



An
Bord
Pleanála

inspector's Report ABP-302642-18

Development	Construction of dwelling house with attached domestic garage and all associated site works
Location	Corclough East, Belmullet, Co. Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	18239
Applicant(s)	Derek and Sharon McDonnell.
Type of Application	Permission.
Planning Authority Decision	Refusal
Type of Appeal	Third Party
Appellant(s)	Derek and Sharon McDonnell
Observer(s)	1. Cara Ware 2. Padhraic Barrett
Date of Site Inspection	9 th January 2019.
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The site of 0.7145 hectares is located on a tertiary coastal road almost 3km south east of Belmullet Town centre and 1.4km from the LAP boundary. The site is part of a narrow deep plot of about 465m that extends from the road to the shoreline where there is a sandy beach.
- 1.2. The proposed development site extends 195m from the road where it has a frontage of 36.5m marked by a raised earthen bank with a gap for a metal farm gate secured onto a timber post and rail fence. The site levels fall way from the road with levels ranging from about 100m OD to 87.m OD.
- 1.3. The area is characterised by low-lying terrain comprising open fields with stretches of ribbon type development concentrated on the land side of the road. The site is mainly grass with intermittent rushes.

2.0 Proposed Development

- 2.1. It is proposed to construct a part single and part (two) dormer storey dwelling of 211.3 sq.m. and the main elements include:
 - Set back of 148m from the road.
 - House with an overall height of 6.9m.
 - Drainage: a tertiary polishing filter system is proposed to treat waste that is pumped up from the septic tank close to the dwelling.
 - New water connection proposed to public mains.
 - The applicants are both local to the area and own the land which is farmland. They are both employees and farmers.
- 2.2. A completed site characterisation form accompanies the application. Surface water is identified as a potential target risk as shallow drainage ditches form the east and west boundaries and water was identified in the lower sections towards the south. There are 8 houses within 250 metres. Following assessment, the site is not considered suitable for a standard septic tank system but is suitable for a packaged wastewater treatment system and polishing filter. It is concluded that the trial hole

and percolation data indicate potentially safe disposal of effluent using such a system and properly constructed filter. The R1 GPR requires 900mm of suitable soil beneath percolation pipe inverts. The intermittent filter and feed piping is described in detail. Raw sewage will flow to the septic tank from where effluent will be pumped. No details of the pump system are provided.

3.0 Planning Authority Decision

3.1. Decision

Refusal of permission on grounds of

- The proposed development would adversely interfere with a coastal view when viewed from the public realm; a coastal view deemed worthy of preservation and protection in the Mayo County Development Plan. The development would contravene Policy Objective VP-01 which seeks to control development that would adversely impact on views to and from places and features of natural beauty or interest as viewed from the public realm.
- Based on the information submitted Mayo county Council is not satisfied that the proposed development complies with Policy Objective 2.3.4 of the Mayo County Development Plan which requires that areas along the sea shall be referred to as scenic areas and that scenic views in those areas are protected as much as possible and only permission for replacement housing, extensions or where a farmer has no other land except in those areas will be allowed. The proposed development would therefore interfere with the character of the landscape at this location which it is necessary to preserve and would be contrary to the proper planning and development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

- Refers to the history of planning decisions in the area- notably the decision to refuse permission to the same applicant at the same location.

- Three letters of objection are noted with respect to visual impact, coastal protection and settlement strategy for Belmullet.
- The representations made by Deputy Calleary are noted. The context of a previous permission referred to in the area is clarified in that it was on foot of managerial direction.
- While not on a designated scenic route, policy VP-01 seeks to protect coastal views when viewed from the public realm. This policy is relevant.
- The site is in a structurally weak area where permanent housing will be accommodated particularly where population has declined.
- The site is stated to be 280m from the Mullet/Blacksod Bay Complex SAC and within 1.3km of Blacksod Bay/Broadhaven Bay SPA. In view of the separation distances and small scale of development, the development either on its own or in combination with other plans or development would not impact negatively on the Annex 1 Habitats or Annex II species of nearby European Sites.
- It is concluded that the same criteria for assessment applies and it is clear to the planning authority that the site and adjoining lands were relatively recently purchased and the applicants have only very recently commenced any farming active which would be curtailed by the nature of the development in that it would limit the amount of farming land to less than a hectare.
- The recent decision to refuse permission on the site is relevant.

3.2.2. Other Technical Reports

none

3.3. **Prescribed Bodies**

An Taisce notes the previous refusal and considers that the subject proposal has not addressed or resolved the issues which deemed that proposal unsuitable.

3.4. Third Party Observations

3.4.1. Cara Ware MRTPI on behalf of Sean and Margaret Heekin, has submitted an observation objecting to the grant of permission and supporting the decision to refuse permission. The points made refer to:

- A person does not have an entitlement to permission
- The desires of the applicant are not relevant planning considerations.
- The planning authority has been consistent in its application of development plan policy in its decisions relating to housing in the area. Other decisions to refuse permission on the coastal side of the road have been omitted. It is also pointed out that the cited cases are not comparable as they relate to houses in different circumstances such as between existing houses and not in such sensitive coastal location.

4.0 Planning History

- P15/72 refers to refusal of permission for a dwelling house in the same vicinity and to the same applicants.
- P11/112 refers to a proposal for a house on a smaller house in the same location and by the same applicants that was withdrawn. Two previous application in the vicinity were withdrawn by the applicant.

5.0 Policy Context

5.1. National Planning Framework – Project Ireland 2040

5.1.1. Section 5.3 refers to the growth and development of rural areas and the role of the rural town as a catalyst for this. It is recognised that the Irish countryside is, and will continue to be, a living and lived-in landscape focusing on the requirements of rural economies and rural communities, based on agriculture, forestry, tourism and rural enterprise, while at the same time avoiding ribbon and over-spill development from urban areas and protecting environmental qualities.

- 5.1.2. Objective 18 refers to the policy to support the proportionate growth of and appropriately designed development in rural towns that will contribute to their regeneration and renewal, including interventions in the public realm, the provision of amenities, the acquisition of sites and the provision of services.
- 5.1.3. Objective 19 outlines that within areas under urban influence, single housing in the countryside will be facilitated based on the core consideration of a demonstrable economic or social need to live in the rural area. It further states that in rural areas elsewhere, it is an objective to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.2. **Sustainable Rural Housing Guidelines for Planning Authorities**

- 5.2.1. The Guidelines provide criteria for managing rural housing requirements within a sustainable envelope. Planning Authorities are advised to broadly stratify areas on the basis of rural or urban influences. The Guidelines outline how rural-generated housing need to reside in these areas should be defined in the Development Plan with reference to examples of categories of persons that may be used to define same. The appeal site is located in a 'structurally weak area' but close to a key town. Appendix 3 to the Guidelines outlines that the key Development Plan objective in relation to such rural areas should be to accommodate any demand for permanent residential development as it arises subject to good practice in matters such as design, location and the protection of important landscapes.

5.3. **Development Plan**

- 5.3.1. The Core Strategy and Settlement Strategy

P-04: It is the policy of the Council to promote and facilitate the growth and sustainable development of Béal an Mhuirthead (Belmullet), among other towns in its role as a key town in the core strategy. It is policy to encourage continued growth within the development boundary of the town to create an integrated, vibrant and sustainable town;

The Belmullet Area Plan identifies urban sprawl and lack of certain services such as road links as weakness and seeks to consolidate development and improve facilities including footpaths and the public realm. There are various infrastructural programmes to enhance services in Belmullet. A greenway is proposed from Mulranny to Belmullet.

Table 1(A) shows a population increase from 1089 to 1237 over the development plan period and a need for 70 houses whereas 230 houses can be provided. The town was previously unzoned but this is changed in the current plan. 19 hectares of undeveloped lands are proposed for housing of which 2 are in phase 1. Phase 2 requires 70% of phase 1 land to be development and evidence of demand.

Single houses shall only be considered where it is established that the lands in question are part of the overall family land holding and there are no other lands appropriately zoned within the Area Plan boundary.

Residential Development Volume 2 (planning guidance and standards) section 2 refers to locational policy for housing and takes cognisance of rural and urban and structural profile.

Most notably section 2.3.4 states that in areas along the sea, estuaries and lake shore lines (referred to as scenic areas) only planning permission for replacement housing, extensions or where a farmer has no other land except in those areas will be allowed and the scenic views will be protected as much as possible.

5.3.2. 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.

Development Plan supporting documents: Landscape Appraisal of County Mayo
In this the site is in a landscape area described as North-West Moorland Area B described as a complex of low lying islands and peninsulas of varying topography but unified by the proximity to coast.

5.3.3. Other coastal issues.

Section 20.2.3 states: In coastal/lakeside areas, any effluent disposal system or percolation area for single dwellings shall be located at least 100m from the High-Water Mark of the sea/lake and 100m from any lands liable to flooding. For developments consisting of more than one dwelling, the effluent disposal systems or percolation areas shall be located at least 400m from the High-Water Mark of the sea/lake and 400m from any lands liable to flooding. In areas close to public beaches, the standards shall be over and above the lakeside requirements. See also Section 6.2.

Section 32.1.4 refers to development proposals in close proximity to the coastal edge. These will require a 'development free area' along the coast; the distance will be determined by a Flood Risk Assessment (see Environmental Assessments below) and Coastal Erosion Assessment carried out by the developer

5.4. Natural Heritage Designations

5.4.1. The site is in a narrow land strait in Blacksod Bay and is surrounded by European Sites, namely:

- The Mullet/Blacksod Bay Complex SAC which borders the landholding to the south but not the site,
- Blacksod Bay/Broadhaven SPA which is about 1.3km up the coast,
- Broadhaven Bay SAC which is on the other side of the strait and
- Mullet Peninsula SPA which is further west.

6.0 The Appeal

6.1. Grounds of Appeal

The issues raised in the appeal

- The applicants are both local to the area. One is employed as a Garda and the other as a nurse and both are stated to be farmers to supplement their income for their family. FETA certs (2017 and 2018) for agriculture and farm admin are attached together with a herd number. (2009)

- The site of 1.88 hectares is the applicants' only holding – part of this is the proposed house site.
- With respect to visual impact it is explained that design is sympathetic due to:
 - Ridge line is over 5m below road and at a great distance from the public road so the view would be virtually unspoilt.
 - The use of local stone in the façade and the block approach.
 - Houses have been permitted in the area before and since this application notwithstanding VP01.
- The sewage treatment plant has also been constructed a few hundred metres away on the same side of the road.
- With respect to restricting development in scenic areas it is submitted that the applicants are farmers with no other lands and the provision to allow permission to farmers who have no other land should apply.
- The issue of consistency is raised by reference to P15/544, P17/350 and P18/60 which relate to permissions on the same side of the road, to the fact that non-farmers have been granted permission and right of the applicants to build in the interest of consistency and fairness.
- The advice during the pre-application meeting was that permission would be refused due to development plan policy at that location.
- The appellant is aggrieved that there was no opportunity to address issues at local level.
- The appeal is appended with letters of support from a TD, a local GP in addition to a folio map from landdirect.ie (evidence of ownership in history file)

6.2. Planning Authority Response

6.2.1. No further comments

6.3. Observations

6.3.1. Padhraic Barrett states that:

- he sold the land to the applicant as agricultural land. He further states that the applicant, after purchase confirmed his intention to build a house on the land. It is submitted that farming was not a priority.

6.3.2. Cara Ware on behalf of Sean and Margaret Heekin states that:

- No person is entitled to live in a location of their choice as it is subject to the planning tests.
- This decision follows a previous refusal consistent with development plan policy.
- P15/544 refers to infill development in part of an existing stretch of ribbon development where no view of the coast is interrupted.
- P17/350 refers to a dwelling behind a parent dwelling and not visible from the road and is within ribbon development
- P18/60 refers to different townland is in ribbon development and behind parents dwelling.
- A list of decisions to refuse permission or withdrawals prior to a refusal is reflective of consistency. Some applicants were full time farmers and local.
- Permission would set a precedent for new development and generate ribbon development.
- The site was purchased by the applicant as a potential site when the applicant was working outside the county and not a farmer.
- There is a surplus of housing/land in the town already.
- Flooding: The site floods regularly about 4-5 times a year from both tidal and rain water. An earthen bank is claimed to have been put in place by the applicant but subsequently washed away.
- The proposed dwelling would have an adverse visual impact on the local landscape given that there is no existing development in the site or adjoining fields.

- The proposed dwelling would have an adverse impact on residential amenity and would set an undesirable precedent for future ribbon development on this side of the road at this location.

7.0 **EIAR screening**

7.1. Having regard to 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.

8.0 **Assessment**

8.1. **Issues**

8.1.1. This appeal relates to the development of a single house on a coastal road in a rural area about 1.4km from the development boundary of Belmullet town. It follows previous decisions to refuse permission by the planning authority at this location. Having inspected the site and environs and reviewed the submissions I consider the key issues are:

- Visual amenity
- Settlement strategy

8.2. **Visual amenity**

8.2.1. The site is located between the road and coastal shore line and at a point from where there are panoramic sea views across the Bay. The site is in an low lying open coastal setting where the terrain features low level vegetation and an absence of structures in the immediate vicinity as viewed from the road. While there are houses on the landward side, the coastal side of the road in the immediate vicinity of the site is in a relatively unspoilt setting – although there is some limited development further along the road. The site in my judgement accordingly has a

limited capacity to absorb development. I say this by reference to the Landscape Appraisal of County Mayo as a supporting document of the current Development Plan. While I note the broader classification of Area 2 and its capacity to absorb some limited development I do not consider the characteristics of the site environs can absorb a dwelling without unduly impacting on the landscape character and detracting from the views from the public road. While the road is not as sensitive as the northern parallel coastal road where there are specific protected sea views, the proposed development would contravene with the objective VP-01 which seeks to control development that would adversely impact on views to and from places and features of natural beauty or interest.

- 8.2.2. I have also referred to the Council guidelines for rural house siting and design. While I note the house is a considered design and is accordingly broken into blocks and is sited lower down in the site in an effort to minimise the scale and massing and consequent impact, to achieve this however, requires a considerable setback of almost 150m and due to the terrain characteristics, this would have a considerable suburbanising effect in addition to the visual intrusion due to the landscape character.
- 8.2.3. I accordingly consider the reason for refusal by the planning authority to be fair and reasonable.

8.3. **Settlement Strategy**

- 8.3.1. There are two elements to managing residential development. Firstly, the strategy is to direct development into towns and serviced areas with provision for rural housing in structurally weak areas – a classification broadly applicable to this region. Secondly it is policy to protect the landscape and amenity of the area by restricting housing development to those with essentially a land based need (such as farming) to live in scenic areas such as the coastal area as included in section 2.3.4.
- 8.3.2. In this case Belmullet is a key town with ample land for housing such that there is a phasing system in place. The Belmullet Area Plan identifies urban sprawl and lack of certain services such as road links as weakness and seeks to consolidate development and improve facilities including footpaths and the public realm. Town consolidation is supported by a programme of investment in infrastructure

programmes to enhance services in Belmullet. To allow housing outside the town in unserviced land and where there is unlikely to be services would serve to undermine this strategy and potentially the economic provision of services by itself and the precedent such housing would set. In this case the applicants are locals to the area, however I note from the history file that the applicant's parents' home is closer to the town and accordingly the applicants are not solely reliant on remote rural land to be housed near family. The applicant could still live near family without intruding on scenic landscape. While the development plan provides for farmers and essentially those with a land based need in coastal settings and the site was acquired by the applicant as a field, permission is being sought for house on a large portion (38%) of the holding. Based on the submissions, it does not appear to be part of what I would consider, an established farm holding by the applicant. The applicants are both working in different sectors and the layout has been designed (in an effort to assimilate with the landscape) in a manner that significantly encroaches into the site limiting its potential as farming land. While the applicant has a herd number and a recent qualification I would not describe the circumstances as a case of the applicant having an established or active farm on the land within the meaning intended in section 2.3.4 of the Development Plan. There is no evidence of it being an income generator. Moreover, the consequences of the logic of permitting a house in such circumstances would mean that every field along this stretch of coast could be developed as a house with a small field with some 40% of the land being used for housing. This would clearly contravene the objectives of the development plan and be in direct contravention of the national planning framework which seek the efficient and sustainable use of land.

8.4. Other matters

- 8.4.1. The issue of flooding is also raised in the observations with reference to flooding events in the area and I note in the flooding maps that the vicinity is prone to pluvial and coastal flooding. The planning authority has not raised this as an issue nor is the issue raised in the site characterisation form. This is perhaps understandable in view of the site levels. I have some reservations about the reliance on pumping sewage upgradient some 100m to the treatment plant. While further information could be sought in respect of the pump system, power failure, and factoring flood data I

consider in view of the substantive reason for refusal, seeking such information would be unwarranted.

8.5. Appropriate Assessment

- 8.5.1. The nearest European Site down gradient of the development site is the Mullet/Blacksod Bay Complex SAC which borders the landholding to the south but not the site.
- 8.5.2. The nearest pathway to this coastal designated site from the appeal site is a drainage channel along the eastern boundary and in the order of 20m from the proposed effluent treatment system which then follows a course of over 500m to the coastline. The house would be about 300m from the coastal site. As the proposed development would be provided with a secondary treatment and polishing filter that would treat the effluent to the necessary environmental standards, I am satisfied that the proposed development would not be likely to have a significant effect on these or other sites.
- 8.5.3. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and 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.

9.0 Recommendation

- 9.1. In view of the foregoing, recommend that the decision of the planning authority be upheld and permission be refused for the proposed development based on the following reasons and considerations.

10.0 Reasons and Considerations

1. It is considered that the proposed dwelling due to site layout and siting on a prominent and exposed coastal site, by itself and by the precedent it would set in the context of surrounding development, would be a visually obtrusive and discordant feature in this scenic coastal rural landscape and would accordingly seriously injure the visual amenities of the area and contribute to the excessive suburbanisation of the rural environs of Belmullet Town. The proposed development would therefore detract from the coastal character of the area and would accordingly contravene the current Mayo County Development Plan Policy V01 which seeks to protect such scenic areas and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. On the basis of the documentation submitted with the planning application and the appeal, and in particular having regard to the nature of the applicants' employment and the proposed site layout and holding, the Board is not satisfied that the applicant has demonstrated a housing need for a farmhouse at this scenic coastal location in accordance with the criteria in Policy Objective 2.3.4 of the Mayo County Development Plan 2016-2022. Furthermore, it is considered that the proposed development would undermine the consolidation of Belmullet development area. As a result, the proposed development would give rise to demands for the uneconomic provision of public services and community facilities, and would be contrary to the settlement strategy of the Mayo County Development Plan. The proposed development would, therefore, be contrary to the aims of the National Planning Framework and to the proper planning and sustainable development of the area.

Suzanne Kehely
Senior Planning Inspector

28th January 2019