



An  
Bord  
Pleanála

## Inspector's Report ABP-305449-19

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<b>Development</b>	Demolition of house and out buildings and construction of replacement house and domestic garage.
<b>Location</b>	Mullenmore South , Crossmolina , Co. Mayo.
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	19330
<b>Applicant(s)</b>	John Conroy.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Martin Conroy.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	5 <sup>th</sup> November 2019.
<b>Inspector</b>	Sarah Lynch

## 1.0 Site Location and Description

- 1.1. The site is located to the south of Crossmolina, on the western side of the R315. The site is fully visible from the regional road and the lands slope up in a westerly direction. There is an existing single storey dwelling and outbuildings on the site. The site is bounded to the front by a low stone wall and existing outbuilding to the rear and the south and a hedgerow to the north.
- 1.2. There is an existing single storey dwelling located to the south of the site which is bounded by a low wall and hedging. The site is located to the west of the Lough Conn and lough Cullin SPA which is fed by the River Moy. The general pattern of development in the area is sparse and comprises one off dwellings and agricultural buildings. The predominant use of the lands is agricultural.

## 2.0 Proposed Development

- 2.1. It is proposed to demolish the existing dwelling and construct a new dwelling, decommission the existing septic tank and install a new waste water treatment system and access.

## 3.0 Planning Authority Decision

### 3.1. Decision

Mayo County Council determined to grant permission for the proposed development subject to standard conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

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

Further information was requested as follows:

- Move proposed dwelling house a minimum of 15 metres closer to road.
- Submit a longitudinal section including road, proposed dwelling, septic tank and percolation area.

- Indicate location of septic tank for neighbouring property.

### 3.2.2. Other Technical Reports

- Road Design – no objection
- National Roads Office Mayo – No objection.

### 3.3. Prescribed Bodies

- None

### 3.4. Third Party Observations

- One submission was received from neighbouring dwelling to the south. The issues raised can be summarised as follows:
  - Boundary dispute.

## 4.0 Planning History

There is no recently recorded history that is of relevance to the appeal.

## 5.0 Policy Context

### 5.1. Development Plan

#### **Mayo County Development Plan 2014-2020**

The appeal site is located within a 'Structurally Weak Area', as defined within the Mayo County Development Plan 2014-2020.

- Section 1. The Core Strategy & Settlement Strategy

It is the policy under this section of the plan to support the construction of replacement dwellings.

#### **Mayo Rural Housing Design Guidelines 2008**

The rural house design guide aims to encourage the use of traditional forms, scale and materials that have a proven history of blending into the landscape.

Section 1.2 Site Selection and House Sitting.

It is recommended that the house should be designed to become part of the landscape, and should sit neatly into the existing contours and not located at the highest point.

### **Sustainable Rural Housing, Guidelines for Planning Authorities (2005)**

- Section 3.3.3 deals with 'Siting and Design'.

### **National Planning Framework – Project Ireland 2040**

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. Natural Heritage Designations**

The nearest Natura 2000 sites are as follows:

- River Moy SAC which is located c. 0.5km to the east of the site.
- Lough Conn and Cullin SPA are also c. 0.5km east of the site.

## **5.3. EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, 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**

The grounds of appeal have been submitted by Martin Conroy who resides to the south of the appeal site. The issues raised within the grounds of appeal can be summarised as follows:

- Proposed development infringes onto lands within the ownership of appellant.
- Significant impacts on the SPA can not be ruled out.

- Ground disturbance will have an effect on the ecosystem of the area.
- Removal of trees would have provided backdrop to house.
- Sheds may well be home to bats.
- Driveway is excessive.
- Design is not sympathetic.
- Backland development.
- Overlooking.
- Dwelling is located at highest point in field.

## 6.2. Applicant Response

Simon Beale & Associates have prepared a response to the grounds of appeal on behalf of the applicant. The issues raised can be summarised as follows:

- Site adjoins but does not infringe on the appellants lands.
- The appellants submission to the planning application was received late.
- A screening report was not requested by the LA.
- Mature trees on the site where deemed dangerous and were therefore removed.
- The proposed dwelling would be constructed to current standards and would therefore be more efficient in terms of carbon footprint.
- There is no specific building line to adhere to.
- The position of the proposed building optimises solar gains and a native hedge is to be planted along the boundary to screen from neighbouring dwelling.
- Ground level will be reduced by 1.5, finished floor level is 24.75m.
- Dwelling will be 36 metres from appellants house.

### 6.3. **Planning Authority Response**

- None

## 7.0 **Assessment**

7.1. This is third party appeal against Mayo County Council's decision to grant permission for a replacement dwelling within the rural townland of Mullenmore which is located c. 1.8km south of the rural town of Crossmolina. The notion of replacement dwellings is supported within the Core Strategy Section of the Mayo County Development Plan 2014-2020. Replacement dwellings are supported as an effective mechanism to reduce the levels of residential vacancy in the county. The principle of the proposed development is therefore in accordance with the policy provisions of the Mayo County Development Plan. I have reviewed the documentation submitted with both the appeal and the application and I am satisfied that the issues for consideration before the Board can be limited to the grounds of appeal, no other substantive issues arise. The issues to be considered can be summarised as follows:

- Overlooking
- Visual Impact
- Land Ownership
- Appropriate Assessment

### **Overlooking**

7.2. It is contended by the appellant that the proposed development would create an unacceptable level of overlooking to his property. I note that the applicant in response to a further information request moved the location of the proposed development c. 15 metres eastwards towards the public road in order to appease the appellants concerns. In addition, I note that it is proposed to plant a hedgerow along the south eastern boundary in order to provide screening to this part of the appeal site.

7.3. The proposed single storey dwelling will be located c. 36 metres north west of the appellants dwelling. It is proposed to orientate the ground floor living room area in a

south easterly position in order to optimise solar gain as required by the Mayo Rural Housing Design Guidelines.

- 7.4. Whilst I acknowledge the appellants concerns I note that the appeal site narrows to a pinch point to the rear of the existing dwelling to be demolished and the relocation of the dwelling to a more easterly position within the site would impact the overall layout of the proposal and would also reduce the separation distance from the proposed dwelling to the appellant's site. I therefore consider that the relocation of the proposed dwelling as submitted by the further information response to be adequate. The provision of a c. 36 metre separation distance from ground floor windows which are not directly opposing is adequate to ensure the privacy of the appellants dwelling. I also consider that the proposed boundary treatment will provide for an enhanced sense of privacy for both sites.
- 7.5. Having regard to the foregoing I consider the separation distance provided for between both sites to be adequate. As such overlooking will not be so significant as to warrant a refusal.

### **Visual Impact**

- 7.6. It is contended by the appellant that the proposed development would be visually intrusive within the landscape given its elevated position within the site and the overall design of the proposal. The site rises from the public road in a westerly direction and increases in height from 21 to over 25 metres. The proposed development whilst sited close to the highest point of the site will be set into the landscape by c. 1.5 metres and is single storey in height. The dwelling will have a finished floor level of 24.75 m. I consider that relocating the dwelling to a more forward position would only achieve a height reduction of a little over a metre given the slope increase from the public road and would bring the living room windows closer to the appellants dwelling.
- 7.7. On balance, and in consideration that there is an existing vacant dwelling on this site already in an elevated position and that the applicant proposes to set the development into the landscape I consider the proposed height of the single storey dwelling to be acceptable in this instance.
- 7.8. In relation to the proposed design I have had regard to the Mayo Rural Housing Design Guidelines and in particular Section 3.1 of these guidelines in which it is

required that rural dwellings break up the form of the dwelling into several smaller forms rather than one large block. Such houses are also required to optimise solar gain and provide for sheltered courtyard style open space. Having regard to the overall provisions of these guidelines and the design solution proposed I consider the overall design of the dwelling to be acceptable and in accordance with both the requirements of the Mayo County Development Plan 2014-2020 and the guidelines.

### **Land ownership**

- 7.9. The appellant has raised concerns in relation to landownership and contends that the application site encroaches on his lands. The applicant has responded to these grounds of appeal and states that the proposal will abut the appellants lands but will not encroach. It is important to note that this is largely a legal matter and is not one that the Board can finally determine. Section 34 (13) of the Planning and Development Act, states that the granting of permission does not entitle a person to carry out development and covers the eventuality that the development cannot be implemented for legal reasons.

### **Appropriate Assessment.**

- 7.10. It is contended by the appellant that the proposed development has the potential for negative effects on the River Moy SAC and the Lough Conn and Cullin SPA and that no screening was carried out. I note that both of the aforementioned Natura 2000 sites are located c. 470 metres east of the appeal site and are separated from the appeal site by farmland and the R315. There are no hydrological pathways from the appeal site to the Natura 2000 site. It is proposed to service the site in terms of waste water via an onsite waste water treatment system. Thus, having regard to the minor nature and scale of the development, and the separation distance to the 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.

### **Conclusion**

- 7.11. Overall I consider having regard to the provisions of the Mayo County Development Plan in which it is a policy to support the replacement of vacant dwellings and having regard to the design and siting of the dwelling proposed in relation to the provisions of the Rural Housing Design Guidelines, I consider the proposed replacement



dwelling to be acceptable. It is important to note that the replacement also proposes to provide for a new waste water treatment system which will be an improvement over the current situation on this site, whilst waste water was not referred to within the grounds of appeal, I have reviewed the documentation submitted and consider the findings and proposals of the site characterisation report to be adequate.

## 8.0 Recommendation

8.1. I recommend that permission is granted subject to the following conditions.

## 9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Mayo County Development Plan 2014-2020, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or of property in the vicinity and will not have any significant effect individually or in combination with other plans or projects on a European site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity

2. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenities of the area

3. (a) The treatment plants and polishing filters shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 9<sup>th</sup> May 2019 and in accordance with the requirements of the document, entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. No system other than the type proposed in the submissions shall be installed, unless agreed in writing with the planning authority.

(b) Certification by the system manufacturer that the systems have been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.

(c) A maintenance contract for the treatment systems shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the proposed dwellinghouse and five years from the connection to the existing dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contracts shall be submitted to, and agreed in writing with, the planning authority.

(d) Surface water soakaways shall be located such that the drainage from the dwellings and paved areas of the site shall be diverted away from the location of the polishing filter.

(e) Within three months of the first occupation of the proposed dwelling and within three months of the connection to the existing dwellinghouse, the developer shall submit reports from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment systems have been installed and commissioned in accordance with the approved details and are working in a satisfactory manner and that the polishing filters are constructed in accordance with the standards set out in the Environmental Protection Agency document.

**Reason:** In the interest of public health

4. The septic tank serving the existing dwelling shall be decommissioned and removed from the site prior to the first occupation of the proposed dwelling.

**Reason:** In the interest of public health.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Surface water from the site shall not be permitted to drain onto the adjoining lane or adjoining property.

**Reason:** In the interest of public health

6. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste and removal methods and offsite disposal of hazardous materials.

**Reason:** In the interests of public safety and residential amenity

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and

Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Sarah Lynch  
Planning Inspector

16<sup>th</sup> December 2019