



An
Bord
Pleanála

Inspector's Report ABP-303597-19

Development	Dwellinghouse, wastewater treatment system, vehicular access and associated works
Location	Shannon Eighter, Sligo, County Sligo
Planning Authority	Sligo County Council
Planning Authority Reg. Ref.	18/446
Applicant(s)	Kenneth Gallagher & Natasha Arkinson
Type of Application	Outline Permission
Planning Authority Decision	Refuse
Type of Appeal	First-Party
Appellant(s)	Kenneth Gallagher & Natasha Arkinson
Observer(s)	None
Date of Site Inspection	11 th April 2019
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1.** The appeal site comprises approximately 0.4ha of agricultural land stated to be in control of the applicants, located in the townland of Shannon Eighter, approximately 900m north of the suburbs of Sligo. Views overlooking Sligo bay and Knocknarea mountain to the southwest are available from the site.
- 1.2.** The site comprises the northwestern portion of a field that is accessed by a local road (L-7309-0), which connects with the R291 regional road approximately 40m to the southeast of the site. The regional road connects Sligo and Rosses Point.
- 1.3.** The surrounding area comprises rolling agricultural fields, bordered by mature hedgerows and trees, interspersed with rural housing. A house is currently under construction to the immediate north of the site. The northern boundary of the site is marked by timber fencing to two neighbouring houses, namely Four Winds and Ardeevin House. The western boundary with the local road measures approximately 105m and includes a gate on the lower southern end of the applicants' field. The southern and eastern boundaries of the site are not marked on the ground. There is approximately a 15.5m fall in ground levels from the northeastern corner to the southwestern corner of the site with the local road, while ground levels in the wider area drop gradually in a westerly direction towards the coast.

2.0 Proposed Development

- 2.1.** The application seeks outline permission for the following proposed development:
 - construction of a dwellinghouse;
 - installation of a wastewater treatment system, including proprietary effluent treatment unit and raised percolation area;
 - upgrading of a vehicular access;
 - all associated groundworks and landscaping.
- 2.2.** In addition to the standard planning application documentation and drawings, the application was accompanied by a site suitability assessment report addressing on-site disposal of effluent and correspondence and maps referring to the applicants' connections to the local area and their housing need.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority issued a notification of a decision to refuse outline permission for the proposed development, for two reasons that can be summarised as follows:

Reason No.1 – non-compliance with housing need criteria for a house within the strategic land reserve;

Reason No.2 – concerns regarding sightlines at the proposed entrance.

3.2. Planning Authority Reports

3.2.1. Planning Report

The report of the Planning Officer (January 2019) noted the following:

- the site is zoned 'R2-Low/Medium Density Residential' and is within the strategic land reserve and green belt, as identified in the Sligo & Environs Development Plan;
- the site is adjacent to and visible from a scenic route (11) and is located in a 'normal rural landscape', as identified in the Sligo County Development Plan;
- the applicants have not demonstrated a genuine rural-generated housing need to reside in this area, as required based on the site zoning;
- information and proposals provided regarding wastewater treatment is acceptable;
- the applicants have not submitted consent from an adjoining landowner to maintain sightlines at the proposed vehicular entrance, which would result in extensive loss of mature and attractive hedgerow and would therefore have a negative impact on the visual amenities of the area.

3.2.2. Other Technical Reports

- Area Engineer – further information required regarding sightlines and surface water;
- Environmental Services – no objection, subject to conditions.

3.3. Prescribed Bodies

- Department of Culture, Heritage & the Gaeltacht (National Parks and Wildlife Service) – no response.

3.4. Third-Party Observations

3.4.1. None received.

4.0 Planning History

4.1. Appeal Site

4.1.1. According to the Planning Authority, pre-planning meetings with the applicants regarding the appeal site are stated to have taken place under three records (Pre-planning Refs. PP2056, PP2209 and PP3840). The Planning Authority refer to two previous applications for outline planning permission for a house on the site that were withdrawn prior to decisions issuing (SCC Refs. P17/111 and P18/52).

4.2. Surrounding Sites

4.2.1. Recent planning applications on neighbouring lands, includes the following:

- Sligo County Council (SCC) Ref. 17/351 – permission granted in February 2018 for a house, garage and on-site wastewater treatment system on a site adjacent to the north, subject to an occupancy clause condition.

5.0 Policy & Context

5.1. National Guidance

National Planning Framework – Project Ireland 2040

5.1.1. Objective 19 of the National Planning Framework 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.

Sustainable Rural Housing Guidelines for Planning Authorities

- 5.1.2. The Guidelines provide criteria for managing rural housing requirements, whilst achieving sustainable development. Planning Authorities are recommended to identify and broadly locate rural area typologies that are characterised as being under strong urban influence, stronger rural areas, structurally weak or made up of clustered settlement patterns. The Guidelines also outline how rural-generated housing need to reside in these areas should be defined in the Development Plan and examples of categories of persons that may be used to define same.
- 5.1.3. Other national guidelines relevant to this appeal include:
- Code of Practice - Wastewater Treatment and Disposal Systems serving Single Houses (p.e. ≤) (EPA, 2011).

5.2. Sligo County Development Plan 2017-2023

- 5.2.1. Figure 3.A of the County Development Plan illustrates the core strategy for the county and identifies rural areas for the purpose of rural housing policy with the appeal site being located within an area covered by the Sligo & Environs Development Plan 2010-2016. Appendix A to the Sligo County Development Plan 2017-2023 states that the written statement and the objectives maps pertaining to the Sligo & Environs Development Plan 2010-2016 have been appended to the County Development Plan.
- 5.2.2. Policy SP-Z-4 of the Plan aims to only permit specific types of development in the Strategic Land Reserve (SLR) bounding settlements, including individual houses for landowners and their sons and daughters, who wish to build a first home for their permanent occupation on the landholding associated with their principal family residence where they have lived for a minimum period of seven years.
- 5.2.3. Section 5.3 of the Plan outlines rural housing policy with respect to the three differing rural area types, including 'green belts and sensitive areas'. Policy P-GBSA-HOU-1 of the County Development Plan states that housing in green belts and sensitive areas will be restricted to the following specific categories of applicants:
- 'A. landowners, including their sons and daughters, who wish to build a first home for their permanent occupation on the landholding associated with their principal family residence;

- B. persons whose primary employment is in a rural-based activity with a demonstrated genuine need to live in the locality of that employment base, for example, those working in agriculture, aquaculture, forestry, horticulture or other natural resource-based employment;
- AND where such persons can demonstrate that the home they propose is in the interests of the proper planning and sustainable development of the area’.

5.2.4. Section 13.4 of the Development Plan outlines requirements for the siting, design, boundaries and landscaping of rural housing, while also outlining that the following documentation is required with a planning application to substantiate a rural-generated housing need:

- ‘Land registry documentation proving family ownership of the envisaged site;
- Map showing location of the principal family residence/original family home;
- Proof of link to the rural community in which the applicant wishes to reside;
- Any other details that may be deemed necessary by the planning authority, to be agreed at pre-planning stage’.

5.2.5. Based on the appended Sligo & Environs Development Plan 2010-2016, the subject site is identified as being within the plan limit, but outside the development limit for Sligo. The site is included within the ‘buffer zone’, based on the zoning provisions in the Amended Zoning Map 1, where it is an objective to ‘contain and consolidate the city, while safeguarding land for its future expansion and the provision of strategic infrastructure’. The Sligo & Environs Plan states that within the buffer zone, development will generally be limited to agriculture and other rural resource-based activities and normal rural housing policies shall apply. The Plan envisages the long term expansion of the city into the buffer zone and green belt and states that it is important to create and maintain a clear edge to the city, by restricting single-house and ribbon development in the city fringes.

5.3. Natural Heritage Designations

5.3.1. The nearest designated sites to the appeal site include Cummeen Strand/Drumcliff Bay Special Area of Conservation (SAC) (Site Code: 000627) and Cummeen Strand

Special Protection Area (SPA) (Site Code: 004035), both of which are located approximately 300m to the southwest of the site along the coast.

5.4. Environmental Impact Assessment - Preliminary Examination

- 5.4.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first-party appeal against the decision of the Planning Authority was submitted by the applicants and the issues raised can be summarised as follows:

Rural Housing Policy

- the applicants have a young family, extended family and friends in the area, connections to the local community and are essentially returning to their home area from Dublin. One of the applicants is a garda working in the immediate rural area of the subject site and therefore their primary employment is in a rural-based activity, and they need to reside in this area for work purposes;
- the site is considered to be in a rural area and should be assessed with regard to rural housing policy. The housing need of the applicants should not be dictated by the context or distance to the applicants' parents' homes;
- the proposed development could not be considered to set precedent given that this is already achieved by the permission granted by the Planning Authority in February 2018 for a house on the adjacent site to the north (under SCC Ref. 17/351). The applicant for the subject application is considered to more comfortably meet the rural housing need for this area, when compared with those granted permission on the adjacent site;

- the site is within an area served by a regular bus service, with public services available and future proposals to extend the public sewer to the area;
- based on the provisions of Policy SP-Z-4 of the County Development Plan, the applicants would meet the requirements for a house in this area, as the appeal site has been used for farming of horses, given the relative proximity to the applicants family and parents' homes and as there are 'exceptional circumstances' pertaining to the health of one of the applicants, as expanded upon in correspondence attached from a medical professional;
- the applicants would be willing to enter into a Section 47 agreement to sterilise the remainder of the landholding;

Siting

- the proposed location for the house on the landholding was guided by the Planning Authority at pre-planning meetings;

Access & Traffic

- the second reason for refusal was only attached to bolster the Planning Authority decision, as the letter of consent to maintain the necessary hedgerows was included with the application and appeal, and the Area Engineer does not appear to have been aware of this.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response to the grounds of appeal primarily reaffirm matters raised within the Planning Officer's report and their decision on the application, while also addressing the following:

- the applicants clearly did not meet the requirements set out under Policy SP-Z-4 for the Strategic Land Reserve based on the documentation submitted and the information submitted with the grounds of appeal regarding the exceptional health circumstances of one of the applicants was not submitted with the application;
- planning permission (SCC Ref. 17/351) granted for a house on the adjacent site to the north was considered acceptable by the Planning Authority in the

context of the 'buffer zone' designation of this site and as the site adjoins the family home of one of the applicants;

- the letter of consent to maintain the hedgerows was not submitted with the planning application documentation.

6.3. Observations

6.3.1. None received.

7.0 Assessment

7.1. Introduction

7.1.1. I consider the substantive planning issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Rural Housing Policy;
- Access;
- Wastewater Treatment.

7.2. Rural Housing Policy

7.2.1. Reason for refusal no.1 of the Planning Authority's decision outlines that the applicants would not comply with the housing need criteria for a house within the strategic land reserve to Sligo. The Planning Authority expanded on this within their response to the grounds of appeal by stating that the subject site is zoned R1 (low density residential) in the Sligo & Environs Development Plan 2010-2016, which has been appended to the Sligo County Development Plan 2017-2023. The Planning Authority state that lands zoned 'R1' have been included in the Strategic Land Reserve in line with the Core Strategy in the County Development Plan. The grounds of appeal assert that the specific housing needs allowing for the applicants to construct a house on the subject site can be met based on the zoning objectives and policies of the County Development Plan.

7.2.2. Figure 5.A of the County Development Plan addressing rural area types, identifies the appeal site as being within the area covered by the Sligo & Environs Plan.

Amended zoning map 1 of the Sligo & Environs Plan identifies the site as being within the 'buffer zone' to Sligo. I note that the Planning Authority stated that the site is zoned R1 (low-density residential) in the Sligo & Environs Plan, but this would appear to be based on Figure 5F of this Plan, which was superseded subsequent to a Variation of the Plan to include a Core Strategy.

- 7.2.3. The Sligo & Environs Plan states that normal rural housing policy shall apply in the buffer zone. Current policy with respect to rural housing is provided for in the County Development Plan and I am satisfied that the planning context, zoning objectives and provisions set out in the appended Sligo & Environs Plan most appropriately require assessment of this proposed development in the buffer zone against rural housing policy relating to 'green belts and sensitive areas'.
- 7.2.4. Policy P-GBSA-HOU-1 of the County Development Plan states that housing in green belts and sensitive areas will be restricted to the specific categories of applicants, generally comprising of - A) landowners and their sons and daughters on the landholding associated with their principal family residence and B) persons whose primary employment is in a rural-based activity.
- 7.2.5. Information provided by the applicants within their application and grounds of appeal states that the applicants own the field that contains the appeal site. The family home of one of the applicants is stated to be located in Rathonoragh, approximately 3.5km southwest of the appeal site across Sligo bay, and the other applicant's home house is stated to be in Cartron, a suburban area of Sligo approximately 1.1km to the south of the appeal site. The proposed development would therefore not provide for a house associated with the principal family residence of either of these applicants. One of the applicants is stated to work in Government offices located in Sligo, while the other applicant is stated to work as a garda based out of the Rosses Point station less than 5km from the site. The grounds of appeal assert that the applicant's employment as a garda is akin to a rural-based activity given the nature and location of their work. I am satisfied that such an occupation would not fall into the category of occupations envisaged in Policy P-GBSA-HOU-1 of the County Development Plan, particular based on the examples given in the policy, which largely relate to primary rural activities and as the station is not in a rural area. The applicants have outlined within the application and appeal there extensive connections to the wider area and exceptional circumstances for allowing this

development. These are not contested, however, based on the provisions of Policy P-GBSA-HOU-1 of the County Development Plan and national policy, set out in National Policy Objective 19 of the National Planning Framework, I am satisfied that this documentation does not in itself demonstrate an economic or social need to live in this rural area.

- 7.2.6. The Sligo & Environs Plan envisages the long term expansion of Sligo into the buffer zone and green belt, and states that it is important to create and maintain a clear edge to the city, by restricting single-house and ribbon development in the city fringes. The existing pattern of development in the area, including extensive one-off housing, is indicative of the pressure for development of land in this area. I also note the existing recent permission for a house (SCC Ref. 17/351) adjacent to the north of the site. Consequently, I consider that the proposed development, would further contribute to the creation and expansion of a suburban pattern of development in this rural area, which is clearly an area under strong urban influence based on the typologies outlined in the Sustainable Rural Housing Guidelines for Planning Authorities.
- 7.2.7. In conclusion, the proposed development would not comply with Ministerial guidelines and Policy P-GBSA-HOU-1 of the County Development Plan, as the applicants' housing need to reside in this 'buffer zone' area, which is under strong urban influence, has not been established. Furthermore, the proposed development would be contrary to the provisions of the County Development Plan, as it would contribute to the creation and expansion of a suburban pattern of development in a rural area envisaged to facilitate the future expansion of Sligo. Outline permission for the proposed development should be refused for these reasons.

7.3. Access

- 7.3.1. The second reason for refusal refers to concerns regarding sightlines at the proposed vehicular entrance to the site onto the local road (L-7309-0). This reason for refusal reflects the concerns raised by the Area Engineer when consulted upon in relation to the application. The grounds of appeal assert that the concerns of the Planning Authority could be resolved by way of submission of a letter of consent from the adjoining landowner to allow maintenance of the hedgerows within the

sightlines and they have submitted a letter stated to be from the relevant landowner to address this.

- 7.3.2. The speed limit signs are located along the front of the site, with the proposed entrance location to the site within the 60km/hr urban speed limit, while the northern portion would be within an 80km/hr speed limit area. Table 13.B of the Development Plan outlines that proposals for single accesses onto local roads, such as that fronting the appeal site where a 60km/hr speed limit applies, require 90m vision lines in both directions. The site layout plan submitted delineates vision lines from a point 3m setback from the roadside with 90m visibility readily achievable in a northerly direction without the necessity to remove extensive areas of hedgerow fronting the appeal site. The local road connects with the R291 regional road approximately 40m to the southeast of the site. Consent of third parties to maintain hedgerows within the vision lines towards this junction would not be necessary.
- 7.3.3. Having visited the site and noted traffic speeds achievable, particularly resulting from the proximity to the junction, I am satisfied that the sightlines available at the access onto the public road are adequate to cater for the traffic that would be generated by the proposed development. The proposed development would not, therefore, give rise to traffic hazard and outline permission should not be refused for this reason.

7.4. Wastewater Treatment

- 7.4.1. The Site Suitability Report submitted with the planning application notes that the site is located in an area with a locally-important aquifer category, where groundwater vulnerability is low. It also stated that bedrock was not encountered in the 2.1m-deep trial hole, while the water table was encountered at 1.5m. The T-value for the site was calculated as 7 and this indicates that the site is suitable for the treatment and disposal of domestic foul effluent to groundwater by means of a conventional septic tank system or a secondary treatment system discharging to groundwater. A P-test was undertaken due to the high-water table, with the value stated to be 8.75 min/25mm. P-test values of between 3 and 75 indicate the site is suitable for a secondary treatment system with polishing filter at ground surface or over ground.
- 7.4.2. Details submitted clarify that wastewater would initially feed by gravity from the house to an effluent treatment unit and would be subsequently pump-fed to a stilling

chamber, leading to a distribution box and a raised soil polishing filter. A minimum of 900mm unsaturated soil would be maintained below the invert of the percolation pipes. I am satisfied that the assessment and the proposed development design details comply with those required within the current EPA 'Code of Practice - Wastewater Treatment and Disposal Systems serving Single Houses'. The Environmental Services section of the Planning Authority did not object to the proposed development.

- 7.4.3. In conclusion, the proposed development would not be prejudicial to public health and would not be likely to cause a deterioration in the quality of waters in the area. Outline permission should not be refused for reasons relating to wastewater treatment.

8.0 **Appropriate Assessment**

- 8.1. 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. I recommend outline permission be **refused** for the reasons and considerations set out below.

10.0 **Reasons and Considerations**

1. The site of the proposed development is located within an 'Area under Strong Urban Influence' based on the typologies set out in the 'Sustainable Rural Housing Guidelines for Planning Authorities', as issued by the Department of the Environment, Heritage and Local Government in April 2005. Furthermore, the subject site is located in a buffer zone area that is designated as being under strong urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to facilitate the

provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area. Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicants have a demonstrable economic or social need to live in this rural area. It is considered, therefore, that the applicants do not come within the scope of the housing need criteria, as set out in the Guidelines and in national policy for a house at this location. The proposed development would, therefore, be contrary to the Ministerial Guidelines and to the over-arching national policy, and having regard to the provisions of the current Sligo County Development Plan 2017-2023, would contribute to the creation and expansion of a suburban pattern of development in a rural area envisaged to facilitate the future urban expansion of Sligo and would be contrary to the proper planning and sustainable development of the area.

Colm McLoughlin
Planning Inspector

9th May 2019