



An
Bord
Pleanála

Inspector's Report ABP-303963-19

Development	Conversion of a structure to a one-bedroom house with wastewater treatment system
Location	Derrycashel, Kilkelly, County Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	P18/1037
Applicant(s)	Ronin Owens
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First-Party
Appellant(s)	Ronan Owens & Anna Owens
Observer(s)	Kay Wyatt
Date of Site Inspection	17 th May 2019
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1.** The appeal site is located in the rural townland of Derrycashel, approximately 2.5km west of Kilkelly village in County Mayo. The surrounding area comprises undulating agricultural fields and wooded areas, bordered by stonewalls and trees, interspersed with rural housing and agricultural buildings.
- 1.2.** The site measures a stated 0.22ha and is accessed by a single lane private road, which connects with a local road (L5096) 240m to the north of the site and also serves a residence adjacent to the site and adjoining farmlands. Currently on site is a single-storey building with a yard area to the north, south and west of this building enclosed by stonewalls. A capped wall along the northwest boundary separates the site from the adjacent residence, which includes a single-storey house. The site is located on ground that is slightly elevated over the immediate surrounding countryside, with a drop of 6m in ground levels from the yard area to the northern boundary of the appeal site.

2.0 Proposed Development

- 2.1.** The proposed development comprises the following:
 - conversion of a building to a one-bedroom house, including the installation of four rooflights and three windows, to be served by an on-site wastewater treatment system and all associated development works, including a 2m-high fence to the northwestern boundary.
- 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 an Appropriate Assessment Screening Report with an Ecological Survey appended to this. Unsolicited information was submitted on two occasions by the applicant to the Planning Authority, addressing third-party submissions received by the Planning Authority and clarifying discussions held with Planning Authority representatives.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority issued a notification of a decision to refuse permission for the proposed development for one reason, as follows:

‘Having regard to the location of the existing structure on site in close proximity to the adjacent dwelling and the configuration of the site, it is considered that the proposed development would seriously injure the residential amenity and depreciate the value of property in the vicinity and therefore would be contrary to the proper planning and sustainable development of the area’.

3.2. Planning Authority Reports

3.2.1. Planning Report

The report of the Planning Officer (February 2019) reflects the decision of the Planning Authority to refuse planning permission and noted the following:

- a previous application for a similar development under Mayo County Council (MCC) Ref. 17/901 was recommended for refusal of planning permission, prior to being withdrawn;
- the site layout and building position has not altered in the subject application when compared with the previously withdrawn application (MCC Ref. 17/901);
- the proposed house would have a negative impact on the adjacent residential property;
- the site configuration does not lend itself to the construction of a house.

3.2.2. Other Technical Reports

- Community Development – no response;
- Environment Section – no response;

- Area Engineer – refers to previous comments under MCC Ref. 17/901, which highlighted concerns regarding vehicular conflict along the private road and visibility in a western direction at the junction with the local road.

3.3. Prescribed Bodies

- None requested.

3.4. Third-Party Observation

- 3.4.1. Third-party submissions stated to be from three residents of the area, including the adjoining resident to the west of the appeal site, were received during consideration of the application by the Planning Authority. The issues raised in these submissions can be summarised as follows:

Development Context

- the proposals involve the change of use of an agricultural/domestic storage shed to residential use. The site was once part of a larger landholding that has since been subdivided without due care for the location of services;
- the building was not a derelict house as claimed by the applicant, as this was located elsewhere on the landholding and was demolished over 20 years ago;
- there are other houses available in the area, including housing within Kilkelly village, and the applicant does not have a need to reside in this area;

Local Amenities

- the proposed house would be located too close to the neighbouring house to the west and the proposed 2m-high timber fence boundary would block views from the neighbouring house. Furthermore, it would not address concerns regarding privacy and general disturbance arising from noise and dust emissions;
- the development may impact on the structural integrity of local stonewalls along the private access road;
- negative impact on livestock;

Roads & Traffic Safety

- there is poor sight visibility at the junction of the private road onto the local road, which is also a popular recreational route;
- the private road serving the site is in poor condition and is of insufficient width and capacity to cater for the additional associated traffic. This road would be damaged by heavy vehicles required for the proposed development;

Ecology

- the Appropriate Assessment Screening Report failed to recognise the presence of newts known to reside in the immediate area;
- the Trimoge River, 230m to the south, is a tributary of the River Moy;
- bats, cuckoo, owl, corncrake and stoats reside in the area.

3.4.2. A submission from a resident of the United Kingdom, stated to be a previous owner of the appeal site, contests matters raised within the third-party submissions, in summary stating that:

- the building was used as accommodation by a stated previous owner when the adjacent house to the east was being renovated;
- the wastewater infrastructures on the adjoining site are accurately identified on the plans submitted;
- newts are not common to this area;
- planning permission for development on the site was not applied for between 1998 and 2006.

4.0 Planning History

4.1. Appeal Site

4.1.1. The Planning Authority refer to a planning application (MCC Ref. 17/901) that proposed a similar development to that proposed in the subject application and was subsequently withdrawn. I am not aware of any other applications relating to the appeal site.

4.2. Surrounding Sites

- 4.2.1. Reflective of the rural character of the area, planning applications in the neighbouring area relate to one-off housing and domestic extensions that were granted by the Planning Authority during the 2000s.

5.0 Policy & Context

Sustainable Rural Housing Guidelines for Planning Authorities

- 5.1.1. 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. The appeal site is located in a 'structurally weak area', as set out under Section 5.2 below. Appendix 3 to the Guidelines outlines that the key Development Plan objective in relation to structurally weak 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 and any environmentally sensitive areas'.

5.2. Mayo County Development Plan 2018-2024

- 5.2.1. The policies and objectives of the Mayo County Development Plan 2014-2020 are relevant. Map 3 of the Development Plan addressing 'rural-area types', identifies the appeal site as being within a 'structurally-weak area'. Section 2.3.2 of Volume 2 to the Plan states that in areas classified as structurally-weak areas, permanent residential development (urban and rural-generated) will be accommodated. In particular, special consideration will be given to the provision of housing in rural areas that have sustained population loss since 1951, subject to good planning practice.
- 5.2.2. As part of the Settlement Strategy (Volume 1), the replacement or renovation of existing structures for residential use is encouraged in preference to new build

development. Section 1.3 of Volume 2 to the Plan states that ‘replacement dwellings or development of other structures to habitable homes will be considered in all areas, subject to normal planning considerations such as availability of services, adequacy of ground conditions for disposal of effluent from the development, traffic safety, residential amenity, visual amenity etc.’.

- 5.2.3. Section 7.3 of Volume 2 to the Plan states that rural housing shall be designed in accordance with the Design Guidelines for Rural Housing and that consideration will be given to minor deviations from the Guidelines where it can be demonstrated that the deviation would not have an adverse visual impact on the landscape or on residential amenity.
- 5.2.4. Section 16.3 of Volume 2 to the Plan addresses access visibility requirements and standards to be applied.
- 5.2.5. Section 20.2.2 of Volume 2 to the Plan states that in unserviced rural areas, where a proposed house cannot connect to the public sewer, a site suitability assessment will be required. The assessment must be carried out in accordance with the EPA Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses (population equivalent ≤ 10) (2011), taking into account the cumulative effects of existing and proposed developments in the area.

5.3. Natural Heritage Designations

- 5.3.1. The nearest designated sites to the appeal site are the River Moy candidate Special Area of Conservation (cSAC) (Site Code: 002179), which is located approximately 230m to the south, and Urlaur Lakes SAC (Site Code: 001571), which is located approximately 6.8km to the east of the site.

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 accompanied by correspondence from the appellants' representative, as well as correspondence from a local auctioneer in support of the development, was submitted and this can be summarised as follows:

Development Context

- the building on site was occupied as a house until the 1960s and for a three-month period in 1998;
- the appellants reside and run a taxi business in Swinford, 8.5km to the north of the site, and they need to relocate as people often call to their house looking for taxis;
- the site was purchased by the appellants in 2011 and is currently used to grow vegetables and fruit for their family;
- proposals provide for sensitive renovation and reuse of the former house on site, which would not impact on the landscape;
- the erection of a 2m-high timber fence to the boundary with the neighbouring house would provide added privacy and the renovation works would comply with Section 8.1 of the Development Plan, by avoiding the potential for overlooking;
- the former house to be renovated and the neighbouring house are separated by 13.7m and the neighbouring house does not feature gable-end windows facing onto the appeal site;
- the building can be connected to electrical and water services, and the effluent from the proposed development is suitable to be disposed of by a septic tank system;
- the refusal of planning permission fails to identify the provisions of the Development Plan which the proposed development would conflict with and a viable reason for refusal is therefore not set out in the Planning Authority decision;

- reuse of an existing structure/building is encouraged in Section 1.3 of the Development Plan.

6.2. Planning Authority Response

6.2.1. The Planning Authority did not respond to the grounds of appeal.

6.3. Observations

6.3.1. An observation was submitted in response to the grounds of appeal from the adjoining resident, which can be summarised as follows:

- the subject building was built and used as an agricultural shed;
- the 2m-high timber fence would restrict views from the adjoining house;
- the building to be renovated is visible from the adjoining house;
- maintenance of the access road, which is owned by the appellants and serves the site, was previously undertaken by the observer;
- the development is not complementary to the area, nor is it sustainable;
- the correspondence from the auctioneer includes various inaccuracies;
- the soakaway serving the observer's house is most likely located within the yard area to the appeal site.

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;
- Residential Amenity & Design;
- Wastewater Treatment;
- Road Safety.

7.2. Rural Housing Policy

7.2.1. The site is located within a 'structurally-weak area' and neither the Mayo County Development Plan 2014-2020 nor the Sustainable Rural Housing Guidelines place a restriction on new houses in this rural area. Submissions on the application assert that the appellants do not have a local need to reside in this area. Local housing need was not raised as an issue in the Planning Authority's reason for refusal. I am satisfied that based on planning policy there is no requirement for the appellants to demonstrate a local housing need for this area. It is noted that submissions on the application and an observation to the appeal assert that the building on site was used for agricultural purposes and its reuse for residential purposes would not be sustainable. In response, the grounds of appeal assert that the building was used as a dwelling until the 1960s and again for a short period in 1998. The Development Plan encourages the replacement or renovation of existing structures for residential use in preference to new development and, as such, does not restrict renovation and reuse of the building for residential purposes. However, the Development Plan does clarify that renovation of an existing structure for residential use needs to be considered with respect to planning and environmental standards, including residential amenity, visual amenity, services, adequacy of ground conditions for disposal of effluent and road safety. These matters are addressed in the remainder of my assessment below. In conclusion, the proposed development should not be refused permission for reasons relating to rural housing policy. Furthermore, should the Board be minded to grant planning permission, an occupancy condition would not be necessary.

7.3. Residential Amenity & Design

7.3.1. The Planning Authority refused permission for the proposed development, as it would seriously injure the residential amenity of the adjacent observer's house, which is located over 12m to the northwest of the building proposed to be renovated. Section 8.1 of Volume 2 to the Development Plan requires proposals for rural housing to be designed to avoid unnecessary loss of privacy to adjoining developments. The proposed development provided for a 2m-high timber fence on the boundary with the observer's house. With the exception of a bathroom window, there would be no windows facing directly onto the observer's property from the

proposed house and, as such, potential for excessive direct overlooking from the house would not arise. Consequently, I am satisfied that the proposed house would not have a significant impact on the amenities of the adjoining property.

- 7.3.2. The 'Mayo Rural Housing Design Guidelines' (2008) that are appended to the Development Plan, set out the principles to be adhered to when designing a house in the countryside and Section 7.3.1 of the Development Plan requires rural housing to be designed in accordance with the Design Guidelines. The Design Guidelines encourage high standards in the design and construction of housing, including necessary standards for internal living spaces and external amenity areas. The proposed house would comprise a gross floor area of approximately 50sq.m, when excluding the storage area. The kitchen / living room would be served by two windows facing southeast. The bedroom to the house would not be served by windows. The Design Guidelines requires maximisation of light gain to the main living areas by facing them southwards. Four rooflights are proposed. Despite two of the rooflights serving the bedroom, natural lighting of this room would be severely limited by virtue of the absence of windows and the limited light that would be available from the northeast-facing rooflights. Accordingly, the proposed development would not provide a reasonable quality of residential amenity for future residents.
- 7.3.3. In conclusion, the proposed development would not provide a reasonable level of residential amenity for future residents, in line with the Mayo Rural Housing Design Guidelines. Consequently, the proposed development would not be compliant with the provisions set out in Section 7.3.1 of the Development Plan.

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 and where groundwater vulnerability is moderate. This report submits that no watercourses are located within 250m of the site and that neither bedrock nor a water table was encountered in the 2.05m-deep trial hole. I note that there is a drainage channel located approximately 130m to the southeast of the site that flows into the Trimoge River, which is a tributary of the River Moy and is located 230m to the south of the site.

- 7.4.2. A T-value of 45 was calculated based on tests undertaken in October 2017. The trial hole test results indicate that the site is suitable for the treatment and disposal of domestic foul effluent to ground by means of a conventional septic tank system. Details submitted clarify that a conventional septic tank with percolation area would be installed and that the trench invert level for the percolation area would be 0.8m below ground level. Details on the proposed site layout plan indicate that wastewater would feed by gravity from the house to a septic tank unit before connecting with percolation pipes. The percolation area would be located in an area on site with a slope of approximately 1:7 and would be laid out in accordance with the guidance. I am satisfied that the assessment and the proposed development design details comply with those required within the 'Code of Practice - Wastewater Treatment and Disposal Systems serving Single Houses (p.e. ≤ 10) (EPA, 2011)'.
- 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. Permission should not be refused for reasons relating to wastewater treatment.

7.5. Road Safety

- 7.5.1. The appeal site is accessed by a single-lane road that is stated by the appellants to be in their ownership and is finished with unbound materials. This private road connects with a local road (L5096), 240m to the north of the site, which has a speed-limit restriction of 80km/h. The private road serves the adjacent observer's house, agricultural lands and the appeal site.
- 7.5.2. Submissions to the application assert that the single lane private road serving the site would not have sufficient capacity and strength to accommodate the development and that visibility at the junction of the private road with the local road would be restricted. The Planning Authority's recommendation to refuse planning permission did not refer to concerns relating to road safety. In addressing matters relating to roads, the Area Engineer in the Planning Authority referred the Planning Officer to their comments made under MCC Ref. 17/901 for a similar development on the appeal site. These comments highlighted concerns regarding vehicular conflict along the private road and restricted visibility in a westerly direction at the junction with the local road.

- 7.5.3. Standards relating to 'access visibility requirements' are set out in Section 16.3 of Volume 2 to the Development Plan, which outlines that a minimum visibility splay of 120m would be required from a position setback 2.4m from the back edge of the road where a 70km/h design speed applies. Access visibility standards for roads with a speed-limit restriction of 80km/h are not listed in the Plan.
- 7.5.4. No works are proposed along the private access road and neither a drawing illustrating sightline visibility at the proposed entrance of the private road onto the local road nor a survey of traffic speeds has been provided with the application. Having visited the site and reviewed maps for this area, I am satisfied that a design speed of 70km/h for the local road is appropriate in assessing the access visibility requirements. Visibility onto the local road from the private road is significantly obstructed to the west by virtue of an existing mature hedgerow and tree, which are located on lands that are not stated to be in control of the appellants. The appellants have outlined that they currently use the appeal site to grow vegetables and fruit for their family. The provision of a house replacing a modest agricultural use would result in additional vehicular movements and modest intensification in use of a substandard access. Accordingly, as the proposed entrance does not meet the minimum development standards, the additional vehicular movements associated with the proposed development onto the local road, where visibility is restricted, would lead to concerns in relation to road safety.
- 7.5.5. In conclusion, the proposed access arrangements do not meet the standards outlined in Section 16.3 of the Development Plan and the proposed development would give rise to traffic hazard. Accordingly, permission for the proposed development should be refused for this reason.

8.0 Appropriate Assessment

- 8.1. Having regard to the nature and scale of the proposed development, 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 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 permission should be refused for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. It is a requirement of the planning authority, as set out in the Mayo County Development Plan 2014-2020, for entrance arrangements to be in accordance with the standards set out in Section 16.3 of Volume 2 to the Development Plan. Having regard to the additional use of an existing access and the existing substandard access from the private road serving the site onto the local road, it is considered that, given the restricted sightlines to the west, traffic turning movements generated by the proposed development would interfere with safety along the public road and the proposed development would endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the layout and design of the subject development, including the poor provision of daylight serving the bedroom, it is considered that the proposed development constitutes a substandard form of development that would seriously injure the residential amenities of occupants of the dwelling and would be contrary to the provisions of Section 7.3.1 of the Mayo County Development Plan 2014-2020, requiring rural housing to be designed in accordance with the Mayo Rural Housing Design Guidelines (2008), which are appended to the Development Plan and encourage high standards in the design and construction of housing. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Colm McLoughlin
Planning Inspector

17th June 2019