



An
Bord
Pleanála

Inspector's Report ABP-302272-18

Development	Retention of existing building and for permission to renovate externally and internally and for all associated siteworks
Location	Fairview, Sheeroe, Westport, Co Mayo.
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	P18156
Applicant(s)	Charles McDermott
Type of Application	Retention and Permission.
Planning Authority Decision	Grant
Type of Appeal	Third-Party
Appellant(s)	Michael McBride and others
Observer(s)	None
Date of Site Inspection	08 th December 2018
Inspector	Patricia Calleary

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.19 ha is located in Fairview, Sheeroe, which is located c. 0.5km east of Westport town in County Mayo. It fronts onto and is accessed off a local road which connects with the N5 Dublin to Westport national road, c.280m to the north. The shape of the site is irregular and ground levels fall back from the front boundary with the local road to the rear of the site.
- 1.2. The site comprises a building which presents to the east (front) along the local road as a dormer dwellinghouse. Substantial works have been carried out and the dwellinghouse is roofed, sealed and plastered and to date is unpainted. Below ground level there is accommodation at basement/lower ground level occupying the entire building footprint. Access to the front of the site is restricted via a temporary security fence. Vehicular access to the site would have been via a gateway leading to a steep and short access route along the southern end of the site.
- 1.3. The site has been extensively excavated and manipulated to form a flat area to the front and a sheer drop of c.2.5m between the front access area and the front line of the dwellinghouse at lower basement level. A concrete platform running perpendicular to the front line of the house has been constructed to bridge the gap and provide access to the front door. There is a planted Leylandii, evergreen hedge boundary to the north (side) and a low block wall to the south (side). The site is overgrown and unkempt.
- 1.4. There are numerous one-off houses in the vicinity including established dormer dwellinghouses on either side (north and south) of the appeal site. The dwellinghouse to the south is at a significantly lower level than the building on the appeal site.

2.0 Proposed Development

- 2.1. As initially applied for, the proposed development would comprise the retention of the building on site together with renovations to the building and associated siteworks. The building would have a stated Gross Floor Area (GFA) of 465 sq.m

and an overall ridge height of c.7.8m above ground to the front and an overall height of c.10.1m above ground including a lower ground floor when viewed at the rear. Following receipt of amended proposals at further information stage, the building is proposed to function as a seven-bedroom detached dwellinghouse comprising three bedrooms, a games room and store at basement level, four bedrooms at first floor level with kitchen and living accommodation at ground floor (above basement) level. It would read as a dormer house in scale over basement level when viewed from the east (front) and as a three storey larger form structure when viewed from the west (rear). The design reflected at further information stage includes proposals for the omission of several balconies.

- 2.2. The existing vehicular access point serving the house would be repositioned to the centre of the site and the existing front boundary wall would be removed and set back 4.5m from the road edge and in-curtilage parking provision accommodating three cars is proposed.
- 2.3. The proposal includes connecting the dwelling house to the public foul sewer via a manhole which is located along the public road. The proposal also includes a connection to a group water scheme.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority issued a decision to grant permission subject to seven conditions, including the following three of note:

- **Condition No.2** which requires removal of all external balconies in accordance to the drawings submitted to the Planning Authority on 10th May 2018;
- **Condition No.3** which requires the building to function as a single occupation dwelling and would not be sub-divided into separate dwellings;
- **Condition No. 7** which required the submission of a landscaping plan for agreement with the Planning Authority within 3 months of a grant of planning permission.

3.2. Planning Authority Reports

- 3.2.1. The Planning Authority initially requested further information seeking clearly dimensioned and labelled plans and information on proposals for balconies.
- 3.2.2. Following consideration of the further information, the Planning Officer's assessment reflects the decision of the Planning Authority. The Planning officer noted the following:
- The existing building on site, constructed as a six-unit apartment, bears a passing physical resemblance to a single dwelling permitted by Mayo County Council under Planning register reference: P05/437;
 - Notwithstanding the above, in order to protect the character and existing residential amenity of the area, permission should be granted for the retention and completion of the development with strict conditions attached such that the building would function as a single dwelling only and would not be sub-divided.
 - A recommendation to **grant permission** was put forward.

3.2.3. Other Technical Reports

- **Mayo National Road Design Office (NRDO):** Response - No issues raised that require assessment or conditions by Mayo NRDO;
- **Road Design:** Response - No issues raised that require assessment or conditions by the Mayo Road Design Office.

3.3. Prescribed Bodies

- **Transport Infrastructure Ireland (TII):** Responded stating it had no observations.

3.4. Third Party Submissions

- 3.4.1. One third party submission was received from Michael and Mary McBride and others and the concerns raised in the submission are summarised below:
- A planning application was made to Mayo County Council for the development of six apartments and later an application was lodged seeking permission to use the structure as a single dwelling;

- The building might not function as a single dwelling but instead might be used / rented out as apartments or on a room by room basis;
- Should retention permission be issued for a single dwelling, it may later be reassigned at a later stage for apartments;
- Concerns raised regarding parking and wastewater treatment.

3.4.2. Following receipt of further information, a second submission was received from the same third party in which concerns were raised that notwithstanding the proposal to remove balconies, the concerns raised in their original submission remain.

4.0 Planning History

- **P 05/437** – On 27th October 2005, Mayo County Council granted permission to construct a dwelling house, garage, connection to public sewer and all associated site works. (Note: The house was presented as a one and a half storey over hidden basement design to the front and a two and half storey to the rear with a GFA of c.448 sq.m and a ridge height of c.8m to the front. Revised elevations were received by the Planning Authority at further information stage which reflected a dormer scale to the front with an overall ridge height of c.7.5m and a two storey scale to the rear).
- Reference is made by the observer to Planning file **17/1026**. Following a search on Mayo County Council's website, this appears to relate to an incomplete application received by the Planning Authority (December 2017).

5.0 Policy Context

5.1. National Guidance

5.2. The provisions contained in the 'Guidelines for Planning Authorities on Sustainable Rural Housing', DoEHLG 2005 are noted.

5.3. Development Plan

5.3.1. The Mayo Development Plan 2014-2020 (as varied) is the applicable development plan for the area. Within the plan, the site is identified as being in a rural area under strong urban influence on both Map 1: Core Strategy Conceptual Map and Map 3:

Rural Area Types included in the Mayo County Development Plan, as varied (Volume 1). In such areas, applicants are normally required to satisfy the planning authority that their proposal constitutes a genuine rural generated housing need and in this regard the categories of development are set out under Section 2.3.1.1 of Mayo County Development Plan 2014-2020, as varied (Volume 2). These categories include farmers, members of their family or relatives taking over the family farm, applicants who have spent a substantial period of their lives living in a rural area on which they propose to build a home near their family place of residence, returning emigrants whose have roots in the area, persons who are employment or commencing employment in a rural area and persons with particular health circumstances who are required to live in a particular environment or close to family support.

5.3.2. The following provisions set out in the Mayo County Development Plan 2014-2020, as varied (Volume 1) are also considered relevant:

- **Objective UH-01:** It is an objective of the Council to ensure that future housing in urban areas in the County is located on lands zoned for residential use. In un-zoned towns and villages residential development shall be located in town/village centres or immediately adjacent to town/village centres (based on sequential approach); on serviced lands; and in accordance with the Development Guidance document of this Plan.
- **Objective 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.
- **Objective 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).
- **Landscape protection objectives** include **LP-01**, **LP-02** and **LP-03**. Under the Landscape Protection Policy areas contained within the Mayo landscape Appraisal and Map 3A (Landscape protection Policy Areas), the appeal site is located in Policy Area 4 (Drumlins and inland lowland).

- **Infill Development:** Infill development that gives rise to ribbon development in any area outside the speed limits of 60kph will not be permitted, however single vacant sites between existing houses will be considered in order to avoid dereliction and decay.

5.4. **Natural Heritage Designations**

- 5.4.1. The closest European designated site is Clew Bay Complex SAC (001482) which is located 3.9km west of the site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- 6.1.1. The principal relevant points in the planning appeal are set out under as follows:
- There is no planning permission for the development which currently exists on site and the development remains unauthorised;
 - The granting of development would be in breach of policy set out in Section 2.3.1 of the Mayo County Development Plan and it is well established in law that the Planning Authority may not grant a permission in breach of its own development plan;
 - The correct remedy would be to require the unauthorised development to be demolished.

6.2. **Applicant Response**

- There is no response from the applicant contained on the Board's file.

6.3. **Planning Authority Response**

- None

6.4. **Observations**

- None

7.0 Assessment

7.1. Introduction

- 7.2. The background to this case is that planning permission was granted for a substantial house with a stated GFA of c.448 sq.m in 2005. A larger building, resembling a dwellinghouse to the east (front) was constructed and appears to be substantially complete occupying a GFA of c.466 sq.m. Based on information on file and evidence gathered from a site inspection, it appears to have been initially laid out as six apartments. The current proposals seek to retain the structure on site as constructed and to renovate it internally and externally. While initial drawings submitted provided for retention of balconies and multiple doorways, following a request for further information and re-advertisement, the structure was presented on revised drawings as representing a seven-bedroom single-occupancy dwellinghouse. The submission received from the occupants of a neighbouring house (including other signatures) raised concerns that the building may contain six apartments or multiple occupancy and/or room rentals leading to issues around parking provision and wastewater disposal.
- 7.3. Having regard to the information on file and in particular to the revisions made at further information stage, the principal issues which arise in this application and appeal are the following:
- Principle and Policy
 - Residential Amenity
 - Landscape Character and Visual Amenity
 - Technical Matters (Traffic and Wastewater)
 - Appropriate Assessment
 - Environmental Impact Assessment – Preliminary Examination
 - Procedural (Unauthorised Development/Enforcement, Breach of Development Plan)

7.4. Principle and Policy

- 7.4.1. As stated above, planning permission was granted in 2005 for a detached dwellinghouse on this site. While the planning permission has since expired, the structure would appear to have been substantially complete on foot of that permission. While it appears that the building on site varied from that which was permitted, including occupying a larger GFA and having additional doors and balconies added, clearly indicating an intention to use the building as an apartment development, I am satisfied that efforts have been made through the current application to revert to the original proposal for a single dwellinghouse.
- 7.4.2. The dwellinghouse has been sited in an area on the outskirts of Westport which is set out in the Mayo County Development Plan 2014-2020 as being a rural area under strong urban influence. While the applicant has not demonstrated that the proposal constitutes a genuine rural housing need as set out in Section 2.3.1.1 of the current Mayo Development Plan, permission was granted for a single dwellinghouse and this must be taken into account in my view in the assessment of this current application. What is currently before the Board is essentially an application (and appeal) to retain and renovate the same dwellinghouse.
- 7.4.3. I note that the third-party submission received from the occupants of a neighbouring property and others expresses concern that if a dwellinghouse is permitted it could nonetheless be used for apartments either now or in the future. In response and in considering the principle of the development and the previous permission granted, I recommend that retention permission should be granted but with the attachment of appropriate conditions to ensure that the building could only be legitimately used as a single dwellinghouse. While the site is in an area characterised by ribbon development, it is an infill site and does not extend beyond the existing area characterised by such ribbon development. Development plan policy provides for consideration of infill development on vacant sites between existing houses in order to avoid dereliction and decay.
- 7.4.4. In conclusion on this matter, I am satisfied that the principle of a house has been established on the site and as outlined above and subject to appropriate conditions, permission for the retention of the proposal as a single dwellinghouse and permission for renovations as proposed should be granted.

7.5. Residential Amenity

- 7.5.1. Notwithstanding the substantial size of the dwellinghouse, once the balconies are removed, no direct or indirect overlooking onto neighbouring properties would occur. There are no windows above ground floor level on either of the north or south elevations which would lead to issues of overlooking of neighbouring properties. Given the separation distances between neighbouring properties and the orientation of the dwellinghouse on the appeal site, no unacceptable overshadowing of other properties could conceivably occur.
- 7.5.2. Accordingly, I am satisfied that the development should not be refused because of issues of residential amenities.

7.6. Landscape Character and Visual Amenity

- 7.6.1. Within the Mayo County Development Plan 2014-2020, the site is located in Policy Area 4 (Drumlins and Inland Lowland). Within such an area, the Development impact – Landscape Sensitivity Matrix also contained in the plan provides for rural dwellings having low potential to create adverse impacts on the landscape character and such development is likely to be widely conceived as normal and appropriate unless siting and design are poor.
- 7.6.2. The house is poorly sited and the site layout does not follow the Mayo Housing Design Guidelines which is a supporting document to the Mayo County Development Plan 2014-2020. Notwithstanding the naturally sloping ground levels, the site has been exposed to unnecessary site earthworks including excavations and filling. The site should have been developed by working with existing contours so that that house would have sat within rather than impose on the site. The only way that this could be addressed retrospectively with a degree of success would be to require significant filling of the exposed ground (at basement level) to the east (front) including closing in the gap with currently exists across the entire east/front elevation at basement level. While I considered recommending the attachment of a condition of this nature, I am minded that it would be virtually impossible, impractical and economically unviable to retrospectively carry out the required earthworks with the house insitu such as to accomplish a sensitive siting.
- 7.6.3. While I am not satisfied that the house can at this stage be readily assimilated into the landscape without excessive earthworks, the basement would not be so visible

or adverse when viewed from the public road as to warrant a refusal of retention permission. Should the Board be minded to grant permission, I recommend the attachment of a condition requiring landscape proposals and other such details to be submitted and agreed with the Planning Authority.

7.7. Technical Matters (Traffic and Drainage)

- 7.7.1. The site is along a local road surrounded by multiple one-off houses. Permission was previously granted for a single dwellinghouse on the site. The area is evidently serviced by the public foul sewer and a group water scheme and there is no reason to believe that there are any drainage capacity issues. No issues have been raised by internal departments regarding drainage or traffic. It is proposed to reposition the vehicular access to the centre of the site and at this location, I am generally satisfied that sightlines are acceptable and no significant increase in traffic would arise as a result of the development of a single dwellinghouse. I recommend that the development should not be refused on drainage or traffic grounds.

7.8. Appropriate Assessment

- 7.8.1. Having regard to the nature and scale of the development proposed to be retained and the development proposed and to the nature of the receiving environment and the proximity to the nearest European site, 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 any European site.

7.9. Environmental Impact Assessment – Preliminary Examination

- 7.10. Having regard to the existing development on site, the nature and scale of the proposed development and the location of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.11. Procedural (Unauthorised Development/Enforcement, Breach of Development Plan)

- 7.12. In their appeal, the appellant argues that the development on site is unauthorised and therefore the Planning Authority may not therefore grant permission. It is of

relevance to note that permission was granted for a dwellinghouse on the site. A structure resembling a house was substantially complete, though it appeared that it may have been intended to function as an apartment building and would occupy a larger GFA. Nonetheless and as is provided for under planning legislation, permission has been sought through the current application to retain the unauthorised structure which would function as a single dwellinghouse. I am satisfied that it is in order to assess the application including the retention aspect on its merits. In relation to issues raised about the breach of the development plan, I have considered this under the heading of principle and policy above.

8.0 Recommendation

- 8.1. I recommend that **retention permission** and **permission** for the above existing and proposed development are **granted** based on the reasons and considerations under and subject to the conditions set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the planning history which pertains to the site together with the pattern of development in the area and the scale and design of the proposed dwelling and landscape proposals, it is considered that the existing development which is proposed to be retained and the proposed development which together would allow the completion of the dwellinghouse on an infill site, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity, and would be acceptable in terms of traffic safety and convenience of road users. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained and carried out in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 10th day of May 2018, 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/continuation of the development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All external balconies shall be removed and the door opes replaced with windows as indicated on the drawings submitted on the 10th day of May 2018. The developer shall inform the Planning Authority when these works are complete to afford an inspection(s) by the Planning Authority.

Reason: To protect residential amenity and in the interest of orderly development.

3. The building shall function as a single occupancy dwellinghouse only and shall not be sub-divided into separate dwelling units.

Reason: To protect residential amenity and in the interest of orderly development.

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.

5. When complete, the external finish of the house shall be nap plaster with no colour components. 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.

6. Having due regard to the excessive excavations which have occurred on site, details of landscaping, boundary treatment and materials proposed where changes in levels occur externally and at the door entry shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

7. 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.

Patricia Calleary

Senior Planning Inspector

08th December 2018.