



An
Bord
Pleanála

Inspector's Report ABP-300007-17

Development	Construct dwelling house and wastewater treatment system with polishing filter, including all other ancillary site work and services.
Location	Fotish, Crossmolina, Ballina
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	P17/637
Applicant(s)	Mark Reynolds
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	An Taisce
Observer(s)	John Coyle
Date of Site Inspection	12 th January 2018
Inspector	Donal Donnelly

1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Fotish to the north of Crossmolina in northern Co. Mayo approximately 1km from the village centre. The site comprises part of a field in an elevated position c. 500m west of the Deel River. The surrounding area comprises pastoral agricultural land with sporadic housing in a drumlin type landscape.
- 1.2. Access to the site is via a local road that commences at a 'T' junction with the R315 to the south. The speed limit along this stretch of road is 80 kph and there are no road markings in the vicinity of the site. Forward visibility is limited by the vertical alignment of the road to the south and the horizontal alignment to the north.
- 1.3. The site has a stated area of 0.607 hectare. There are two detached dwellings to the north of the site and the southern and eastern boundaries are undefined. The original road-fronting hedgerow has recently been removed and a layby the length of this boundary has now been created. The front boundary now comprises a wire and post fence and there is an agricultural entrance to the north-west of the site.

2.0 Proposed Development

- 2.1. Planning permission is sought for the following:
 - Construction of a 3-bed dormer dwelling (196 sq.m.);
 - Wastewater treatment system; and
 - Ancillary site works and services.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Mayo County Council issued notification of decision to grant permission subject to 14 conditions, mostly of a general nature.
- 3.1.2. Condition 2 states that only one house shall be constructed on the landholding.

3.2. Planning Authority Reports

- 3.2.1. The recommendation to grant permission in the Planner's Report is consistent with the decision of the Planning Authority.
- 3.2.2. The Case Planner is of the opinion that all planning decisions on site since the original application (PL13/301) have been fundamentally flawed, as they have used the same reason for refusal when two matters in the original reason have been addressed (nature, height and scale of dwelling; removal of roadside hedgerow; and visual amenities). Another material difference is that the site boundary of P16/881 and P17/464 and the current proposal are completely different to those of P13/301 and 14/510.
- 3.2.3. It is also stated that the Board's reason for refusal contains several other issues that are matters of opinion. The Case Planner considers that there is a clear separation between the built-up area of Crossmolina and the rural hinterland and that the area is undeniably rural in character, with the site set in a large field of some 3.5 hectares. In terms of precedent, it is noted that there is already rural housing in the area some 160m from the site, which is an almost identical dormer bungalow to that proposed.
- 3.2.4. In terms of Appropriate Assessment, it is considered that having regard to the nature and scale of the proposed dwelling, and the nature of the receiving environment and/or proximity to the River Moy, together with ground conditions which indicate that effluent can be safely disposed of, no Appropriate Assessment issues arise.
- 3.2.5. The Road Design Office has no objection to the proposed development subject to conditions.

4.0 Planning History

Mayo County Council Reg. Ref: 13/301 (PL16.242438)

- 4.1.1. Mark Reynolds was refused permission by the Board on 20th November 2013 for a dwelling, garage and septic tank. The reason for refusal stated as follows:

“Having regard to the pattern of development in the area where the density of housing has blurred the boundary between the settlement of Crossmolina and the surrounding rural hinterland, the nature, height and scale of the proposed dormer dwelling and the proposed removal of a significant part of the roadside hedgerow

and boundary wall in order to obtain adequate sight distances, it is considered that, notwithstanding the site's location in a Structurally Weak Rural Area, 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, the proposed development would further erode the character of this rural area, would seriously injure the visual amenities of the area and would set an undesirable precedent for other similar developments in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board noted the site's location in a Structurally Weak Rural Area as set out in in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005 but considered that the proposed development would seriously injure the visual amenities of the area and create a precedent for additional suburban-type housing development in this rural area."

Mayo County Council Reg. Ref: 14/510 (PL16.244455)

- 4.1.2. Mark Reynolds was refused permission by the Board on 16th June 2015 for a dwelling house and septic tank. The reason for refusal was similar to the above.

Mayo County Council Reg. Ref: 16/881

- 4.1.3. Permission refused for a dwelling for similar reason to the above and for reasons relating to the absence of an Appropriate Assessment of the proposed development.

Mayo County Council Reg. Ref: 17/464

- 4.1.4. Permission was again refused by the Council for the same reasons.

Mayo County Council Reg. Ref: 11/520

- 4.1.5. Permission was granted for a dwelling house, garage and septic tank on an adjacent site to the north of the subject site.

5.0 Policy Context

5.1. Mayo County Development Plan, 2014-2020

- 5.1.1. The appeal site is situated within a “Structurally Weak Rural Area”. It is an objective of the Council (RH-01) “...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.”
- 5.1.2. It is an objective of the Council (RH02) “...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.”

5.2. Natural Heritage Designations

- 5.2.1. The River Moy SAC (site code: 002298) is approximately 320m north of the site and 470m to the east.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third party appeal against the Council’s decision was submitted by An Taisce. The grounds of appeal and main points raised in this submission can be summarised as follows:
- Proposed development has not addressed the previous reasons for refusal in that additional housing at this location would further blur the boundary between the Crossmolina and the surrounding rural hinterland – house design will not change this issue.
 - House design has not changed significantly to that refused by the Board under PL16.244455 – revised drawings submitted to the Board indicated a

finished floor level of 99m and a height of 6.5m and the current application has a FFL of 99.9m and height of 6.98m.

- There is significant one-off housing in the immediate area and further one-off housing would contribute to the erosion of any clear separation between town and country.
- Proposed access to the house is excessive and would appear intrusive on exposed landscape.
- Applicant has not provided evidence that there are no adequate houses for sale in the locality that would satisfy their local rural need.
- Site Suitability Assessment appears to be dated 2008 and Section 3.2 of the Trial Hole Report gives an excavation date of 7/6/2013 – proposal would not be in line with EPA Code of Practice and may have cumulative impacts.
- Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs submission on Reg. Ref: 17/464 notes that the development could affect Annex I priority habitat and Annex II species through deterioration of water quality. An Taisce consider that there is a risk to water quality from the proliferation of wastewater treatment systems in the vicinity.
- Proposed development may result in a traffic hazard given the access location.

6.2. Applicant Response

6.2.1. The applicant responded to the third party appeal with the following comments:

- Applicant is a native of the area with no available family lands – site was purchased with the view to establishing a family home and farming the remainder of the lands.
- Site boundaries have changed since refusal under Ref: PL16.244455 and new site entrance location has resulted in improved sight lines and has removed the requirement to clear extensive length of hedgerow.
- Finished floor level will be lower than road level and the property to north granted under P11/520.

- Dwelling has been designed following guidelines set out in Development Plan and positioned to maximise sunlight.
- Boundary of town cannot be blurred by a single dwelling on a large site – existing linear collection of properties across the road would have more of an effect.
- There have been several other applications granted around Crossmolina in recent times – nine examples given.
- Application would meet with conditions 2.3.1.1, 2.3.1.2 and 2.3.1.4 of the Development Plan.
- Screening is proposed, together with the considered positioning of the dwelling on site to ensure privacy from the roadway and neighbouring properties.
- There are several properties located closer to the river bank.
- Applicant has no choice but to construct a property outside the town due to flooding.
- Natura Impact Statement accompanies submission.

6.3. Third party response

6.3.1. An Taisce responded to the above submission with the following comments:

- New application has not taken on board factors set out in previous refusals by the Board and Council.
- Evidence has not been provided to indicate that more suitable sites or vacant housing stock were considered.
- Buying of lands with a view of development is not sufficient grounds to justify development of the site.
- Location, and in some cases the nature of the applications mentioned by the applicant that were granted around Crossmolina in recent years differ in respect to the current application.

- There has been a proliferation of one off housing requiring private waste water treatment systems and this raises environmental concerns.
- New builds without justification are contrary to the objective of the Development Plan. Core Strategy indicates 112 vacant housing units (excluding holiday homes) in Crossmolina.

6.4. **Observation**

6.4.1. An observation on the appeal was received by Mr. John Coyle, a resident of Fotish. The main points raised in this submission are summarised as follows:

- Current proposal is no different to previous proposals refused by Mayo County Council.
- Building would look 2-storeys given its high point in a large field.
- Position, orientation and elevation would be a major intrusion on the observer's privacy and access to sunlight. Orientation is inconsistent with existing dwellings.
- Proposal would be injurious to the visual amenities of the area.
- There are excessive traffic speeds on this stretch of road – widening the road will increase speeding.
- Proposed development incorporates the removal of another section of stone wall.
- Topographical nature of the road makes it impossible to achieve necessary vision lines.
- Increased hardening of set-back areas from new development has resulted in problems with ponding.
- There are adequate properties for sale all over the area and proposal is the opposite of policies to encourage the use of vacant residential properties.
- There are rushes in the field and it is frequently waterlogged.
- There have been changes at the site since previous site assessments, including infilling, changes to the tree population and flood prediction from

climate change. Water from hard surfaces will gravitate towards lowest point of the site where septic tank will be located.

- This area north of Crossmolina is prone to flooding.

7.0 **Assessment**

7.1. From the outset, it should be noted that this is the applicant's fifth attempt to secure planning permission for a dwelling at this location since the Board's initial refusal in November 2013 (PL16.242438). The Board again refused permission in June 2016 (PL16.244455) and this was followed by two refusals by Mayo County Council in April 2017 (16/881) and August 2017 (17/464). Similar reasons for refusal were cited in each case relating to the blurring of the boundary between the settlement of Crossmolina and the surrounding rural hinterland; the nature, height and scale of the proposed dwelling; and the removal of a significant part of the roadside hedgerow and boundary wall in order to obtain adequate sight distances.

7.2. Mayo County Council has issued notification of decision to grant permission for the current application and a third party appeal has been submitted by An Taisce. An observation in support of the appeal has also been received from a nearby resident. Having regard to the contents of the application, planning history and matters raised in submissions, I consider that this appeal should be assessed as follows:

- Rural housing policy;
- Design, layout and visual impacts;
- Access;
- Wastewater treatment and disposal; and
- Appropriate Assessment

7.3. **Rural Housing Policy**

7.3.1. Development Plan Objective RH-01 seeks to ensure that future housing in rural areas complies with the Sustainable Rural Housing Guidelines for Planning Authorities 2005 (DoEHLG), as well as Map 1 Core Strategy Conceptual Map and the Development Guidance document of this Plan.

- 7.3.2. The appeal site is located in a Structurally Weak Rural Area where permanent urban and rural generated residential development will be accommodated. It is also stated in the Rural Housing Guidelines that any demand for permanent residential development should be accommodated as it arises subject to good practice in matters such as design, location and the protection of important landscapes and any environmentally sensitive areas.
- 7.3.3. It would appear therefore that the applicant does not have to demonstrate any specific rural housing need to construct a dwelling at this location. It should also be noted that the issue of rural housing need did not contribute previously to the reasons for refusing permission.

7.4. Design, Layout and Visual Impacts

- 7.4.1. The main issue with developing a dwelling at this location relates to the potential for erosion of the rural character and consequent impact on the visual amenities of the area. Most notably, there is disagreement between the applicant/ Planning Authority and the appellant/ observer on the extent to which another dwelling at this location would contribute to the blurring of the boundary between Crossmolina and its rural hinterland.
- 7.4.2. It is the policy of the Council (P-06) to support the sustainable development of the countryside and rural villages in the County. Objective UH-01 seeks to sequentially locate residential development in un-zoned towns and villages in town/ village centres, followed by locations immediately adjacent to town/ village centres. It is also an objective (HG-02) “...to maximise the use of the existing housing stock throughout the County by exploring the viability of utilising existing vacant housing stock as an alternative to new build.” A sequential approach is encouraged when choosing a rural housing site on a landholding, and where this is not applicable, applicants will be expected to maintain the existing residential amenity and rural character of the area.
- 7.4.3. The appellant submits that there is significant one-off housing in the immediate area and further one-off housing would contribute to the erosion of any clear separation between town and country. Conversely, the applicant considers that the boundary of town cannot be blurred by a single dwelling on a large site and that the existing

linear collection of properties across the road would have more of an effect. The Planning Authority is also of the opinion that there is a clear separation of the built-up area of Crossmolina and the surrounding rural hinterland.

- 7.4.4. There is no development boundary map for Crossmolina contained within the Development Plan. The 50 kph speed limit for the village commences approximately 400m to the south of the site and OSi mapping illustrates that the nearest built up part of the village is approximately 300m to the south-east. There are approximately 18 dwellings within a 300m radius of the site boundary, with 10 of these situated in an 'L' shaped layout at the junction of the local road with the R315 to the south.
- 7.4.5. In my opinion, there has been little change in circumstances since the previous decisions to refuse permission at this location. The fundamental reason for refusing the development concerned the increasing pattern of suburbanisation in the area and this is clearly evident where there are now eight dwellings along a 400m stretch of road. Any minor change in house design or location does little to change the fact that another one-off dwelling contributes to the erosion of the rural character and visual amenities of the area.
- 7.4.6. In addition to the above, I consider the proposal to be contrary to the Council's policy P-06 which seeks to support the sustainable development of the countryside and rural villages in the County. I would be of the view in this instance that it is not good planning practice to locate urban generated rural housing in such close proximity to an established village. This has the effect of undermining, rather than consolidating the existing village structure.
- 7.4.7. In terms of visual impact, the applicant submits that the finished floor level of the proposed dwelling will be below the level of the public road. The Planning Authority also indicate that unlike previous proposals the dwelling will be located on a lower part of the site and would not be visually prominent.
- 7.4.8. I disagree with this assessment and consider that the dwelling will be visible over wide distances to the south. I observed from my site visit that the site is visible upon exit from the 50kph zone of the village. On the approach to the junction of the local road and R315, the upper part of the existing dwelling to the north can be seen in breach of the skyline. In my view, the proposed dwelling will appear as a more strident feature on the skyline from this location.

- 7.4.9. With respect to layout and design, I would have some concern regarding the orientation of the proposed dwelling and the length of driveway from the site access over a distance of approximately 70m. Existing dwellings in the area are orientated towards the road and have much shorter driveways. One of the greatest visual impacts of the built environment in a rural setting is often created by new entrances to house sites.
- 7.4.10. I also consider that the dwelling is not positioned in a location that takes better advantage of existing boundaries. The site has been carved from an existing field and any screening opportunities offered by the road-fronting boundary have now been lost. It appears that this boundary was removed and set back to facilitate sight-lines for the neighbouring dwelling.
- 7.4.11. With respect to the design and scale of the proposed dwelling, little attempt has been made at using a more traditional form and appearance. I consider the dwelling appears largely as a suburban style structure with deep plan layout and large roof volume.

7.5. Access

- 7.5.1. The site layout plan shows sight distances of 101m to the south and 120m to the north of the proposed access onto the public road. Table 3 of the Development Plan sets out Access Visibility Requirements for different road types. For regional and local roads with a design speed of 70 kph, the sight distance and stopping distance should be 120m.
- 7.5.2. I inspected the stopping distance at the location of the existing dwelling to the south of the site on the opposite side of the road. In my opinion, there would be limited inter-visibility between an approaching motorist and one egressing from the site at this point owing to the vertical alignment of the road. I would also be of the opinion that it is not possible to view both sides of the road at a distance of 120m to the north of the proposed access due to the horizontal alignment of the road.

7.6. Wastewater treatment and disposal

- 7.6.1. The Site Characterisation Form notes that a 2.65m trial hole was excavated in June 2013 and no groundwater or bedrock were encountered. The trial hole was still open and dry at the time of my site visit.
- 7.6.2. The T test recorded a value of 3.61 and the groundwater protection response is R2¹. A packaged wastewater treatment system and soil polishing filter was recommended and this appeared to be acceptable within previous applications. I do not consider that circumstances have changed to any significant degree with respect to wastewater treatment and disposal on site since previous assessments.

7.7. Appropriate Assessment

- 7.7.1. The River Moy SAC (site code: 002298) is approximately 320m north of the site and 470m to the east. Lough Conn and Lough Cullin SPA (site code: 004228) is approximately 2.1km to the south-east and Bellacorick Bog Complex SAC (site code: 001922) is 5.1km to the west.
- 7.7.2. Having regard to the nature and scale of the proposed development, impact pathways would be restricted to hydrological pathways. The physical distance from the appeal site to the nearest European sites is such that any impact from the hazard source will be well diminished along the pathways in question by the time its reaches the receptor. Furthermore, a packaged wastewater treatment system and soil polishing filter will be used to treat effluent and indications are that ground conditions on site are suitable for effluent disposal.
- 7.7.3. Having regard to the nature of the proposed development and/or nature of the receiving environment and/or proximity to the nearest European sites, no Appropriate Assessment issues arise and it is not considered that the development would 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. I recommend that planning permission should be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. It is a policy of the current Mayo County Development Plan “*to support the sustainable development of the countryside and rural villages in the County,*” (P-06). This policy is considered reasonable. The proposed development for a suburban style dwelling in a rural area in close proximity to the settlement of Crossmolina, would contravene the above policy and would further blur the distinction between the settlement and surrounding rural hinterland. Furthermore, the proposed development, taken in conjunction with existing development in the area, would constitute an excessive density of suburban-type dwellings in a rural area, which would militate against the preservation of the rural environment. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the areas.
2. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a narrow local road at a point where sightlines are restricted in both directions. The proposed development would interfere with the safety and free flow of traffic in the area and would therefore be contrary to the proper planning and sustainable development of the area.

Donal Donnelly
Planning Inspector

2nd February 2018