

An
Bord
Pleanála

Inspector's Report

ABP-304150-19

Development	Construct dwelling house, wastewater treatment system and ancillary works.
Location	Knocknalyre / Downhill, Ballina, Co. Mayo.
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	18700
Applicant(s)	Patrick Cunnane
Type of Application	Permission
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	First Party
Appellant(s)	Brusna Valley Preservation Society
Date of Site Inspection	03/07/2019
Inspector	Conor McGrath

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1.0 Site Location and Description

- 1.1. The appeal site is located off Downhill Road in Ballina, approx. 0.5km south east of the N59 at Bunree Bridge. The Brusna River, part of the River Moy catchment, flows northeast toward Bunree Bridge parallel to Downhill road. The site, with a stated area of 0.4263ha, is located on the northeastern side of a larger field with an overall area of approx. 1ha.
- 1.2. The field which is not currently in active agricultural use, rises from the public road toward a steeper, overgrown bank along the northern boundary. The northern site boundary adjoining a development of two-storey houses situated on elevated ground to the north is approx. 14M over levels on Downhill road. To the southwest of the subject site is a single storey detached dwelling. The southern and eastern site boundary is comprised of mature hedgerow and low stone walls. To the west of the lands are the grounds of Twin Trees (formerly Downhill House) Hotel. The lands are traversed east-west by overhead lines.
- 1.3. Downhill Road is a narrow road of rural character in the vicinity of the appeal site. The roadside boundary comprises mature trees / hedgerow over earth and stone retaining wall, while land behind this boundary are elevated 1 – 2m above road level. There is an existing agricultural entrance at the eastern end of the site frontage. To the south of the road is a wooded area bounding the River Brusna. I note that photographs on the file indicate that the urban 50kph limit began just to the west of the site, however, the speed limit sign is no longer present at this location.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a large two-storey detached dwelling (292-sq.m.), served by a proprietary on-site wastewater treatment system. Surface water disposal is to an onsite soakpit located to the west of the house. Existing hedgerows to the east are retained with additional planting along the northern site boundary and to the south of the proposed dwelling, along the boundary with the existing adjoining dwelling. The house is set back approx. 65m from the public road and the finished floor level is approx. 6m above adjoining road level.
- 2.2. Access from the public road is provided over a dedicated entrance driveway, which is to run parallel to a similar driveway serving a proposed dwelling to the west, the subject of a separate concurrent appeal under ABP-304153-19. These entrance drives are separated by a planted dividing island. The existing roadside boundary is to be removed. A new approx. 2.2m high stone-faced retaining wall is to be provided set-back 4m back from the road edge, with additional planting behind.

2.3. Lands in the southwestern corner of the overall field are identified as a proposed grassed play area to serve these two houses. The drawings indicate that regrading of this open space area will be undertaken.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 In considering the application, the planning authority sought further information in relation to the following matters:

- Details of landownership
- Confirmation of availability of a connection to group water scheme.
- Revised vehicular access arrangements, providing separate rather than shared access to proposed adjoining properties.
- Revised entrance layout to achieve adequate sightlines.
- Surface water drainage arrangements
- Revised dwelling design
- Landscaping details.

On receipt of further information, revised public notices were requested.

3.1.2 The planning authority decided to grant permission for the proposed development subject to 17 no. conditions, including the following:

Condition no. 5.the entire front boundary shall be removed along the front length of the site owned as indicated on the site ownership map submitted on17/01/19.

Condition no. 6. The proposed access and new boundary wall shall be located and constructedas indicated on the site layout plans submitted.... on 17/01/2019:

3.2. Planning Authority Reports

3.2.1. Planning

The planner's reports reflect the planning authority decision to grant permission. The following points are noted

- The development is compatible with the R2 zoning and phasing of the lands.
- The proposed dwelling design is acceptable.
- The development is served by individual WWTD.

- As adequate reports were submitted in relation to the flood area and the SAC, the previous refusal reasons have been overcome.

3.2.2. Other Technical Reports

Road Design: No objection subject to conditions, following FI response.

Ballina Municipal District Area Engineer: No objection subject to conditions. A contribution of €24,000 was sought for road surfacing.

National Road Design Office: No issues for national road system.

Executive Architect: Design revisions required and landscaping of the site. The subsequent revisions to the house design were considered acceptable.

3.3 Prescribed Bodies

TII: The authority's position remains as per letter of 02/10/2018. (Note that by letter dated 15/05/2019, the planning authority advised that they only received one report from TII, on 30/01/2019.

Inland Fisheries Ireland: The site is less than 50m from the Brusna River, which is an important spawning and nursery habitat and which is under environmental pressures. It is adjacent to the River Moy SAC. Concentrations of WWTPs can impact on water quality, particularly due to phosphorus build-up in soils. The Brusna has good ecological status which must be protected.

- The development should be considered along with the adjoining application.
- Wastewater should discharge to the public sewer if possible
- Any WWTP installation must adhere to the EPA CoP with ongoing maintenance plans. Suitable alarms should be installed.
- Any fuel storage should be appropriately bunded.
- Spread of invasive species should be prevented.
- No discharge of surface waters directly to the Brusna River.

Irish Water (Water Services): Permission should be sought from the GWS to connect thereto. There is no sewer in proximity to the proposed development.

An Taisce: Requested but no response received.

DAU: Requested but no response received.

3.4 Third Party Observations

One observation was received from Brosna Valley Preservation Society, which largely reflects the issues raised in the third party appeal submission.

4 Planning History

Note: See also concurrent appeal on the adjoining site under PA ref. 18/700 ABP ref. ABP-304150-19.

PA ref. P15/467 ABP ref. PL 16.246046: The decision of the planning authority to refuse permission for the construction of 4 no. houses and all associated site works on this overall site was upheld on appeal for the following reasons:

1. Prematurity due to deficiencies in the provision of public sewerage facilities in the area.
2. Failure to demonstrate that the proposed development would result in possible flooding and also whether surface water can be adequately disposed of given the location of the site in CFRAM Flood Zone A.
3. Likely significant effects on the River Moy Special Area of Conservation (site code number 002298).

PA ref. 15/27: Application withdrawn for development of 4 no. detached, dwellings with garages, associated site works and connection to public utilities.

PA ref. 1631: Withdrawn application for construction of 3 no. detached houses, connection to existing services and ancillary site works.

PA ref. 14/599: Incomplete application for construction of 4 no. detached houses with garages, associated site works and connections to all public utilities. This application was previously granted permission under 08/702950.

PA ref. 08/702950: Permission granted for development of 4 no. five bed detached, two-storey dwelling with domestic garages and all associated site works and connection to public utilities.

Adjoining Sites:

PA ref 1878: Permission granted for demolition replacement dwelling & ancillary works, on lands to the west of the subject appeal site. Conditions required the removal and setting back of the existing roadside boundary wall.

5 Policy Context

5.3 Development Mayo County Development Plan 2014 – 2020

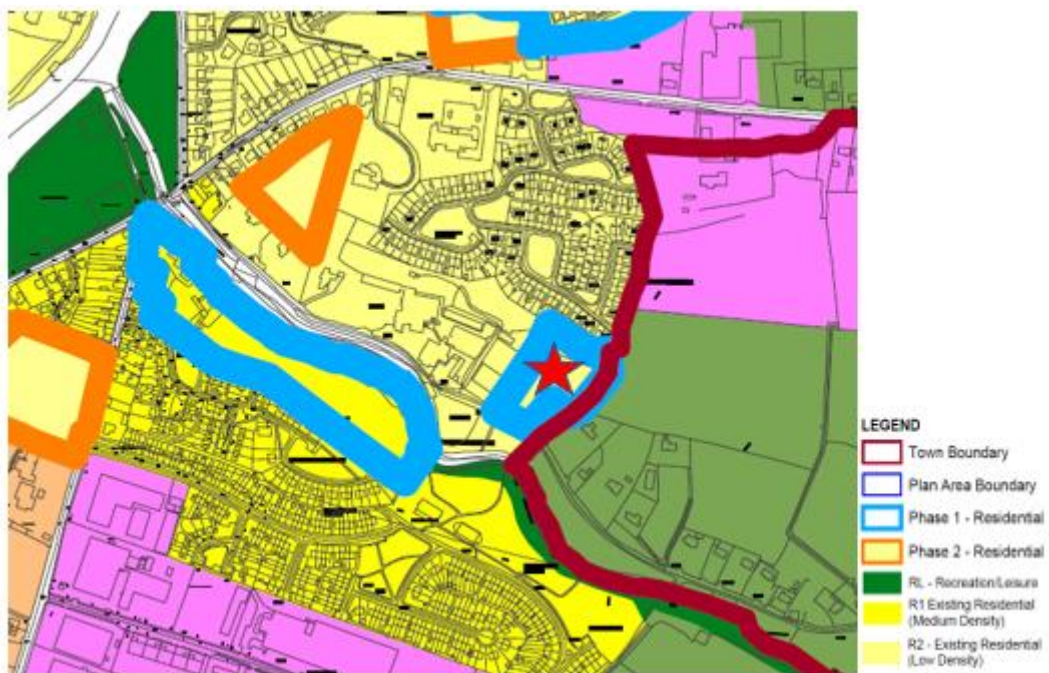
5.1.1 The Mayo County Development Plan 2014 – 2020 is the operative development plan for the area.


Ballina is identified as a linked Hub with Castlebar, at the top of the settlement hierarchy.

(Note: the statutory development plan review process for the Mayo County Development Plan 2020-2016 has been suspended until after the Northern and Western Regional Spatial and Economic Strategy has been completed.)

5.1.2 The Ballina Town and Environs Development Plan 2009 – 2015

5.1.3 The subject lands are zoned R2 – Existing Residential (Low Density) and are identified as Phase 1 Residential lands.



Subject site 

In order to adhere to the RPG's, the plan introduced a phased approach to multiple unit residential development within the plan area.

- The plan notes that Phase I Residential lands comprise all undeveloped residentially zoned lands which currently(2009) have live planning permissions that are either unfinished or not yet commenced.
- The resulting residential capacity would still be in excess of the demand figure for housing units as calculated using the RPG population projections.

- Phase II Residential Lands shall comprise of currently residentially zoned serviced lands closest to the town centre and centres of population. The Council will consider new multi-unit residential development on Phase 2 lands where a justification test is satisfied.

Section 2.10.1.1 notes that the Brusna River is designated as part of the River Moy cSAC.

Section 2.11.4 Policies and Objectives include the requirement for a flood risk assessment where development(s) are proposed on undeveloped zoned lands adjacent or in close proximity to the flood plain of the River Moy, flood event areas or areas identified as Benefitting Lands by OPW.

Section 3.1.7 Infrastructural Service Standards, notes that where water and/or sewerage infrastructure is privately provided, the type and design shall be in compliance with the standards set by the Planning Authority.

Septic tanks & Proprietary Effluent Treatment Units, individual and/or group schemes will be required to connect to the public sewerage scheme when it is provided.

With regard to Septic Tanks & Proprietary Effluent Treatment Units, section 3.6.2, notes that areas outside the mains sewerage system are dependent on 'on-site' wastewater treatment systems. Conventional septic tank properly installed and maintained are satisfactory where suitable subsoil conditions exist.

5.4 Natural Heritage Designations

The Brusna River comprises part of the River Moy SAC (002298) - copy of site synopsis attached.

5.5 EIA Screening

Having regard to the nature and scale of the proposed development it is considered that the issues arising from the proximity / connectivity to European Sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment) as there is no likelihood of other 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 The Appeal

6.1 Grounds of Appeal

The issues raised in the third-party appeal on behalf of Brusna Valley preservation Society include the following:

- A question is raised over the ownership status of the site and the ownership of the proposed “common play area”.
- There is an adequate supply of housing in the town.
- While the lands are zoned as residential, this is an unserviced rural area.
- There is potential for impacts from on-site WWTP’s on designated sites.
- The status and vulnerability of the SAC is highlighted in submissions from Inland Fisheries Ireland.
- Downhill Road has an attractive rural character which attracts amenity users.
- Works to the roadside boundary to facilitate access to the site will impact on the character of this amenity area.
- The roadside stone wall is an important unlisted archaeological feature and ecological resource which should be preserved.
- The development will impact on the ecological value of the surrounding area.
- Downhill Road is subject to constraints of width and alignment and is subject to flooding. Public lighting does not extend to the subject site, while further lighting could have ecological impacts.
- There are adequate alternative serviced, permitted and developed sites available in the town.

6.2 Applicant Response

In response to the third-party appeal, the first party make the following comments:

- The chairperson and secretary of the appellant group are neighbours of the proposed development.
- The appeal questions the purpose and legitimacy of this unregistered appellant group and requests that the appeal be disallowed.
- Agricultural use of lands does not mean that they cannot be developed, subject to planning permission.

- The existing overgrown roadside boundary wall is not visible and is not of archaeological significance. The wall will be removed and reconstructed in line with the permission granted.
- The appeal fails to refer to a grant of permission in 2010 on the lands for four houses.
- The first party have sufficient legal interest to make the application.
- Previous refusal reasons relating to wastewater are overcome by installation of a top of the range sewerage treatment system.
- There is a connection to the local GWS available and this scheme and will be taken in charge by Mayo Co. Co. in due course.
- The location, design and layout of the on-site wastewater treatment system will obviate impacts on the adjoining Brusna River.
- There have been road improvement works carried out on the eastern end of Downhill road along its 2 mile length.
- The bend adjacent to the west of the site is acute but has not been associated with any serious accident previously.
- There is an adjacent application for a new dwelling on this bend (PA ref. 18/78) which will likely require works to make the bend safe, while there is another intervening vacant site currently for sale.
- Any development on these sites will likely be subject to similar road set-back as has been required in this case and will lead to a safer roadway.
- Downhill road is not prone to flooding.
- The first party has local connections to this area.
- The set-back of the roadside boundary will address current inadequate width of the road to allow two cars to pass.

6.3 Planning Authority Response

The planning authority have not made any comment on the contents of the third-party appeal.

6.4 Observations

No observations have been received on the appeal

7 Assessment

7.1 It is proposed to consider the appeal under the following broad headings:

- Land Use and Development Principle.
- Design and Layout.
- Roads and Traffic.
- Drainage and Public health.
- Flood Risk.
- Other Matters Arising

I note the previous refusal on this site under ref. PL16.2404. The subject application, in conjunction with that under ABP-304153-19, seeks to address those reasons by means of installation of on-site wastewater treatment and disposal systems, reduction from four to two dwellings and submission of a Flood Impact Assessment report and an Appropriate Assessment Screening Report.

7.2 Land use and development principle.

7.2.1 The subject site comprises part of a larger parcel of land which has been the subject of previous applications for planning permission. The lands are zoned R2 – low density residential development in the 2009 Ballina and Environs Development Plan and are identified as Phase 1 lands for residential development. The proposed development of a single house would accord with the land use zoning objectives of that plan.

7.2.2 It is clear that the 2009 designation as Phase 1 lands was based on then live planning permission for residential development on the site, granted under PA ref. P08/2950 which has since expired. The Plan noted that Phase 1 lands alone would exceed projected residential demand in the town. The lands are located on the edge of the town boundary in an area which is not served by public water or sewerage services, although there is a GWS connection available to the site. The road serving the site is deficient in width and alignment and measures to address such deficiencies are likely to negatively impact on the attractive rural character thereof. I would therefore query the appropriateness of the continued designation of these lands as Phase 1 lands, in the absence of a shortage of otherwise serviceable and available lands in the town.

7.3 Design and Layout

- 7.3.1 Views into the site are currently restricted by the roadside boundary and difference in ground levels. The adjacent Knocknalyre housing estate to the north already provides an urban backdrop to the site. The proposed development comprises the construction of a two-storey dwelling set back approx. 65m from the road edge and to the north / rear of an existing single-storey dwelling. The proposed finished floor level of the house is approx. 6m higher than the adjoining public road,
- 7.3.2 Having regard to the difference in levels and set back from the road, it is not considered therefore that the design of the dwelling itself would negatively impact on the amenities or character of the area. The development should be considered in conjunction with the adjoining development to the east, particularly with regard to works proposed on lands outside the redline boundary of this application, within the same ownership.
- 7.3.3 The appeal site is approx. 0.5km from the N59 along the Downhill Road, which has an attractive sylvan, riverside character. The existing roadside boundary and trees are to be removed and a new 2.2m high retaining wall is to be constructed 4m back from the existing road edge with planting to the rear. There are two separate entrance driveways proposed to serve the two proposed dwellings on these lands. Lands to the north of the retaining wall are to be regraded to reduce the slope of the site, however, the application lacks detailed section drawings to adequately assess these works.
- 7.3.4 I consider that the extent of works proposed along the road side boundary, combined with the provision of a double entrance driveway appears out of proportion of the scale of development proposed for this and the adjoining site, and would have significant negative impacts on the riverside and wooded character and amenity value of this road. I do not consider that the scale of work and associated impacts would be justified in this instance.

7.4 Roads and Traffic

- 7.4.1 The appeal site is approx. 0.5km from the N59 along the Downhill Road. Widths vary considerably along this road, from a 9-10m width to the west of the hotel, to only 3-4m in the vicinity of the appeal site. I note that the urban 50kph speed limit sign which was previously sited to the southwest of the subject site is no longer present. (note: this was present in PA site photographs from October 2018.)
- 7.4.2 Public lighting and footpaths are only partially available along this road. There is a narrow footpath for approx. 200m between the hotel entrance and an overflow carpark on the southern side of the road, approx. 200m west of the appeal site. Closer to the N59, a footpath could be accommodated however, planning authority reports do not reference any plans in this regard. Beyond the appeal site and the town development plan boundary,

there are a number of one-off houses and the road is seriously deficient in width and alignment in this area.

- 7.4.3 The horizontal alignment of the road in the vicinity of the site is generally poor and the application proposes significant works to meet planning authority requirements. There is no additional footpath provision proposed as part of the development. Permission has been granted for the replacement of a house associated with the hotel, to the west of the appeal site. Associated works include the setting back of an existing block wall and coniferous roadside boundary which would partly address some of the deficiencies in the road affecting the subject site.
- 7.4.4 The road surface is generally poor and I note that the area engineer sought a contribution of €24,000 in respect of road surfacing works, based on a 30% allocation to the developer in this instance. This condition was not attached in the planning authority decision and standard development contributions of €1519 in respect of roads and €238 for footpaths were applied.
- 7.4.3 In considering the previous appeal on this site, the inspector raised concerns with regard to the adequacy of the public road and public safety. I would generally echo those concerns. Significant works are required to provide an entrance to meet required standards with impacts on the character and amenities of the area. Notwithstanding such works, the development would introduce additional movements onto this road which is deficient in width, alignment and pedestrian facilities.

7.5 Drainage and Public Health

- 7.5.1 Previous applications on these lands have been refused permission partly on the basis of prematurity due to deficiencies in public sewerage facilities in the area. No public sewer connection has been made available to the site in the intervening period. To overcome previous issues, the development now proposes the installation of a proprietary wastewater treatment plant and percolation area. Evidence of the ability to connect to a local Group Water Scheme was provided at FI stage.
- 7.5.2 The application was accompanied by a Site Suitability Assessment report, which notes that the site overlies a regionally important aquifer – karstified - of moderate vulnerability. The groundwater protection response is R1: Acceptable subject to good practice (i.e. system selection, construction operation and maintenance in accordance with EPA COP). The results of site suitability tests documented in the report indicate that ground conditions are suitable to accommodate on-site wastewater treatment and the proposed site layout adheres to minimum required separation distances. At time of site inspection, the trial holes were dry and observed soil / subsoils reflected those reported in the site suitability assessment report.

- 7.5.3 I note that the planning authority did not raise any objection to the principle of on-site wastewater treatment and that this is provided for in the development plan for the area. Initial submissions from Inland Fisheries Ireland identified the need to ensure that water quality in adjoining designated sites were protected and, while connection to public sewer was the preferred outcome, standard conditions for installation and maintenance of an on-site WWTP were identified. Having regard to the character of the site and ground conditions thereon, separation of the percolation area from the boundary of both the SAC and the River Brusna and the lack of direct connections / pathways thereto, there does not appear to be any technical difficulty with the proposals contained in this application. In the event of any grant of permission on the site, conditions should require connection to a public main when such becomes available.
- 7.5.4 Previous applications on the lands had proposed direct discharge of surface water, across third party lands, to the River Brusna. The subject development now proposes that surface water be discharged to on-site soakpits. For run-off arising from the proposed house and its curtilage, this would not appear to be an unreasonable approach having regard to the extent of the development site.
- 7.5.5 I would raise some concerns with regard to disposal of surface water runoff from the proposed entrance driveway and the area of the set-back roadside boundary. While the plans state that a permeable road surface finish will be provided on the driveways, a tar & chip finish would not constitute a highly permeable surface which combined with the gradient of the drive would potentially result in run-off toward the public road. I note also that the entrance road will be at a lower level than the adjoining lands to the west and some additional capacity to cater for drainage from those lands may be appropriate.
- 7.5.6 Such run-off is to be collected at the entrance and directed to a new soakaway to the west of the entrance. This proposed soakaway is located behind the proposed retaining wall, where the new ground surface level would appear to be approx. 1.2m above levels at the adjoining entrance / roadway. It is not clear how this soakpit would be accommodated at this location. In order to avoid run-off to the public road and adjoining lands, having regard to the sensitivity of the lands to the south of the road and potential susceptibility to flooding, I consider that further detail in this regard would be appropriate.

7.6 Flood Risk

- 7.6.1 The appeal site lies to the north of the River Brusna, a tributary of the River Moy, both of which have experienced historic flood events. In order to address previous refusal reasons related to flooding, the subject application was accompanied by a Flood Risk Assessment report.
- 7.6.2 The report notes that there are no flood events associated with the subject site and the site is located outside the 0.1 – 1% CFRAM flood zones. The report validates the CFRAM classification to determine that the development footprint would not be located in either Flood Zone A or B. Similarly, it concludes that the development would not impact or reduce the capacity of any floodplain or the hydrology of the area. Appendix F of the report purports to contain evidence of local knowledge of the absence of flooding in the area. I note, however, that the correspondence enclosed relates to a site outside Castlebar rather than the subject site. The third party observation to the planning authority contained a statement from a local resident to the effect that the road was subject to flooding in 1989.
- 7.6.3 Subject to comments above on the need for further detail on the disposal of surface water, I do not consider that the development would be unacceptable on grounds of vulnerability to flood events.

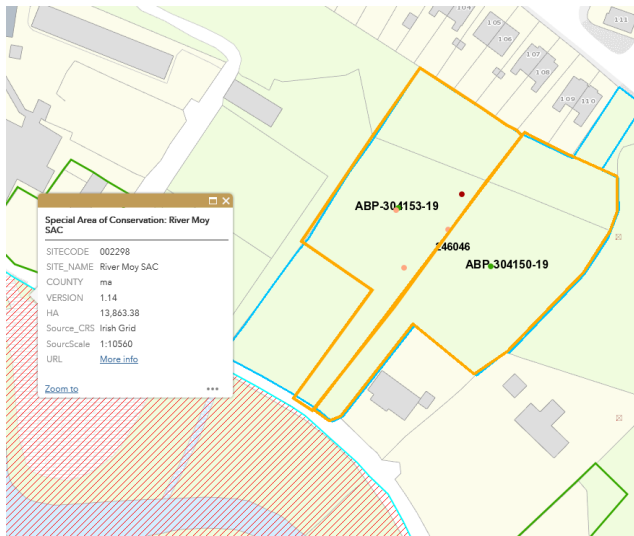
7.7 Other Matters:

- 7.7.1 Existing overhead lines crossing the site are to be undergrounded through the site. It is not clear from the documentation available that the consent of ESB to such works has been obtained. Similarly, along the roadside boundary the existing eircom pole is to be removed and all cables placed in underground ducting.
- 7.7.2 Details of site ownership was requested by the planning authority at further information stage. I consider that there is adequate information has been provided to establish sufficient interest to consider the application.

8 Appropriate Assessment - Screening

- 8.1 The subject site adjoins the River Moy Special Area of Conservation (Code Ref. No. 002298), which encompasses the Brusna River. The area of woodland between Downhill Road and the Brusna River to the south are included as part of the SAC. The boundary of the SAC is therefore within approx. 4m of proposed development works, while separation from the Brusna River is approx. 40m at its closest point. Within the woodland area there is a drain / watercourse running parallel to the road and there are two inlets to this drain / watercourse from the road opposite the appeal site. There is also a

third more recent inlet through a low roadside wall, which partly bounds the woodland area, which provides access to the drain.



8.2 The site is designated for its Raised Bog, Rhynchosporion Vegetation, Alkaline Fens, Old Oak Woodlands, Alluvial Forests, White-clawed Crayfish, Sea Lamprey, Brook Lamprey, Atlantic Salmon and Otter. The site data form notes that in addition to the river and lake habitats, the site contains adjoining habitats of ecological interest such as deciduous woodland. The Moy river system is one of Ireland’s premier salmon waters and includes two of Ireland’s best lake trout fisheries in Loughs Conn and Cullin. Atlantic Salmon is listed on Annex II of the E.U. Habitats Directive and the Conservation Objective is to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC was selected.

8.3 The planning application was accompanied by an Appropriate Assessment Screening Report. The report identifies the following activities that may have “an extremely remote potential to have an indirect impact on the designated site”;

- General short duration light construction activities
- Operation of heavy plant
- Landscaping
- Habitation and recreational areas

It concludes that given separation of activities from the Natura Site Boundary and the aquatic section of the SAC, these are extremely limited and can easily be catered for by simple precautionary measures. It notes that there are no direct links between the site and the SAC; no drains or watercourses.

Section 2.3.2 of the report, in considering likely direct, indirect or secondary impacts, notes separation of the main elements of construction as 48m from the SAC site boundary and 91.23m from the aquatic section. Main activities are said to be confined to excavation of foundations, and internal access road and construction of foundations, and that no soil or sub-soil is to be imported or exported on or off the site. It then identifies a series of measures which will be implemented in carrying out the development, including for example,,

“The storm water soak pit associated with the internal access road and the associated drainage channel shall be inserted once road construction passes that point”.

“The storm water from the proposed development shall be diverted to a soakpit with no direct discharge to any drain, water course or stream during construction”.

Section 2.3.3 notes that there will be no impact on surface water quality as there will be no direct discharges to surface or ground water as a result of the development. Overall impact is described as neutral. No significant impacts are predicted.

The screening conclusion is that “Appropriate Assessment is not required as there would be no significant impacts, either directly or indirectly, on the identified natura site with respect to Annexed habitat and / or annexed species during construction or subsequent use. In identifying why these effects are not considered significant, section 4.0.2 states that “all the potential indirect effects can be effectively catered for and negated through **simple mitigation measures** in section 2.3.2”.

The overall conclusion of the report is that *“the precautionary mitigation measures recommended covering construction would ensure that the project would not have any negative direct or indirect impacts on the Natura site with the predicted impact considered neutral. The precautionary mitigation measures in section 2.3.2 should be observed.”*

- 8.4 I note the conclusions of the AA Screening report, however, I consider that undue regard has been had to the implementation of mitigation measures which are not fundamental characteristics of the proposed development, in order to arrive at a finding of no likely significant effects.
- 8.5 An ecological survey of the appeal site, as outlined in red, was undertaken which did not include the area of roadside boundary works and the open space area. Significant works in these areas are required as part of the proposed development which have not been adequately considered in the assessment. It is not clear from the report submitted, that any survey or analysis of the terrestrial habitat of the SAC, on the opposite side of Downhill

Road was undertaken, in order to identify and understand any potential impacts on habitats and species for which the site was designated.

- 8.6 The report does not explicitly consider the extent of excavation works required in order to facilitate this development and the potential impacts on surface water quality in the adjoining SAC during construction from sediment laden run-off. In particular, I refer to works to remove and set back the existing roadside boundary, excavate and construct the required access road and overall regrading of the site to the west of the proposed entrance drive, which have the potential to result in the release of sediments to the SAC. The assessment has failed to identify the existing surface water pathways between the site, public road and the SAC.
- 8.7 It is not clear that these works would constitute “General short duration light construction activities”. In terms of proposed mitigation measures, however, the report does refer to the manner and phasing of construction of these works. I am of the view that these mitigation measures cannot be considered to be intrinsic parts of the development and are clearly aimed at reducing or avoiding possible significant effects.
- 8.8 I also consider that the report failed to identify and have regard to potential in combination effects of the adjoining planning application for a dwelling house the subject of a concurrent appeal under ABP-204150-19.
- 8.9 With regard to operational impacts, I note the proposal to provide on-site treatment and disposal of domestic wastewater as discussed in section 7.5 above. Section 2.3.2 of the Screening Report identifies measures in relation to these proposals. I consider the measures identified are an inherent part of the works to be carried out on the site and can be considered for the purposes of screening. Having regard to the ground conditions evidenced in the site suitability assessment report, separation of the on-site WWTS from the boundary of the site and the lack of direct connections / pathways thereto, I do not consider that this aspect of the development is likely to have significant effects on the European site. separation of the percolation area from the boundary of both the SAC and the River Brusna.
- 8.10 On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European site No. 002298, or any other European site, in view of the site’s Conservation

Objectives. In such circumstances the Board is precluded from granting permission for the proposed development.

9 Recommendation

- 9.1 Having regard to the foregoing, it is recommended that the decision of the planning authority be overturned and that permission be refused for the proposed development for the reasons and considerations set out below.

10 Reasons and Considerations

1. Having regard to the topography of the site and the extent of proposed site development works, in particular the substantial works to facilitate safe access to the site including the removal of the roadside boundary wall and trees, it is considered that the proposed development would have a negative impact on the amenities and character of this attractive semi-rural area and riverside roadway. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. The site is located on a minor roadway which is substandard in terms of width, alignment and provision of pedestrian facilities. The traffic generated by the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users and works to address such deficiencies would seriously impact on the character and amenities of this road. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
3. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European site – River Moy SAC Site Code 002298 - or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

Conor McGrath

Senior Planning Inspector

12/07/2019