



An
Bord
Pleanála

Inspector's Report ABP-303744-19

Development	Construction of a house, installation of a proprietary effluent treatment system with percolation area
Location	Crockacullion, Beltra, Co. Sligo
Planning Authority	Sligo County Council
Planning Authority Reg. Ref.	18473
Applicant(s)	Peter & Tanya Kearins.
Type of Application	Permission.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Peter & Tanya Kearins.
Observer(s)	None.
Date of Site Inspection	29 th April 2019.
Inspector	Sarah Lynch

1.0 Site Location and Description

- 1.1. The site is located c. 8k west of Ballysadare town, between the N59 designated scenic route and the Ballysadare Bay coastline which is designated as visually vulnerable within the Sligo County Development Plan 2017-2023.
- 1.2. The site is accessed via a shared entrance laneway from the N59 and is accessed from this shared laneway via an existing agricultural gate. The topography of the site slopes downwards in an easterly direction and provides views over the Ballysadare Bay. The site is bounded by a mature hedgerow on all sides with the exception of the north western boundary which is open to the existing dwelling located adjacent to the N59. A number of two storey dwellings are located adjacent to the site and the area is characterised as rural landscape.

2.0 Proposed Development

- 2.1. It is proposed to construct a one of dwelling with associated on-site waste water treatment system.

3.0 Planning Authority Decision

3.1. Decision

- Permission was refused for the following reasons:
 1. The proposed development would intensify an access onto the N59 where a speed limit of 100km/hr applies. The proposal would be contrary to the Spatial Planning and National Roads - Guidelines for Planning Authorities” issued by the Department of the Environment, Community and Local Government (2012) and policy P-NR1 of the County Development Plan.
 2. Contrary to rural housing policy, proposal would not constitute rural generated housing need.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planners report was consistent with the decision of the planning authority.

3.2.2. Other Technical Reports

- Road design – recommends approval.
- Environment – no objection
- Heritage Officer – no objection

3.3. Prescribed Bodies

- Transport Infrastructure Ireland – objection proposal would be contrary to official policy to restrict intensification of accesses onto national roads.
- Irish Water – no objection

3.4. Third Party Observations

One submission was received by the planning authority which raises concerns in relation to permission for use of the access.

4.0 Planning History

247280 Permission was refused for a dwelling and on-site waste water treatment system for the following reason:

1. The development would result in the intensification of an entrance onto a national route N59 and would therefore be contrary to the “Spatial Planning and National Roads - Guidelines for Planning Authorities” issued by the Department of the Environment, Community and Local Government (2012), and the Sligo Development Plan.

The board noted concerns in relation to the following:

- Compliance with rural housing policy.
- T test failed concerns in relation to the suitability of the site for an on-site waste water treatment system,
- Demonstrable need for dwelling
- Sensitivity of site in terms of visual amenity.

PL08-835 Peadar Kearins (father of current applicant) – permission granted 2008, for the construction of a dwelling house and septic tank on the subject site – subject house is 1m higher and 100 sq m larger than that permitted.

Adjacent sites

PL08-549 - Colm Clark - permission granted for construction for a house.

PL04-601 – Cathal Clark permission refused for construction for a house: 5 reasons – traffic hazard, public health, visual impact, sporadic housing development, house design.

5.0 Policy and Context

5.1. Development Plan

Sligo County Development Plan 2017- 2023

The operative development plan is the Sligo County Development Plan 2017- 2023.

- Section 3.3.1 – Types of Rural Areas.
- Section 5.3 - Housing in rural areas
- Policy RAUI-HOU-1 – Rural Areas under Urban Influence.
- Policy P-GBSA-HOU-1 relates to housing policy in green belts and sensitive area (Scenic Routes, Sensitive Rural Landscapes, Visually Vulnerable Areas
- Policy P-RHOU-1 –principles in the siting and design of new houses.
- Policy P-RHOU-2 - Require new house proposal in rural areas to comply with the guidance set out in Section 13.4 Residential development in rural areas (development management standards).
- Appendix E contains the list of designated scenic routes in the county.
- Section 10.4.1 Coastal zone - Sustainable development in the coastal zone would see new development occur mainly within or in the immediate vicinity of existing towns and villages.
- Policy PDCZ – Restricts development in the coastal zone

Sustainable Rural Housing, Guidelines for Planning Authorities (2005)

- The subject site is located within an area designated as being 'Rural Areas under Strong Urban Influence' within these Guidelines.
- Section 3.3.3 deals with 'Siting and Design'.

National Planning Framework – Project Ireland 2040

Policy Objective 19: 'Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, 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 and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;

Draft Regional Spatial and Economic Strategy (November 2018)

In relation to rural areas the draft RSES states 'the NPF confirms that there needs to be a distinction made between areas under urban influence and elsewhere and it defines areas under urban influence as being effectively those areas within the 15% commuter catchment of Cities, Regional Growth Centres and the Key Towns. It confirms that the capacity to provide for single rural housing should be retained for those that have a demonstrable economic or social need to live in the area, subject to all other proper planning and sustainable development considerations. The management of these pressures is a matter for individual local authorities through the development plan process, having regard to the provisions of Ministerial Guidelines (Rf. Sustainable Rural Housing Guidelines for Planning Authorities 2005) and other material considerations , including environmental considerations, the pressure for housing, availability and adequacy of support infrastructure, suitability of soils to treat and dispose of wastewater to appropriate standard, visual and physical impact and the need to provide for house design and orientation that meet current and future energy efficiency demands'.

5.2. **Natural Heritage Designations**

The appeal site is located c. 703 metres south west of the Ballysadare SAC & SPA.

5.3. **EIA Screening**

5.4. Notwithstanding the proximity of the proposed development to the Ballysadare Bay SAC & SPA, the nature and scale of the development would not result in a real likelihood of significant effects on the environment. 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**

- Applicant grew up in local area and works in Ballina.
- Applicant states he has a genuine housing need.
- Existing businesses utilising entrance, applicants already live on lane so no additional traffic.
- Wishes to remain to look after parents.
- Improvements to entrance proposed to increase pull in area.
- National policy is a guideline and not a statutory instrument.

6.2. **Planning Authority Response**

- None

7.0 **Assessment**

7.1. The appeal site is located in a rural area under urban influence, whereby the development of one-off dwellings is restricted and will not normally be permitted unless they meet the criteria under the Planning Authority's essential housing need category. This is a first party appeal to the refusal of permission, in addition to the reasons for refusal I consider the siting of the development should also be considered in addition

to appropriate assessment. The main planning issues for consideration before the Board are as follows:

- Rural housing policy
- Conflict with County Development Plan policy in relation to development in coastal areas.
- Access
- Appropriate assessment.

Rural housing policy

- 7.2. It is contended by the applicant that he currently resides adjacent to the site and has been living in the area all of his life. He states that he is a member of An Garda Síochana and works from the Ballina Station which is 35 minutes from the appeal site. He wishes to build beside the family home in order to care for his parents.
- 7.3. Policy P-RAUI-HOU-1- the Sligo Development Plan seeks to accommodate dwellings in the rural area for 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. Whilst I acknowledge that the applicant has stated in the grounds of appeal that he has significant family ties to the area and is residing within the family home, no evidence has been submitted with the appeal which would substantiate these claims.
- 7.4. Furthermore, in addition to the foregoing the National Planning Framework requires that the development of rural housing in such areas must only be permitted where a demonstrable economic or social need to live in a rural area has been provided. I consider that based on the information submitted the applicant has failed to provide sufficient evidence to justify such a need. The applicant is applying for permission based on his family ties to the area and has stated that he commutes to work in Ballina town. The proposal is an urban generated development that will be heavily dependent on the private car which would hamper Irelands attempts to move toward a low carbon economy and would only serve to exacerbate long term problems such as climate change.
- 7.5. Having regard to the foregoing, the proposed development would be contrary to the provisions of the NPF and as such would be contrary to the proper planning and sustainable development of the area.

Conflict with County Development Plan policy in relation to development in coastal areas.

- 7.6. The appeal site is located directly adjacent to a visually vulnerable Sensitive Rural Landscape as identified within the Landscape Characterisation Map of the Sligo County Development Plan 2017-2023 and has an extremely low capacity to absorb new development. It is the policy of the Council to preserve and protect such fragile landscapes from inappropriate development.
- 7.7. I also note from the Sligo Development Plan that the proposed development is located between the coast and a road that is identified as a scenic route whereby it is the policy of the Council to restrict development as per P-DCZ-1, with the exception of sustainable tourism development, public infrastructure works, and development that is contiguous with the existing towns and villages.
- 7.8. I acknowledge that there are existing houses along the access lane which are effective between the appeal site and the Ballysadare Bay, however the proposed development would only serve to exacerbate the situation in terms of the level of development between the N59 and the coastline.
- 7.9. I conclude that the proposed development would be contrary to the provisions of policy P-DCZ1 of the Sligo Development Plan 2017-2023 and would therefore be contrary to the proper planning and sustainable development of the area.

Access

- 7.10. It is contended by the applicant that the Spatial Planning and National Roads Guidelines are guidelines and not statutory. The Spatial Planning and National Roads Guidelines 2012 (DoECLG), were issued under Section 28 of the Planning and Development Act, 2000 and are therefore guidelines to which An Bord Pleanála are required to have regard.
- 7.11. These guidelines state that on lands joining national roads, to which the speed limit of greater than 60 kmph applies, the Planning Authority will avoid the creation of additional access points from new development and the generation of increased traffic from existing accesses to a national road. This provision applies to all categories of development including individual houses in rural areas regardless of the housing circumstances of the applicant.

- 7.12. Exceptional circumstances provided for in the Spatial Planning and National Roads Guidelines (2.6), related to development along a national road, arise where development is of national or regional strategic importance or located along lightly-trafficked sections of national secondary routes. The latter situation could arise where:
- Traffic volumes are low and are forecast to remain below 3,000 AADT (as verified by the NRA) for the next 20 years;
 - There is no suitable alternative non-national public road access available;
 - The development otherwise accords with the development plan, and
 - Safety issues and considerations can be adequately addressed in accordance with the NRA's Design Manual for Roads and Bridges.
- 7.13. In addition, the stretches of national road where the general restriction can be lifted, based on the foregoing criteria, must be identified in the County Development Plan or Local Area Plan following consultation with the NRA. Such stretches of road have not been identified in the Sligo County Development Plan.
- 7.14. The traffic volumes along this stretch of road are not below 3,000 AADT. TII's traffic count for 2018 indicates an AADT for the N59 further west to be 3,913 and already partial data for 2019 indicates an increase to 3,977 AADT; and they further state that, based on this being part of the popular touring route Wild Atlantic Way, it would be expected that traffic levels would increase. The exceptional circumstances provided for in the Spatial Planning and National Roads Guidelines (2.6) do not therefore apply.
- 7.15. From the information on the file it is likely that there is no suitable alternative non-national public road access available on the landholding of 1.46ha. I concur with the opinion of the TII that regardless of the housing circumstances of the applicant, the proposed development will inevitably bring about additional vehicular movements resulting in intensification of the access onto and off the N59, arising from the day to day occupation, patterns of activity associated with same and trips generated by other services, utilities, visitors, etc. as well as the applicant. I note that the applicant states he is currently living in the family home which utilises the access so there will be no additional traffic, however no evidence has been provided to substantiate this claim. I therefore consider that the proposed development would be at variance with official policy.

7.16. I further consider that based on the information accompanying the appeal that the proposed development, in conjunction with other development, accessed via the private laneway, by itself and by the precedent that a grant of permission would create, would endanger public safety by reason of traffic hazard due to the additional traffic, including turning movements, that would be generated onto the national route N59 at a point where a speed limit of 100kph applies, and would interfere with the free-flow of traffic on the road. As such, I consider that the proposed development would be contrary to the proper planning and sustainable development of the area.

8.0 Recommendation

8.1. Having regard to the foregoing assessment, I recommend that the application is refused for the following reason.

9.0 Reasons and Considerations

1. The “Spatial Planning and National Roads - Guidelines for Planning Authorities” issued by the Department of the Environment, Community and Local Government (2012) seek in Section 2.5 “to avoid the...generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 km/h apply.” Policy P-NR-1 of the Sligo County Development Plan 2017-2023 seeks Protect the traffic carrying capacity of national roads, the level of service they deliver and the period over which they continue to perform efficiently, by avoiding the creation of new access points or the generation of increased traffic from existing accesses onto the N-4, N-15, N-16, N-17 and N-59 outside the 50 km/h speed limit. The proposed development of a house at this location would result in the intensification of use of a private access on to the N59 national secondary road, where a speed limit of 100 km/h applies. It is considered that the additional and conflicting turning movements generated by the proposed development would endanger public safety by reason of traffic hazard, would interfere with the free flow of traffic on this national road, would compromise the level of service and carrying capacity of the road at this location, and would fail to protect public investment in the national road network, both by itself and by the undesirable precedent it would set for similar such development. The proposed development would contravene the provisions of the said Guidelines and of Policy P-NR-1 of

the County Development Plan, and would, therefore, be contrary to the proper planning and sustainable development of the area

2. The site of the proposed development is located within an Area Under Strong Urban Influence as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April 2005. Furthermore, the subject site is located in an area that is designated under 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 applicant has a demonstrable economic or social need to live in this rural area. It is considered, therefore, that the applicant does 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 to the provisions of the current Sligo County Development Plan 2017-2023 and would be contrary to the proper planning and sustainable development of the area.
3. The proposed development is located in a coastal zone as identified within the Sligo County Development Plan 2017-2023 where it is the objective of the Council under policy P-DCZ-1 to restrict development except where it can be demonstrated that it does not detract from views, visually intrude on the coastal landscape or impact on environmentally sensitive areas. This is reasonable. The proposed development would introduce a form of development which would physically and visually exacerbate the overall visual impact of development in this area on the surrounding sensitive landscape. The proposal would therefore be contrary to the provisions of the Sligo County Development Plan 2017-2023 and would be contrary to the proper planning and sustainable development of the area.

Sarah Lynch
Planning Inspector

27th May 2019