



An  
Bord  
Pleanála

## Inspector's Report PL16. 249212

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<b>Development</b>	House and effluent treatment system
<b>Location</b>	Kinnadoohy, Louisburgh, Mayo
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	P16/1022
<b>Applicants</b>	Enda and Norah Harte
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	Padraic and Geraldine Frazer
<b>Observers</b>	Patrick J. Frazer Shelley Upchurch
<b>Date of Site Inspection</b>	16 <sup>th</sup> November 2017
<b>Inspector</b>	Stephen J. O'Sullivan

## 1.0 Site Location and Description

- 1.1. The site lies in a rural area of Mayo c10km south-west of Louisburgh and c1km east of the coast. It has a stated area of 0.3ha and is under pasture. It lies on a county road that runs parallel to the coast at a crossroads with an unmetalled lane. The land rises to the east of this road to a height of 357mOD c 1.1km from the site. There are numerous one-off houses in the vicinity, but none on the land adjoining the site.
- 1.2. The shell of a former catholic church stand at Gowlaun, c230m north-east of the appeal site. Its entry on the NIAH states that it dates from the first half of the 19<sup>th</sup> century and is of regional importance.

## 2.0 Proposed Development

- 2.1. It is proposed to build a house with a stated floor area of 130m<sup>2</sup> and a roof ridge height of 6.66m. The floor level of the house would be c2m above that of the road. It would be served by an effluent treatment system on the site. A detached shed in also proposed. The revised plans submitted as further information show the vehicular access from the lane on the northern site boundary 40m from its junction with the county road. The proposal was also amended to connect to a group water scheme.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority decided to grant permission subject to 10 conditions. Condition no. 3 required the submission of revised plans showing compliance with development plan requirements for sightlines at the access to the site.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The initial report stated that an appropriate assessment screening report should be sought, along with details of the family landholding in the area. The subsequent

report concurred with the conclusion of the submitted screening report that the development would not have a significant impact on the conservation objectives of the Natura 2000 network. A grant of permission was recommended.

### **3.3. Prescribed Bodies**

An Taisce stated that local and national planning policy should be observed, as well as the requirements of the Groundwater Directive.

### **3.4. Third Party Observations**

Submissions were received that objected to the development on grounds similar to those raised in the subsequent appeal. Concern was also expressed that the development might lead to a deterioration in the quality of surface water in an adjacent stream.

## **4.0 Planning History**

No previous applications that refer to the appeal site were cited by the parties.

## **5.0 Policy Context**

### **5.1. Guidelines for Planning Authorities on Sustainable Rural Housing, 2005**

The site is in area type 4 – with clustered rural settlement pattern – as identified in the guidelines, which advise that the key development plan objective should be the maintenance of a vibrant rural population. Section 4.4 advises against the removal of roadside boundaries except to the extent required for road safety.

### **5.2. Development Plan**

The Mayo County Development Plan 2014-2020 applies. The site is a structurally weak rural area as designated in the plan where there is no general policy restriction of rural housing; and policy area 3 for Uplands, Moors, heath and Bog, which is identified as having a medium capacity to absorb rural dwellings into the lands. The road in front of the site is designated as a scenic route. Table 3 of volume 2 requires

visibility at access to houses in rural areas of between 50m and 120m depending on the design speed of the road while table 4 requires a separation of 40m from a junction on a local road or 50m from a junction on a regional road.

### **5.3. Natural Heritage Designations**

The Mweelrea/Sheeffry/Erriff Complex SAC 001932 is c400m to the south-west of the site. The West Connacht Coast SAC 002998 is c1km west of the site. The conservation objective for that SAC is to maintain the favourable conservation condition of Common Bottlenose Dolphin. There is no manner in which the proposed development could have a significant effect on the achievement of that objective.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- The proposed house would have an unacceptable visual impact. Its floor level would be elevated c2m over the road while its ridge would be c8.6m above road level. The road is part of the Wild Atlantic Way and designated as a scenic route in the development plan in an area designated as visually vulnerable. The house would significantly interfere with the coastal landscape to the west and the mountain landscape and ridgeline to the east. It would also effect the setting of Gowlaun Catholic Chapel which is recorded as being of regional significance in the NIAH. The council previous rejected proposals from the appellants for a house 150m from the site on the west side of the road under Reg. Ref. 02/2442 in order to protect views from the road, requiring another site to be used in a hollow that was in a hollow that would not interfere with the ridgeline under Reg. Ref. 04/1036. The proposed house could not integrate with the landscape in that manner. The design of the house is neither sympathetic nor appropriate to the local area in terms of height or proportions, with the roof height indicating that the first floor might be converted to habitable space. The proposed garage would exacerbate the impact on the character of the area.

- The proposed development would have a significant negative impact on the character of the area and the appellant's residential amenity. It would detrimentally affect views from their property which they were entitled to expect to remain, given the restrictive policies of the council. The privacy of their house would be exposed given the direct views between it and the proposed house. Potential earthworks would also give rise to visual impact. The effect of the setting of the appellant's home would diminish its value.
- The site is not suitable from a traffic/access point of view being at a crossroads on the Wild Atlantic Way. The development plan requires that access be at least 40m from a junction on a local road or 50m from a junction on a regional road. The latter would be more appropriate for a road on the Wild Atlantic Way. This does not appear to be possible on the appeal site. The road frontage of 25m is less than the requirement of 40m set out in the development plan, so the site is too narrow. It appears that a loophole is being sought on the grounds that access would not be from a public road, but the road is in use by the public. The development plan requires sightlines of between 50m and 120m depending on design speed. The applicant has only demonstrated that 15m are available. Condition no. 3 of the planning authority's decision is not capable of implementation.
- While the applicant asserts a need for a house close to his family home, the submitted details did not show the location of that home nor the availability of other more suitable sites on the landholding. Other sites or the extension of the family home should be considered. While the area is not under urban influence, proper rural planning should apply

## 6.2. Applicant Response

- The floor level of the house has been selected to reduce the need for excavation on the site.
- The design would facilitate conversion at first floor level, but the applicants do not intend to install dormer windows and have no current need for additional accommodation.

- The required sight distances for an access on a private road requires consultation with the council whose requirements will be met.
- The applicants have the right to build on family lands close to the family home. The appeal site has the most suitable access and ground conditions and does not interfere with visual amenity or pose an environmental threat.

### 6.3. **Planning Authority Response**

The planning authority did not respond to the appeal.

### 6.4. **Observations**

The observations objected to the proposed development on grounds similar to those raised in the appeal. It was also stated that the development would introduce excessive traffic on the lane which provides access to one of the observer's house.

## 7.0 **Assessment**

### 7.1. **Policy**

Neither local nor national rural planning policy places any general restriction on houses in this area that would require the applicants to establish a particular need for the proposed development.

### 7.2. **Visual impact**

The proposed house would be located on the landward side of the coastal road, but well below the elevated land to the west. The scale of the house is not excessive and its design is relatively simple, and is therefore acceptable. While it would be somewhat higher than the public road, it would not interfere with views from that scenic route to the sea because it is on the other side of the coast road. The level of the house would be well below that of the hills behind it. The proposed house would not, therefore, be unduly prominent or visually obtrusive. It would be set well away from the former chapel at Gowlaun by over 200m and would not intrude into the setting of that structure. The lower land on other fields in the vicinity of the site

appeared waterlogged at the time of inspection, and it is unlikely that an alternative lower site in the vicinity could provide adequate on-site drainage for a house. The development would not seriously injure the visual amenities or character of the area, therefore.

### **7.3. Residential amenity**

The proposed house would not be close enough to any existing house to overlook or overbear the other property in a way that effected its privacy or outlook to an extent that was significant in terms of residential amenity. The house granted permission under Reg. Ref 04/1036 that was cited in the appeal is more than 100m away. The appearance of the proposed house in views from any other house would not be a material planning consideration. The development would not seriously injure the residential amenities of property in the vicinity of the site, therefore.

### **7.4. Traffic safety**

The lane to which the proposed house would have access is adequate to cater for the traffic from a single additional dwelling without undue obstruction to road users. The characteristics of the lane would slow traffic, so an extensive setback of the existing boundary along the lane would not be required to avoid traffic hazard. Such a wholesale removal of the existing wall and hedge would also contravene the advice given at 4.4 of the rural housing guidelines. The revised layout achieves an adequate separation from the access to the junction of the lane with the county road. In these circumstances it would be neither reasonable nor desirable to require compliance with the general standards set down in the development plan on sightlines. The development as proposed would not, therefore, cause a threat to road safety.

### **7.5. Drainage**

A site suitability assessment was submitted with the application. The trial hole test showed a depth of soil of 1.8m to the water table, and the percolation tests showed a t-value of 25. These results demonstrate that the site is suitable for the treatment

and disposal of domestic foul effluent in accordance the EPA's Code of Practice on the subject. These results are consistent with the visual observation of the ground conditions and vegetation on the site at the time of inspection. The proposed treatment system and polishing filter would achieve the separation distances from the boundary of the site and any watercourses that are required under table 6.1 of the code of practice. The proposed development would not, therefore, threaten the quality of surface or groundwater and would not be prejudicial to public health.

## **7.6. Appropriate Assessment**

The site is c1km from the West Connacht Coast SAC 002998. The conservation objective for that SAC is to maintain the favourable conservation condition of Common Bottlenose Dolphin. There is no means by which the proposed development could have a significant effect on the achievement of that objective. The Mweelrea/Sheeffry/Erriff Complex SAC 001932 is c400m to the south-west of the site. The conservation objectives for that site refer to numerous habitats and species, none of which are present on the site. The proposed development could have no direct effect on this SAC. The conclusions at section 7.5 of this report above mean that the proposed development would not be likely to have any indirect effect either because it would not threaten water quality. The separation distance of the site from all other Natura 2000 sites ensures that the proposed development would not be likely to have any significant effects upon them either. It is therefore reasonable to conclude that on the basis of the information available, which is adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site and in particular specific sites numbered 002998 and 001932, or any other European site in view of the sites' conservation objectives and an appropriate assessment (and submission of a NIS) is not therefore required.

## **8.0 Recommendation**

8.1. I recommend that permission be granted subject to the conditions set out below.



## 9.0 Reasons and Considerations

The site is in a structurally weak rural area where neither the Mayo County Development Plan 2014-2020 nor the Guidelines for Planning Authorities on Sustainable Rural Housing issued by the minister in 2005 place a general restriction of the development on single houses. The proposed house would not cause serious injury to the visual amenity or character of the area or to the residential amenities of other properties in the vicinity. It would not give rise to a traffic hazard and would not be prejudicial to public health. It would therefore be in keeping with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 28<sup>th</sup> day of July 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Access to the site shall be in the location shown on the site layout plan submitted to the planning authority as further information on 28<sup>th</sup> day of July 2017. The existing boundary hedge and wall along the western and north-western boundary of the site shall be retained except to the extent that its removal is necessary to provide for the entrance to the site.

**Reason:** In the interests of visual amenity and road safety

3. Surface water from the site shall not be permitted to drain onto the adjoining public road.

**Reason:** In the interest of traffic safety

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

**Reason:** To ensure adequate servicing of the development, and to prevent pollution

5. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

**Reason:** In the interest of visual amenity.

6. . The external finish of the house shall be nap plaster or wet dash with no colour component. No brick shall be used and any stone shall be natural stone local to the area. The front door shall be simple design in sheeted or panelled wood, painted or varnished.

**Reason:** In the interests of visual amenity

7. . (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

**Reason:** In the interest of public health

8. . The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the

area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

. **Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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. Stephen J. O'Sullivan  
Planning Inspector

13<sup>th</sup> December 2017