



An  
Bord  
Pleanála

## Inspector's Report PL16.248728

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|-------------------------------------|--------------------------------------|
| <b>Development</b>                  | Construction of a dwellinghouse.     |
| <b>Location</b>                     | Carrownaclea, Westport, County Mayo. |
| <b>Planning Authority</b>           | Mayo County Council.                 |
| <b>Planning Authority Reg. Ref.</b> | P16/736.                             |
| <b>Applicants</b>                   | Mark and Eva McIntyre.               |
| <b>Type of Application</b>          | Permission.                          |
| <b>Planning Authority Decision</b>  | Refuse.                              |
| <b>Type of Appeal</b>               | First Party -v- Refusal.             |
| <b>Appellants</b>                   | Mark and Eva McIntyre.               |
| <b>Observers</b>                    | None.                                |
| <b>Date of Site Inspection</b>      | 19 <sup>th</sup> September, 2017.    |
| <b>Inspector</b>                    | Paul Caprani.                        |

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## 1.0 Introduction

PL16.248728 relates to a first party appeal against the decision of Mayo County Council to issue notification to refuse planning permission for a house and garage at a site north-west of Westport, County Mayo. In its sole reason for refusal Mayo County Council stated that the applicant has not established a permanent housing need at this location and that the proposal will constitute haphazard development and would lead to the demands for the uneconomic provision of public services and community facilities and would impact on the visual and environmental amenity of the area.

## 2.0 Site Location and Description

The appeal site is located approximately 2½ kilometres north-east of the town of Westport in the townland of Carrownaclea. The site is located on the northern side of a narrow third class road which links up with the Lodge Road to the west which in turn links up with the N5 on its approach to the eastern environs of Westport Town. The site itself is rectangular in shape. It has a stated area of 0.412 hectares. It has a road frontage of 63.5 metres and a depth of between 66 and 68 metres. It incorporates a pronounced downward slope to the north-west away from the access road. The site is currently vacant and the front part of the site is overgrown with hedges and shrubs. A number of mature trees also occupy the front portion of the site. The remnants of a small derelict cottage are located near the roadside boundary. According to the information on file, this is the applicant's ancestral home. Directly opposite the site the applicant's family home is located. There are a number of one-off houses to the north-east of the applicant's family home directly opposite the site. The development of one-off housing on the northern side of the road is less intense. There are however two dwellinghouses located to the north-east of the subject site both of which are setback c.50 metres from the public road. There is no development on any of the lands contiguous to the boundary of the site.

### 3.0 Proposed Development

- 3.1. Planning permission is sought for the construction of a single-storey dwellinghouse. Permission is sought for the construction of a four-bedroomed dwellinghouse. The dwelling is setback c.30 metres from the front site boundary and faces towards the road. The house rises to a ridge height of just under 6.4 metres and incorporates a nap plaster finish and a pitch roof clad in blue/black slates. It is also proposed to provide a separate garage (37 square metres) to the front of the dwellinghouse near the north-eastern boundary of the site. The garage rises to ridge height of 5.35 metres.
- 3.2. The septic tank and percolation area are to be located to the south-west and west of the dwellinghouse respectively. The dwellinghouse has a gross floor area of 170 square metres. It is proposed that the dwelling obtain water supply from a new connection to a group water scheme.

### 4.0 Planning Authority's Assessment

#### 4.1. Decision

Mayo County Council refused planning permission for a single reason which is set out in full below.

*The proposed development is located in an area identified as being under strong urban influence for development as set out in the Mayo County Development Plan 2014 – 2020. Under Objective RH-01, the Council may only permit permanent housing needs in such areas where the applicants have established such a housing need. In this regard, the applicant has not established a permanent housing need at this location in accordance with Objective RH-01. It is considered that the proposed development, if granted, would constitute haphazard development in a rural area, would militate against the preservation of the rural environment, would lead to demands for the uneconomic provision of public services and communal facilities, would contribute to the erosion of the visual and environmental amenity of the area, and would therefore interfere with the character of the landscape at this location which it is necessary to preserve. Therefore, the proposed development would materially contravene the rural housing objectives of the Mayo County Development*

*Plan 2014 – 2020 and would be contrary to the proper planning and sustainable development of the area.*

**4.2. Initial Assessment by the Planning Authority**

4.3. The planning application was lodged on 20<sup>th</sup> September, 2016.

4.4. A site characterisation form submitted with the application indicates that the water table was encountered at 1.2 metres below ground level. Percolation tests yielded a T value of 46 and a P value of 36. It is therefore recommended to install a package wastewater treatment system (an SBR unit pumped to a polishing filter) with constructed imported sandy/silt soils with a T value of 30 – 40.

4.5. Letters of consent were also submitted by the landowner permitting the applicants to make the application for the construction of a dwellinghouse and consent was also submitted from the local group water supply scheme permitting the applicants to connect to the local scheme.

**4.6. Additional Information Request**

4.7. On 11<sup>th</sup> November, 2016 Mayo County Council requested additional information specifically that the applicant submit documentary evidence to satisfy Mayo County Council that the proposal constitutes a genuine rural housing need based on the roots or links with the area and having particular regard to the specific requirements of the development plan.

**4.8. Further Information Submission**

4.9. Further information was submitted on 6<sup>th</sup> January, 2017. It states that the applicants satisfy the housing need criteria under Section 2.3.1(b) of the development plan. It is stated that the applicant's mother owns the family home in Carrownaclea, Westport. Subsequent to the untimely passing of her husband the applicant's mother has relocated to Knockrooskey, Westport. It is also stated that the applicant's sister has built on family lands and currently resides in the same townland as the current application. The landowner (applicant's mother) is ready to return to the family home.

- 4.10. On 1<sup>st</sup> February, 2017 Mayo County Council requested clarification of additional information and specifically that the applicant submit appropriate documentary evidence demonstrating the applicant's compliance with Section 2.3.1 of Volume 2 of the County Development Plan namely folio details of the lands in question.
- 4.11. Folio details were submitted by the applicant's solicitor on 2<sup>nd</sup> May, 2017.
- 4.12. The planner's report notes that the site is located within the Westport rural area that is designated as being under strong urban influence. The landholding is in the ownership of the applicant's mother and the applicant has not lived in the area where she now proposes to build and details of any substantial connections to the area in line with the aforementioned policy is not being provided. It is not considered that the applicant has either functional or social links with the area in which he wishes to build. The proposed development is therefore not considered appropriate as it does not demonstrate sufficient compliance with the housing need requirement set out in the development plan.

## 5.0 Planning History

There appears to be no planning history associated with the appeal site. Reference is made in the planner's report to Reg. Ref. P07/3113 where planning permission was granted to the sister of the applicant for a dwellinghouse. The local authority planner's report further notes that permission was initially refused under application PL07/1965.

## 6.0 Grounds of Appeal

- 6.1. The decision of Mayo County Council to issue notification to grant planning permission was the subject of a first party appeal. The grounds of appeal are outlined below:

It is stated emphatically that the applicants have a genuine housing need and strong family ties to the site in question. The applicant's stepfather was the sole owner of the lands in question from 1986. After marrying the applicant's mother, the applicant's father moved to Knockrooskey in Westport for a time before moving back to the site. The lands in question were transferred into the applicant's mother's name

after the applicant's stepfather died. It is noted that the applicant's sister resides across the road and obtained planning permission on the family lands. The applicants also originate from within 5 kilometres of the proposed site.

The applicants are currently living with two children in temporary accommodation and are saving to build a home on the lands in question. The proposed site is the only available option to build a home on family land. The applicants both grew up in Westport and now live permanently in Westport. Both the applicant's children are baptised in Westport Church.

The proposed development does not constitute a haphazard development as there is an existing cottage on site which is the ancestral home of the applicant's stepfather. In the absence of granting planning permission, it is likely that the existing cottage on site will continue to deteriorate and become an eyesore on the landscape.

Reference is made to other houses which have received planning permission and are currently being built in the area. It is the applicant's intention to preserve and improve the ancestral family cottage on site. In terms of services for the area, it is stated that the applicant has paid for a new water connection to the group water scheme and there is also an ESB connection to the existing cottage. A telecom line runs past the proposed site and the house will be connected to an on-site effluent treatment system. The proposed development together with the preservation of the existing cottage will greatly enhance the existing rural landscape.

- 6.2. When the applicants were married the applicant's father had given the applicants the site as a wedding present. It is the applicant's wish to fulfil the wishes of the father. One of the applicants works less than a kilometre away at Allergan Pharmaceuticals while the other applicant works as an environmental education officer and works in both urban and rural schools.
- 6.3. An Bord Pleanála are therefore requested to overrule the decision of the Planning Authority and grant planning permission.

## 7.0 Appeal Response

It appears from the file that Mayo County Council have not submitted a response to the grounds of appeal.

## 8.0 Development Plan Provision

8.1. The site is governed by the policies and provisions contained in the Mayo County Development Plan 2014 – 2020.

8.2. Policies in relation to rural housing include the following:

RH-01 – it is an objective of the Council to ensure that future housing in rural areas comply with the Sustainable Rural Housing Guidelines for Planning Authorities 2005.

The settlement strategy map indicates that the subject site is located in an area which will accommodate sustainable rural development where only the genuine permanent residential needs of predetermined categories of people will be facilitated outside towns and villages and rural or resource dependent activities listed in the Plan.

Map 3 of the development plan sets out details of rural area types. The subject site is located in an area under strong urban influence.

In such areas applicants shall satisfy the Planning Authority that the proposal constitutes a genuine rural housing need based on their own roots or links to a particular rural area and this in regard it must demonstrated that they comply with one of the following categories.

- Persons who are an intrinsic part of the local community due to their having spent substantial periods of their lives living in the rural area in which they propose to build a home. This category refers to:
  - (a) Farmers, their sons or daughters, a favourite niece/nephew and/or any persons taking over the ownership or running of a farm who wish to build on the family farmholding (a farmholding shall consist of at least 4 hectares).
  - (b) Sons or daughters of non-farming persons who spent a substantial period of their lives (i.e. last five years living in the rural area in which they propose to build and wish to build a home near their family place of residence (i.e. within 5 kilometres in any direction of the family residence).



- (c) Returning emigrants who spent a substantial part of their lives living in a rural area which they proposed to build, who now wish to return to reside near (within 5 kilometres) other immediate family members (i.e. mother, father, brother, sister, son, daughter or guardian), to care for elderly immediate family members, to work locally or retire.
- Persons working full-time or part-time in the rural area in which they propose to build their first house. This category of housing need refers to:
  - (a) Persons involved in full-time farming, forestry, inland waterway and marine related occupations.
  - (b) Part-time occupations where the predominant occupation is farming/natural resource related.
  - (c) Persons whose work is intrinsically linked to rural areas such as teachers in rural schools or other persons whose works predominantly take place within the rural area in which it is proposed to build.

For the purpose of clarity, proposed site will generally be required to be located within 10 kilometres (6.2 miles) in any direction of the applicant's place of work.

- Persons whose exceptional health circumstances require them to live in a particular environment.
- Applicants qualifying under this category of housing need would be required to demonstrate by way of supporting documentation why their need is exceptional.
- Where permission has been granted for a rural housing proposal to an applicant on the basis of his or her roots or links to the area, an occupancy condition shall normally be imposed under Section 47 of the Planning and Development Act, 2000.

### **8.3. Rural Housing Guidelines**

Expanding on the rural policy contained in the National Spatial Strategy, the Rural Housing Guidelines for Planning Authorities state that people who are part of the rural community should be facilitated by the planning system in all rural areas including those under strong urban based pressures. The principles set out in the

Guidelines also require that new houses in rural areas should be sited and designed to integrate well with the physical surroundings and generally be compatible with:

- The protection of water quality in the arrangements made for on-site disposal facilities.
- The provision of a safe means of access in relation to road and public safety.
- The conservation of sensitive areas such as natural habitats, the environs of protected structures and other aspects of heritage.

## 9.0 Planning Assessment

I have read the entire contents of the file, visited the site and its surroundings and have had particular regard to the Planning Authority's reasons for refusal and the grounds of appeal contesting the reasons for refusal. I consider the critical issues in determining the current application and appeal before the Board are as follows:

- Housing Need
- Haphazard Development
- Uneconomic Provision of Public Services
- Impact on the Character of the Landscape

### 9.1. Housing Need

- 9.1.1. With regard to the issue of housing need, it appears that the lands in question belong to one of the applicant's deceased stepfather. It appears that after marrying the applicant's mother, the applicant's stepfather resettled away from the lands surrounding the subject site, and moved to the mother's home place of Knockrooskey. Knockrooskey is located to the south-east of Westport approximately 5 kilometres from the town, and as the crow flies - 6 kilometres from the subject site. It appears that only after the applicant's father (Frank Gibbons) passed away that the lands are transferred into the applicant's mother's name. It appears therefore that while the applicant's family own the lands in question, the applicants did not grow up or spend substantial parts of their lives on the lands in question. It is apparent from paragraph 2.3.1 of Volume 2 of the development plan that in the case of rural areas

under strong urban influence, the applicant need to satisfy the Planning Authority that their proposal constitutes a genuine rural generated housing need based on their own roots or links to a particular rural area. In the case of sons or daughters of non-farming areas, there is a specific requirement that such persons are required to have spent a substantial period of their lives (i.e. at least 5 years) living in the rural area on which they propose to build (my emphasis) and that they wish to build a home near their family residence. I am not convinced based on the information contained on file that either of these criteria are met. It appears that the applicants in this instance have not spent a substantial period of their lives living in Carrownaclea to the north-west of Westport but have in fact resided in Knockrooskey to the south-east of Westport. And while the applicant's family own lands in Carrownaclea it is not at all evident based on the information submitted with the grounds of appeal, that they have spent a substantial period of their lives living in this rural area and therefore it appears to me that they would not qualify under the prescriptive criteria set out in Volume 2 of the development plan.

9.1.2. It also appears that the applicants in this instance are not involved in full-time farming, forestry or marine occupations nor are they involved in part-time occupations which is farming or natural resource related. While one of the applicants works less than a kilometre away in Allergan Pharmaceuticals Ireland and the other works as an environmental education officer, I do not consider that it can be reasonably argued that occupations in question necessitate the requirement to live on the lands in question.

9.1.3. Based on the information provided, I would generally agree with the Planning Authority that a genuine housing need in accordance with the strict and prescriptive criteria set out in the development plan has not been satisfactorily demonstrated.

## 9.2. **Haphazard Development**

The notification to refuse planning permission issued by Mayo County Council also makes reference to the proposal constituting haphazard development. I have visited the site and its surroundings and I note that there is a proliferation of recently constructed one-off dwellinghouses along the roads of Carrownaclea and the surrounding area. I consider that if the Board are of the opinion that an appropriate and genuine housing need has been demonstrated in this instance, it could also be

reasonably argued that there is precedent for one-off housing of this nature in the area. Therefore if the Board consider that a housing need has been identified, I would consider it unreasonable to refuse planning permission on the grounds that the proposal constitutes haphazard development as there is numerous examples of similar type residential development some of which has been constructed very recently in the immediate area. However, in the absence of adequately demonstrating a housing need in this instance, I consider that the provision of an additional house would further exacerbate the density of one-off housing in the area which would accentuate the randomness and haphazard nature of rural residential development in the wider area.

### 9.3. **Uneconomic Provision of Public Services**

A similar conclusion could be reached in respect of the provision of economic and community services. Rural housing by its general nature results in the uneconomic provision of services, as it is not cost-effective to provide social and infrastructural services to low density dispersed settlement. However, it is clear that the Planning Authority permit the provision of such rural housing in rural areas under strong urban influence when a genuine housing need has been demonstrated in accordance with the criteria set out in the development plan. Where a genuine housing need is demonstrated, social, cultural and family ties override any arguments in respect of the economic provision of services. Thus, it can be reasonably concluded in my opinion, that where a genuine rural housing need has been demonstrated such a need would override any concerns in relation to any demands for the uneconomic provision of public services and community facilities. Rural housing by reason of its remote and rural location will attract a demand for uneconomic provision of public services. However, I would consider the provision of such services to be acceptable where a local housing need has been demonstrated. Thus, if the Board are satisfied that a genuine rural housing need has been demonstrated I do not consider it appropriate to refuse permission on the grounds that the house will result in the demand for uneconomic provision of public services and community facilities. On the otherhand however if the Board consider that the proposed development represents random rural housing in the absence of any genuine housing need it can be

reasonably argued in my view that the proposal would result in demands for the uneconomic provision of public services.

#### **9.4. Impact on the Character of the Landscape**

- 9.4.1. With regard to the impact of the proposed development on the character of the landscape, it is apparent from the photographs attached, that the site is located on ground levels lower than the adjoining public road and the site is currently well screened by natural vegetation. It appears that the footprint of the dwelling as proposed would necessitate the removal of a number of the larger mature trees on site. However, many of the mature trees could be possibly retained particularly along the eastern boundary which would help mitigate the visual impact arising from the proposal.
- 9.4.2. Furthermore, having regard to the proliferation of dwellings, many of which have been recently constructed in the immediate vicinity, it would unreasonable to argue that the proposed development would have an unacceptable impact on the landscape character of the area particularly as the site is not located on or in close proximity to any scenic routes or any scenic views as designated in the development plan. I therefore do not agree that the proposed development in this instance would interfere with the character of the landscape at this area where it is necessary to preserve the character of the landscape.

#### **9.5. Other Issues**

- 9.5.1. I wish to highlight to the Board that in refusing planning permission for the proposed development Mayo County Council specifically referred to the proposed development “would materially contravene the rural housing objectives of the Mayo County Development Plan 2014 – 2020”. Therefore, in accordance with the provisions of Section 37(2)(b) of the Act, The Board may only grant planning permission where it considers that:

- The proposed development is of strategic or national importance.
- There are conflicting objectives in the development plan or the objectives are not clearly stated insofar as the proposed development is concerned.
- Permission for the proposed development should be granted having regard to regional planning guidelines for the area.

- Or permission for the proposed development should have been granted having regard to the pattern of development and permissions granted in the area since the making of the development plan.

9.5.2. In relation to this issue I would comment as follows. I do not consider that the proposed development is of strategic or national importance nor do I consider that there are conflicting objectives in the development plan. The development plan is clear and unambiguous that it will only permit applications for rural housing in areas under strong urban influence when the specific criteria set out in the development plan has been met. Furthermore, I do not consider that permission should be granted for the proposed development having regard to any regional planning guidelines for the area. A case could possibly be made that the proposed development could be granted having regard to the pattern of development of the area and permissions granted in the area since the making of the development plan. The grounds of appeal note that a number of dwellinghouse have been granted planning permission under the lifetime of the current development plan and specific reference numbers are set out on page 3 of the grounds of appeal.

## 10.0 **Appropriate Assessment**

The nearest designated Natura 2000 site is the Clew Bay Complex SAC which is located at its closest point c.3.7 kilometres to the west of the subject site on the other side of Westport Town. The Brackloon Woods SAC is the next nearest designated Natura 2000 site and is located c.7.4 kilometres to the south-west of the subject site. Having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the 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 Conclusions and Recommendation

Arising from my assessment above, I would concur with the Planning Authority that a genuine housing need in accordance with the criteria set out in the development plan has not been adequately demonstrated in this instance. I further consider that a strict application of the criteria for rural housing development in such close proximity to Westport Town and the site's location within a designated area under strong urban influence should be strictly and forcibly applied. Based on my assessment therefore I recommend that planning permission be refused for the reasons and considerations set out below.

## 12.0 Reasons and Considerations

1. Having regard to the location of the site within an area under strong urban influence as designated in the current Mayo County Development Plan 2014 – 2020, it is considered that the applicant does not come within the scope of the housing need criteria set out in the development plan for a house at this location. The proposed development, in the absence of any identified locally based need for the 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.

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Paul Caprani,  
Senior Planning Inspector.

22nd September, 2017.