



An
Bord
Pleanála

Inspector's Report ABP-301225-18

Development	Retention of existing raft foundation
Location	Letterass, Leenane, Co. Mayo.
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	P17/1025
Applicant(s)	Noel Uniacke
Type of Application	Permission for retention
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Noel Uniacke
Observer(s)	None
Date of Site Inspection	21/06/18
Inspector	John Desmond

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1.0 Site Location and Description

- 1.1. The application site is located in the southwest of County Mayo, in a rural area characterised by mountains, blanket bog, poor agricultural land and lakes and a rugged coastline. The site is situated close to the northern shores, at the eastern end of Killary Harbour, Ireland's only true fjord. The land is steeply sloping (between 40m and 20m OD contour lines on OS Discovery Series), with the site elevated above the R335 abutting the south of the site.
- 1.2. The site area is stated as 0.59ha, although the recognisable residential curtilage measures c.0.15ha and is situated at the southeast corner of the application site. A levelled area has been created for the dwelling, through cutting into the slope at the northern side - evidenced by exposed rock-faces of c.2.5m - and possibly with infilling to the southern side. The balance of the site comprising raised bog and/or poor grassland and the public road (R335).
- 1.3. The existing dwelling, a bungalow, is located at the southeast corner of the site adjacent to the site access to the public road. There is an extensive hardstanding area to the west and surrounding the dwelling. This includes a concrete raft foundation (concrete slab) to a demolished bungalow, the entirety of which appears to be exposed. Directly adjacent the west and north of the concrete slab there is an L-shaped raised percolation area supported by a poured-concrete retaining wall of c.1.2m in height and which abuts the exposed rock faces.
- 1.4. In addition to the concrete raft foundation there are extensive adjacent areas of tarmac surfaces surrounding the dwelling, indicated in plan as existing access roads, each opening separately onto the same recessed access to the public road, and supported (in part) by a stone-faced retaining walls. The southern access road extends c.4m west of the concrete slab, alongside the percolation area. The eastern access road extends east and north of the dwelling and up to the concrete slab, creating a circuit of the dwelling. A stone-faced retaining wall is in place between the dwelling and the access roads to the south and east.
- 1.5. What would appear to be a bespoke septic tank is in place at the southeast of the site, c.7m from the dwellinghouse, situated between the two said entrances and abutting the retaining wall. A significant stream runs along the site's eastern

boundary within c.7m of the septic tank. The neighbouring dwelling to the east is c.15m distant and the public road less than 5m from the septic tank.

2.0 Proposed Development

2.1. The proposed development is for the **RETENTION** of a raft foundation for car parking associated with the existing house, as incorporated into landscaped grounds.

3.0 Planning Authority Decision

3.1. Decision

REFUSE permission for 1no. reason relating to contravening of condition no.3, concerning the removal of house foundations and location of raised percolation area for WWTS, attaching to permission PL16.24311.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (22/02/18) is consistent with the decision of the planning authority.

4.0 Planning History

On site

PL16.242311 / Reg.Ref. P12/647: Permission **GRANTED** by the Board (29/11/13) for lowering of roof to existing cottage, construction of rear extension, septic tank, effluent treatment system and percolation area, associated site works (P00/1681 and P08/1005 refer). Condition no.3 stated:

(a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 24th day of June, 2013, and in accordance with the requirements of the Code of Practice issued by the Environmental Protection Agency on "Wastewater Treatment and Disposal Systems

Serving Single Houses” (2010), except as may otherwise be required to comply with the conditions set out below.

(b) A packaged waste water system shall not be provided.

(c) The waste water treatment system shall comprise a septic tank followed by an appropriately specified and sized sand filter system, which shall in turn drain to a wholly raised percolation area.

(d) The entire treatment and disposal system shall be sized for a population equivalent of 6.

(e) The foundation structure to the west of this house shall be removed, and the raised percolation area shall be provided at this location.

(f) Drains required to facilitate the operation of the percolation area shall be at a minimum distance of 10 metres. Surface water soakaways shall be located at a minimum distance of 10 metres from the percolation area.

(g) Prior to construction of the wastewater treatment and disposal system, revised drawings indicating compliance with the above requirements shall be submitted to and agreed in writing with the planning authority.

(h) Prior to occupation of the dwelling, the developer shall submit a report from a suitably qualified person, with appropriate professional indemnity insurance, certifying that the waste water treatment and disposal system has been installed and commissioned in accordance with these details and in accordance with the standards set out in the Environmental Protection Agency document.

(i) Arrangements in relation to the on-going maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health and to prevent pollution, having regard to the significant slopes of this site, to the very high levels of rainfall and surface water arising, and to the evidence of landslide in the area.

Reg.Ref.08/1005: Permission **REFUSED** by the Planning Authority (30/07/08) for RETENTION and COMPLETION of 2no. dwellings with combined treatment system, for three reasons relating to impact on landscape character, impact on

views and prospects, and prejudicial to public health (site suitability not demonstrated).

Reg.Ref.00/1681: Permission **GRANTED** by the Planning Authority (20/06/01) for a dwelling house.

Enforcement

PE 171/06: Planning enforcement for non-compliance with P00/1681. Second dwelling subsequently demolished.

5.0 Policy Context

5.1. Development Plan

Mayo County Development Plan 2014-2020

Water Quality:

WQ-01 - It is an objective of the Council to implement the Western River Basin District Management Plan "Water Matters" 2009-2015 to ensure the protection, restoration and sustainable use of all waters in the County, including rivers, lakes, ground water, coastal and transitional waters, and to restrict development likely to lead to deterioration in water quality or quantity.

WQ-02 - It is an objective of the Council to require development in an unsewered area which includes a septic tank/proprietary effluent treatment unit and percolation area to be rigorously assessed in accordance with the accepted EPA Code of Practice for single houses or small communities, business, leisure centres and hotels, taking into account the cumulative effects of existing and proposed developments in the area. Any planning applications for development which require such systems shall be accompanied with an assessment carried out and certified by a suitably qualified person (i.e. the holder of an EPA FETAC certificate or equivalent) with professional indemnity insurance.

Landscape Protection:

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.

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.

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.

Views and Prospects:

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.

5.2. Reference Documents

EPA Code of Practice Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.≤10) (EPA, 2009)

5.3. Natural Heritage Designations

Mweelrea / Sheeffry / Erriff Complex SAC Site No.001932 (within 30m to south at nearest point).

6.0 The Appeal

6.1. Grounds of Appeal

The main grounds of appeal by the First Party (16/03/18) may be summarised as follows:

- The applicant purchased the property at auction in 2013, unaware that the existing two dwellings were unauthorised.
- He demolished one down to its foundations and was granted permission by the Board to carry out works to the cottage, including an extension and WWTP, subject to a condition requiring the existing raft foundation to be removed.
- The applicant wants to retain the raft foundation as a car parking area for the house, as the only level area where cars can be successful be parked without risk of rolling.
- To remove the foundation would require a rock-breaker. There have been several landslides in the immediate vicinity over the last few years, the most recent within 70m of his property. Neighbours have expressed concern about the use of a rock breaker so close to their property.
- If the existing foundation were to be removed, it would have to be replaced with a similar surface and subsurface material to accommodate parking.
- Removal of the existing foundation would have a big environmental impact, with the waste material – 77m³ of concrete and 172-sq.m of steel reinforcement - to be disposed of to a landfill in Westport, 32km distant.
- The area is protected as a Special Area of Conservation due to its scenic environment.
- The applicant removed all the debris (several hundred tonnes of rock and debris disposed of on the road edge across from the property) from the road edge at large personal expense and landscaped the area to enhance the environment and lower the visual impact on the area. Mayo County Council cooperated and provided the applicant with finish gravel.
- Photographs attached.

6.2. Planning Authority Response

None

7.0 Assessment

7.1. Introduction

- 7.1.1. This is a single-issue case pertaining to the retention of a concrete raft foundation (concrete slab) on site for use as car parking associated with the existing dwelling. No other works, including the provision of a wastewater treatment system, are proposed for retention or to be carried out as part of the application under appeal, notwithstanding that the subject development has direct implications for the location, arrangement and acceptability of essential ancillary development on the site, including the wastewater treatment system.

7.2. Policy / principle

- 7.3. In principle I consider the development proposed for retention to be undesirable due to the adverse visual impact on this scenic and sensitive landscape (policy Area 3 upland, moors, heath and bogs) that forms the basis for the significant tourist traffic in this part of County Mayo, having regard to the landscape and views and prospect objectives under the Plan (LP-01, LP-02 and LP-03 and VP-01).
- 7.4. I do not accept that the retention of the concrete foundation is necessary to facilitate level residential car parking on this sloping site. The area is vastly excessive for the parking demand arising from the existing dwelling. Given the extent of hard surfaced area on site, the retention of the concrete foundation for car parking is unwarranted.
- 7.5. I am not satisfied, on the basis of the information on file, that the removal of the concrete slab would pose a significant threat of land slippage in the area is carried out in accordance with appropriate standards.
- 7.6. I am not satisfied, on the basis of the information on file, that retention of the concrete slab on site is preferable to its removal and disposal off site in environmental terms. Whilst it is possible that this may be the case, inadequate information has been provided to support the applicant's position.

7.7. Wastewater treatment issues and condition no.3 of PL16.242311

7.8. The concrete slab forms part of a previous, apparently unauthorised dwellinghouse erected on site, which was demolished on foot of enforcement action taken by the planning authority following the decision to refuse permission for retention (Reg.Reg.08/1005). The applicant was subsequently granted planning permission, by the Board on appeal (PL16.242311) to carry out development comprising lowering of roof to existing cottage, construction of rear extension, septic tank, effluent treatment system and percolation area, associated site works, subject to conditions, including condition no. 3 which required:

(a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 24th day of June, 2013, and in accordance with the requirements of the Code of Practice issued by the Environmental Protection Agency on "Wastewater Treatment and Disposal Systems Serving Single Houses" (2010), except as may otherwise be required to comply with the conditions set out below. ...

(e) The foundation structure to the west of this house shall be removed, and the raised percolation area shall be provided at this location.

7.9. Only vague details of wastewater treatment facilities on site have been provided on file, limited to those details indicated on the site layout plan (PL 01-02). Based on my inspection, it is evident that these details are not accurate in terms of the location of the septic tank, which is indicated adjacent the north of (if not partly under) the concrete foundations, or the extent and arrangement of the percolation area, which is indicated as partly on top of the concrete foundations. The septic tank would actually appear to be located at the southeast of the site adjacent the site entrance, within 7m of a significant stream, 5m of the public road, 7m of the dwelling and c.15m of the neighbouring dwelling. The raised percolation area (supported by concrete retaining walls) is located adjacent the west and north of the concrete raft foundation, and differs in arrangement and layout to that shown.

7.10. The retention of the wastewater treatment system, that has been constructed onsite contrary to the requirements of condition no.3, does not form part of the application under appeal. In the absence of detailed proposals for the provision of or retention

of a suitable wastewater treatment system demonstrably compliant with the '*Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.≤10)*' (EPA, 2009) to treat the foul water effluent from the existing dwelling onsite, in lieu of compliance with the requirements of condition no.3, the retention of the concrete raft foundations development would be prejudicial to public health of the occupants of the dwelling on site and of the neighbouring dwellings. I would therefore concur with the decision of the Planning Authority that the proposed development would materially contravene a condition attached to the existing permission for development on this site.

7.11. Whilst there are other development issues that may possibly require regularising on this site, or within the vicinity but associated with past development of this site (such as the landfilling adjacent the south of the public road), the issue of unauthorised development is a matter for the Planning Authority.

7.12. Appropriate Assessment:

7.12.1. The Planning Authority did not carry out a stage 1 appropriate assessment screening assessment. The application site is located within 30m of Mweelrea / Sheeffry / Erriff Complex SAC Site No.001932 at nearest point to the south, but this geographically extensive European site surrounds the line of dwellings on the R335. The site's Conservation Objectives pertain to 34no. Features of Interest (attached). The Standard Data Form's list of threats to and pressures on this European site includes pollution to surface waters (high risk) internal to the site.

7.12.2. The subject development, notwithstanding that it does not include the retention of the wastewater treatment system, has direct implications for the suitable treatment of wastewater generated by the occupants of the existing dwelling. The WWTP has not been and cannot be provided in compliance with condition no.3 of the previous grant of permission. Based on the information available to me, including the details on file which are neither adequate nor accurate, and the site inspection, it is apparent that there is potential for waterborne pollutants from wastewater effluent generated on site to be discharged indirectly to the European site c.30m downstream of the site boundary, via a stream within the eastern boundary of the site. The Board cannot therefore be satisfied that the development proposed for retention individually, or in combination with other plans or projects would not be likely to have a significant

effect on European site No.001932, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission

8.0 Recommendation

8.1. I recommend that permission be **REFUSED** for the reason(s) set out under section 9.0 below.

9.0 Reasons and Considerations

1. The development proposed for retention, by reason of its location and extent, precludes the provision of a suitable wastewater treatment system to serve the existing residential dwelling in accordance with the terms the existing permission for development, PL16.242311, on this site and materially contravenes condition no.3 attaching to that said existing permission, and is therefore prejudicial to public health.
2. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European site No.001932, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.'

John Desmond
Senior Planning Inspector

27th June 2018