



An
Bord
Pleanála

Inspector's Report ABP 304275-19

Development	Construct house, garage and septic tank/effluent treatment system.
Location	Leaffony, Kilglass, Enniscrone. Co. Sligo.
Planning Authority	Sligo Co Council.
Planning Authority Reg. Ref.	19/40.
Applicant(s)	Stephen Donegan & Leona Mulrooney.
Type of Application	Permission.
Planning Authority Decision	To Refuse Permission.
Type of Appeal	First Party
Appellant(s)	Stephen Donegan & Leona Mulrooney.
Observer(s)	None.
Date of Site Inspection	June 19 th , 2019.
Inspector	Breda Gannon.

1.0 Site Location and Description

- 1.1. The site is located in Leaffony Td, Kilglass. Co Sligo. It lies to the south west of Easky and to the north east of Enniscrone. The rectangular shaped site, which is part of a larger agricultural field has a stated area of 0.3 hectares. Its front boundary is formed by a low grass bank and its northern site boundary is defined by a hedgerow. The rear and southern site boundaries are undefined. The site is below adjoining road level.
- 1.2. The area is one of flat rural open countryside. The settlement pattern is dispersed comprising isolated rural housing/farm holdings with limited new development. Leaffony N.S is located to the north closer to the junction with the R297 and local shops and other community facilities are largely confined to adjacent settlements.

2.0 Proposed Development

- 2.1. The proposal is to construct a dwelling house, garage and effluent treatment system on the site which has a stated area of 0.311 hectares. The house (198m²) would be single-storey in scale and set back from the adjoining roadway by c 21m. A pitched roof garage (27m²) would be positioned to the north side of the house. The external finishes would comprise nap plaster with a stone finish to the porch feature. The roof covering would consist of blue-black slates/tiles.
- 2.2. Foul effluent from the house would discharge to a septic tank/effluent treatment system located to the rear of the house. The water supply would be from a public mains supply. The rear and southern site boundaries site would be defined by a post and wire fence/block wall, back planted with suitable hedging. The existing hedgerow along the northern boundary would be retained and a low block/stone wall would be provided along the roadside boundary. Vehicular access would be provided towards the southern end of the site frontage.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for the development on the grounds it would contravene various provisions of the development plan and would result in a development that would not be successfully integrated into the landscape, which would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Reports

The **Planning Officer's** report of 28/3/19 notes that the housing policy applicable to rural areas in need of regeneration does not require applicants to demonstrate a housing need. It does, however, require compliance with the guidance set out in Section 13.4 of the Plan (Residential development in rural areas).

The application site is situated in an exposed open landscape, on flat lands with no mature trees or hedgerows. Arising from the lack of residential or agricultural development on adjoining lands as well as the absence of any screening or vegetation, the proposed house cannot become part of a visual or built up cluster as required by Section 13.4.2 of the Plan. Any development on the application site would be visually intrusive and not in accordance with landscape protection policy P-LCAP-1. The proposed development would appear isolated and intrusive and the vast open character of the surrounding rural landscape would be negatively affected.

While permission for residential development in this area has been granted in 2001, 2002 and 2014, only one house has been built to date in the vicinity of the site. The current development plan has refined and expanded the rural house design guidance of previous development plans. The one-off houses permitted in the area would be unlikely to obtain planning permission if assessed on the basis of the current county development plan.

Although the applicants have submitted a proposal that complies with access, drainage and wastewater treatment requirements of the plan, the proposed house is not considered to be in the interests of the proper planning and sustainable

development of the area as it conflicts with the provisions of the development plan as set out in:

- Section 5.3.2 - Siting and design of rural houses.
- Section 7.4.3 - Landscape character assessment (P-LCAP-1)
- Section 13.4.2 - Site selection-locating a house in the landscape.

3.2.1. Other Technical Reports

The **Enniscrone Area Engineer's** report of 5/3/19 raises no objection to the development subject to conditions.

The **Environmental Services** report of 4/3/19 raises no objection to the development subject to conditions.

3.3. Prescribed Bodies

Irish Water in their report of 11/2/19 raise no objection to the proposal.

4.0 Planning History

There is no planning history relating to the subject site. The following is relevant in the vicinity.

Reg Ref No PL 14-282 – Permission granted for the construction of a house, detached garage and proprietary treatment system on a site c 100m to the southeast.

Reg Ref No PL 02-286 – Permission granted for a house, septic tank and percolation area to the southeast.

Reg Ref No PL 01-642 – Permission granted for a house, septic tank and percolation area to the southeast.

5.0 Policy and Context

5.1. National Planning Framework

- 5.1.1. The **National Planning Framework** which was published in 2018 is a strategic plan to guide development and investment out to 2040. It is envisaged that the population

of the country will increase by up to 1 million by that date and the strategy seeks to plan for the demands that growth will place on the environment and the social and economic fabric of the country.

5.1.2. With regard to protecting Ireland's rural fabric it is recognised that *'there is a continuing need for housing provision for people to live and work in the countryside. Careful planning is required to manage demand in the most accessible countryside around cities and towns, focusing on the elements required to support the sustainable growth of rural economies and rural communities.'* It is also recognised that *'it is important to differentiate, on the one hand, between rural areas located within the commuter catchment of cities and larger towns and centres of employment and, on the other hand, rural areas located outside these catchments.'*

5.1.3. **National Policy Objective 19** states; 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.

In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.2. **Development Plan**

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

Section 5.3 of the plan is dedicated to rural housing. The site is located in an area designated 'Rural Areas in Need of Regeneration', which facilitates people living and working in either rural or urban areas, who wish to build a house, subject to normal planning considerations.

Policy P-RANA-HOU-1 states

'Accommodate proposals for one-off rural houses in Rural Areas in Need of Regeneration, subject to normal planning considerations including Habitats Directive

Assessment and compliance with the guidance set out in Section 13.4 Residential development in rural areas (development management standards)'.

Section 5.3.2 of the Plan is concerned with the siting and design of rural houses. It states that design, environment etc are of paramount importance in the consideration of any development. It states;

'New houses in rural areas should be absorbed and integrated successfully into the rural setting, i.e. the buildings should harmonise or 'read' with the existing traditional pattern of development, without intruding on unspoilt landscapes or breaking the skyline'

Policy P-RHOU-1 - Encourage those who wish to build in rural areas to apply traditional principles in the siting and design of new houses, while facilitating high-quality modern design solutions.

Policy P-RHOU-2 – Require new house proposals in rural areas to comply with the guidance set out in Section 13.4 Residential development in rural areas (development management standards).

The **Landscape Characterisation Map** indicates that the site is located in a 'Normal Rural Landscape'. These are the areas of the county which are considered to have the capacity to absorb a wide range of development.

Policy P-LCAP-1 – Protect the physical landscape, visual and scenic character of County Sligo and seek to preserve the County's landscape character.

5.3. Environmental Impact Assessment - Preliminary Examination

- 5.3.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal may be summarised as follows:

- During initial pre-planning discussions, the applicant was encouraged to locate the house adjacent to the tree line to the north west. This is where the house is located in the planning application. The applicant subsequently reverted back to the planning authority showing applicant's preferred location for the house (highlighted in blue in Appendix 4) and this was ruled out. The applicant then reverted to the original position.
- The refusal is only related to the proposed siting of the house. It states that the proposed development would contravene provisions contained in Section 5.3.2 Siting and design of rural houses, which is not the case. A dwelling positioned as proposed would be absorbed and integrated into the rural setting as much as is possible within the family land available to the applicant. It is positioned well below the road level and adjacent to the existing hedgerow.
- It is also not the case that the proposal would contravene the provisions contained in Section 7.4.3 Landscape character assessment (Policy P-LCAP-1). The site is located within a 'Normal Rural Landscape' which is considered to have the capacity to absorb a wide range of development forms. It is considered that the landscape has the same capacity to absorb a single family home on family land in the same way that it could in 2014, when planning permission was granted in the adjacent field.
- The refusal also refers to Section 13.4.2 Site selection - locating a house in the landscape. As noted the house is located in a Normal Rural Landscape. The house is not elevated and is in keeping with the nearest neighbouring house. The site is the most appropriate location within the landholding and its position adjacent to the hedgerow will facilitate its integration into the landscape.
- The site is located in a rural area in need of regeneration where it is the policy of the planning authority to facilitate one-off housing without requiring applicants to demonstrate a housing need.
- The pre-planning dialogue appeared to arrive at a mutually agreeable site for the proposed house. Respecting the planning officer's advice, the application

was made which sited the house in the north-west corner of the site, along the tree line and with a lower FFL, as per pre-planning advise.

- From a perusal of the emails between the applicant and the planning officer, it appears that the planning officer, may have retained some misconception that there were additional lands available to the applicant, to the north of the entire site, which is not the case. The applicant is entirely clear that the site which was favoured by the planning authority in the initial pre-planning meeting was the site that formed the basis of the subsequent planning application.

6.2. Planning Authority Response

- During initial pre-planning the applicants brought a print-out from Google Maps which was placed on the pre-planning file. This printed image was not helpful in locating the site so that land had to be identified using Google Maps. Google Street View showed a substantial tree line at the north-western boundary of applicant's field, which is referred to in the hand written pre-planning sheet. The mature vegetation (as it appeared on the screen) was the basis for the initial pre-planning advice. The Street View Image is still available on Google Maps which indicates that the date of the image capture was September 2009. This detail was not noticed by the Planner during the meeting.
- A site visit was carried out in late November and the tree line was identified. It was, however, located along the boundary of the next field to the north-west of the subject site. The subsequent e-mail sent to applicant's agent on 4th December, 2018, refers to the tree line again. This is not the same as the north-western boundary of the application site, where no trees were seen, because they have been cut down at some stage since 2009.
- Further pre-planning consultation took place exclusively by e-mail in December, 2018. The applicant's agent was unequivocally advised to avoid locating the house on the corner site in the emails sent by the planner on 4th and 17th December, 2018.
- It is disingenuous for the agent to state that *'the refusal of the application came as a genuine surprise'* after receiving the email of 17th December, which

suggested that the applicant *'re-examine all the lands in the family landholding and choose a more sheltered site'*. It is noted that the agent has not included copies of the e-mail correspondence with the Planner, carried out in December 2018.

- The planning authority considers that the development contravenes the various sections of the plan as detailed in the reason for refusal.
- It is considered that due to the nature and topography of the proposed site, located in an open, exposed area, lacking in natural or built up screening, the proposed development would not be able to be successfully integrated into its setting or be absorbed in its surroundings, resulting in a significant visual impact on an unspoilt landscape. This would be contrary to the proper planning and sustainable development of the area.

7.0 **Assessment**

7.1. **Introduction**

I consider that the main issues that arise for determination by the Board in this case relate to the following:

- Principle of the development
- Siting and design
- Other matters
- Appropriate Assessment

7.2. **Principle of the development**

- 7.2.1. The proposal accords with both national and local planning policy which facilitates single housing in rural areas. Under the provisions of the development plan persons living and working in either rural or urban areas who seek to build a house in a rural area in need of regeneration would generally be accommodated, subject to normal planning considerations. There is no requirement for the applicants to demonstrate a housing need or links with the rural area. I accept that the development is acceptable in principle in this location.

7.3. Siting and Design

7.3.1. Under both national and local planning policy all new housing in rural areas is required to satisfy siting and design criteria to ensure that it is absorbed and integrated successfully into the rural setting, that it harmonises with the existing traditional pattern of development and not intrude on unspoilt landscapes. The plan (Section 13.4) sets out a number of criteria 'normal planning considerations' against which all applications are assessed. Those considered of most relevance in the assessment of the current application are;

- Whether the site is in a sensitive area e.g. adjoining a scenic road, located in a sensitive rural landscape, in a visually vulnerable area, in a coastal zone or in a known flood risk zone.
- Whether the site is in an exposed location where the proposed development would be visually obtrusive.
- The settlement pattern of the area and the potential for overdevelopment or ribbon development.
- Whether the siting, design and scale of the proposed structure are appropriate to the surrounding natural and built environment.

7.3.2. The proposal is not located in a sensitive area. It is located in an area designated 'Normal Rural Landscape' which covers the least sensitive areas of the county, considered to have the capacity to absorb a wide range of development. It is not located along a scenic route or in a visually vulnerable area and there are no protected views in the area.

The site is located in a landscape that is flat with wide open views and little in the way of natural screening. The settlement pattern is dispersed with no traditional clusters close by. Consequently, it is difficult to absorb any form of development in this location. The proposed development would be most visible in views from the south. From the north hedgerows/treelines defining field boundaries and the road edge provide a greater degree of enclosure, limiting views from this direction.

The area is sparsely populated and the proposal does not create any potential for overdevelopment or ribbon development.

The proposed design is suitable in scale and proportions and incorporates elements of vernacular architecture including an elongated narrow plan and narrow depth, pitched roof, vertically proportioned opens and traditional finishes. I consider that the overall design, height, scale and mass is acceptable and similar to other houses permitted in the locality.

Whilst I accept that the applicant has attempted to assimilate the development into its surroundings by maintaining the floor below adjoining level below road level, using the existing hedgerow as a backdrop and providing additional screening, I note that the site forms part of a larger family landholding with significant road frontage. The applicant has chosen potentially the most prominent site on the landholding and failed to demonstrate that consideration has been given to any alternatives. It would appear that a development located towards the western end of the landholding, where there is an existing farm and other dwellings and more dense screening would be more capable of more successful integration.

Other Matters

Foul effluent: A site suitability assessment was submitted in support of the application. It indicates that the site is underlain by a Regionally Important Aquifer-Karstified (Rk), which has 'High' vulnerability rating. The trial hole was excavated to a depth of 2m and the water table was encountered at 1m below surface. Bedrock was not encountered. Percolation tests were carried out for Shallow Soils/Subsoils as per EPA Guidance. The results of the tests indicated soils with a P value of 22.6 consistent with the Fine sandy SILT nature of the subsoil.

It is proposed to treat foul effluent from the house using a double chamber septic tank. The effluent will then be pumped to 2 no. Puraflo modules, which will provide secondary treatment. Tertiary treatment will be provided by means of a soil polishing filter prior to discharge of the effluent to ground. The target at risk is groundwater.

The proposed system is capable of producing a high quality effluent and it appears that sufficient percolating medium can be provided between the invert level of the percolation pipes and the water table to further attenuate the effluent and protect ground water.

Traffic safety: The site access will be positioned on the southern end of the site frontage on a straight stretch of a lightly trafficked local road. There is unobstructed

visibility to the south. There is a hedgerow on the common boundary to the north has the potential to impact on visibility in this direction.

Pre-Planning: I am not in a position to comment on the confusion that occurred regarding the site location during the pre-planning process. I have assessed the application on the basis of the site outlined in red on the application documentation.

7.4. Appropriate Assessment

- 7.4.1. The site is located c. 6km north east of the Killala Bay/Moy Estuary SAC (Site Code 000458) and Killala Bay/Moy Estuary SPA (Site Code 004036), which are the closest Natura 2000 sites. The SAC is of special conservation interest for a number of coastal habitats and species. The SPA is of special conservation interest for a number of bird species.
- 7.4.2. Due to the separation distance between the site and the SAC/SPA there is no potential for direct impacts on any qualifying features, for which the sites are selected. The Leaffony River is located some distance to the west of the site. It discharges into Kilalla Bay to the north and outside the boundaries the Natura 2000 sites. It has been established that the site is suitable for the treatment of foul effluent with poses no risk to surface water. Having regard to the separation distance from the site to the Leaffony River and its discharge point in Kilalla Bay, it is considered that the potential for indirect effects can be ruled out.
- 7.4.3. Having regard to the location of the development and the nature of the receiving environment, the nature of the development and the separation distance from Natura 2000 sites, I consider that the proposed development either alone, or, in combination with other plans or projects, would not be likely to have significant effects on a European site, in view of the sites' conservation objectives and that, therefore, a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement is not required.

8.0 Recommendation

- 8.1. Having considered the contents of the planning application, the decision of the planning authority, the provisions of the development plan, the grounds of appeal and the responses thereto, my inspection of the site and my assessment of the

planning issues, I recommend that permission be refused for the development for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

Having regard to the location of the proposed development in an open and exposed location outside of an established cluster and in an area lacking natural screening, it is considered that the proposed development would not be capable of being absorbed and successfully integrated into its surroundings and would therefore be contrary to the siting and locational criteria set out in the Sligo County Development Plan 2017-2023 and detract from the visual amenities of the area. Furthermore, having regard to the extend of lands in family ownership with significant road frontage, it is considered that alternative sites have not been considered. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Breda Gannon
Senior Planning Inspector

July 22nd, 2019