'.

## **7.2. Visual Impact**

- 7.2.1. The subject site is elevated above the surrounding road network, in an area of high scenic amenity with uninterrupted views of the Mayo coastline. As noted by the Planning Authority, there are no other houses at this elevation. The landscape is dramatic, expansive, natural and undeveloped. The proposed dwelling, at the highest point of the site would represent an unwelcome and discordant entry into the landscape. The appellant notes the presence of the mature forest to the west of the site and offers it as screening. The Board will note that the forest is commercial in nature and can be removed at any point, leaving the dwelling exposed.
- 7.2.2. The appellant states that the design of the dwelling is such that it is formed of smaller parts which reduce the visual impact. I do not agree. The proposed dwelling with an overall height of 5.8m presents a wide 26m long frontage facing the road and the coast. According to the landscape appraisal of the County, this simple uncomplicated landscape with little man-made

features is not capable of absorbing development without a significantly negative impact. I agree with this reasoning and consider the visual impact of the proposed development to be unacceptable. I note policy 3.1(b) of the plan which states that in vulnerable areas (such as the subject site), development must not impinge in any significant way upon its character, integrity or uniformity when viewed from the surroundings.

- 7.2.3. The proposed development is considered to be contrary to policies LP-01, LP-02 LP-03 and VP-01 of the development plan, all of which seek to preserve the scenic amenity of the County. The proposed development is considered to be contrary to the RH-02 as the proposed development does not comply with the Rural Design Guidelines for rural residential development in County Mayo.

### 7.3. **Site Suitability**

- 7.3.1. The application was accompanied by a Site Suitability Report. The report notes that the potential targets on site are ground water, surface water, wells and coastal water, that there are two houses within 250m and that there are no watercourses within 250m of the site. The report states that a trial hole was dug on the 12<sup>th</sup> May 2016 and bedrock was encountered at 1m. The T-tests undertaken showed an average T value of 30.42. The result of the P-tests was 34.67. The recommendation of the assessment is for a septic tank and filter system with polishing filter.
- 7.3.2. The EPA code of practice states that where the T value is between 3 and 50 – as in the subject case – that the site is suitable for the development of a septic tank system or a secondary treatment system discharging to groundwater. Where the P value is between 3 and 75, the site is suitable for a secondary treatment system with polishing filter at ground surface or overground.
- 7.3.3. The site suitability assessment states that the site is located in an area with an aquifer classified as ‘locally important’ of ‘high vulnerability’ and with a R1 ground water protection response. In R1 ground water zones, a site is considered suitable for the disposal of waste water subject to normal good practice.

7.3.4. Large patches of reeds were interspersed throughout the site, indicating poor water percolation on the site. I note that the EPA CoP recommends in cases of shallow bedrock that an assessment of the permeability of the bedrock be undertaken, to determine whether the site can absorb the hydraulic load and that ponding will not result. Should the Board decide to grant permission, it is recommended that it be conditional on a more recent site suitability assessment that can provide a trial hole of no less than 1.2m in depth or provides details of rock permeability testing on site.

#### **7.4. Appropriate Assessment**

- 7.4.1. The subject site is 1.24km from the Lacken Saltmarsh & Kilcummin Head SAC (000516), 1.2km from the Killala Bay SPA (004036) and 5.46km from the Killala Bay / Moy Estuary SAC (00458). An AA Screening Report has been submitted with the application. The report concludes that there will be no likely significant impacts from the proposed development, no potential impacts that could result in interference with the key relationships that define the structures of a European site and no cumulative impacts. The findings of the report are considered reasonable.
- 7.4.2. There is no direct or indirect direct source-pathway-connector between the subject site and the SAC or the SPA. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and or proximity to the nearest European site, no appropriate assessment issues arise and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

### **8.0 RECOMMENDATION**

- 8.1.1. I have read the submissions on file, visited the site, and have had due regard to the provisions of the Mayo County Development Plan 2014 – 2020 all other matters arising. It is considered that the proposed development does not comply with national or local policy on residential development in rural areas, and would have a significant negative visual impact on a landscape that has

been classified as vulnerable and which the County Council has sought to protect. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area. I recommend permission be refused for the following reasons

### **Reasons and Considerations**

- 1 Having regard to the topography of the site, the elevated position of the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape, would militate against the preservation of the rural environment and would set an undesirable precedent for other such prominently located development in the vicinity. It is considered that the proposed development would detract from the rural character and scenic amenities of the area which it is the policy of Mayo County Council to protect. The proposed development is contrary to policies RH-02, LP-02, LP-03 and VP-01 of the Mayo County Development Plan 2014 -2020, all of which seek to preserve the scenic amenity of the vulnerable coastline of County Mayo. The proposed development would thereby conflict with the policies of the planning authority as set out in the Mayo County Development Plan 2014 – 2020, would seriously injure the amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.
- 2 Having regard to the location of the site within an Area Under Strong Urban Influence as identified in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government (2005), it is considered that, on the basis of the information on file, the applicants do not come within the scope of the local rural housing need criteria as set out in the National Guidelines or the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based need for a house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development

would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The Board is not satisfied that it has been satisfactorily shown that notwithstanding the proposed use of a proprietary waste water treatment system, the subject site is capable of disposing of any surface and waste water generated by the proposed development, safely and without prejudicing public health. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

*Gillian Kane*

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Gillian Kane  
Planning Inspector

23 May 2017