



An
Bord
Pleanála

Inspector's Report ABP-305884-19

Development	Bungalow
Location	Tintagh, Boyle, Co. Roscommon
Planning Authority	Roscommon County Council
Planning Authority Reg. Ref.	19422
Applicant(s)	Des Mc Loughlin.
Type of Application	Permission.
Planning Authority Decision	Refusal of Planning Permission
Type of Appeal	First Party -v- Refusal
Appellant(s)	Des Mc Loughlin.
Observer(s)	None.
Date of Site Inspection	18 th January 2020.
Inspector	Paul Caprani

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1.0 Site Location and Description

- 1.1. The site is located in the town land of Tinagh approximately 4.5 kilometers north of Boyle in County Roscommon, to the west of Lough Key Forest Park. The subject site occupies an area of 1.2 hectares and is roughly rectangular in shape. It incorporates 3 fields, all of which appear to be used for occasional grazing. The application site is located on a third-class Road (L5030) which runs southwards from the N4 National Primary Road, between Boyle in Roscommon and Castlebaldwin in south Sligo. The entrance to the subject site is located c200 south of the junction of the L5030 and the N4.
- 1.2. The site incorporates dimensions of approximately 160 meters by 70 meters. There is a notable downward slope from west to east across the site towards the N4. The local road serving the site runs along the northern and western boundary of the site. Mature trees run along the full boundary of the site and also along the field boundaries within the site. There is a predominance of rushes within the three fields. The wider area is characterised by large scale forestry plantations interspersed with grazing land. There are a number of dwellings in the immediate vicinity of the site including houses on contiguous lands to the north east and south of the subject site. The access road serving the site is relatively narrow, between 2.5 and 3 metres in width.

2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a 4-bedroom single storey dwelling house with a gross floor area of 165 sq. metres. The house is to incorporate ridge height of 6.75 metres and is to incorporate a local stone finish on the front elevation and a nap plaster finish on the rear and side elevations. The house is to be located centrally within the site and is situated within the middle field. The dwelling faces eastwards towards the N4. It is also proposed to construct a single storey garage which is to be located to the north west of the main dwelling. The proposed wastewater treatment system is to be located in the most easterly field, on the lowest area of the site. It is proposed to install proprietary waste water treatment system (mechanical aeration system) with a raised polishing filter discharging to groundwater.

3.0 Planning Authority Decision

3.1. Decision

Roscommon County Council issued notification to refuse planning permission for 2 reasons which are set out in full below:

1. The proposed development is located in a rural area within the conservation zone - 2 lands as identified in the Lough Key Local Area Plan 2015 to 2021 where it is the policy of the planning authority to restrict speculative development and consider only landowners who are engaged in agriculture on holdings of 10 hectares or more or those who are intrinsically part of the rural community. The planning authority is not satisfied, based on the information submitted, that the applicant meets the criteria for a rural generated house in accordance with the conservation zone objectives of the Local Key Local Area Plan 2015 to 2021. The proposed development would therefore materially contravene Section 6.4 of the Lough Key Local Area Plan 2015 to 2021.

2. Insufficient evidence has been presented in the application to demonstrate that the proposed site is capable of accommodating a private effluent treatment system. In particular, no trial hole or percolation tests were visible on site. In the absence of such crucial information and evidence to demonstrate otherwise, it is considered that the proposed development may have the potential to be injurious to human health or the environment

3.2. Planning Authority Reports

3.2.1. Documentation Submitted with the Application

3.2.2. The planning application was lodged on the 21st of August 2019. The planning application included a Supplementary Planning Application Form 1 (Rural Housing Need). A letter submitted with the planning application states that the applicant moved back to Boyle from the UK in 2014. The applicant intends to start an IT business. He has not been able to identify a site in the area for sale and is intending to construct a dwelling on the subject site which he has owned for several years.

3.2.3. Planning Report

The planners report sets out details of the site and the proposed development and makes specific reference to key policies contained in the Lough Key Local Area Plan.

In terms of housing need, it is stated that the applicant has no intrinsic links with the subject site nor is he involved in rural enterprise which would justify a need to reside on the subject site and therefore the applicant has not demonstrated a housing need in accordance with the criteria set out in planning documentation.

In terms of visual impact, it is noted that the site is located on lands identified as “exceptional landscape character”. It is noted that the site is also located on elevated lands. If planning permission is to be granted, a more detailed landscaping design will be required. Road access to the site is considered to be suitable. The concerns of the Environment Section of Roscommon County Council are also noted.

On the basis of the above assessment, it was recommended that planning permission be refused for the two reasons set out above.

3.2.4. Other Technical Reports

A report from the Environment Department expresses concerns with regard to the ground conditions and percolation characteristics of the site to enable the accommodation of an on-site waste water treatment plant.

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

None

4.0 **Planning History**

Details of one file is attached. In September 2008 planning permission was refused for a development of a dwelling on the subject site. It was refused for 4 separate

reasons, three of which essentially related to insufficient evidence of housing need and failing to meet the criteria set out in the Rural Housing Planning Guidelines. The final reason related to the unsuitability of the site to accommodate wastewater treatment system.

5.0 Policy Context

5.1. Development Plan

The site is governed by the policies and provisions contained in the Roscommon County Development Plan 2014-20 and the Lough Key Local Area Plan 2015-2020.

Roscommon County Development Plan

The subject site is zoned for agricultural use. In terms of rural area types, the subject site is located in an area designated as being 'under strong urban influence'. It is considered reasonable that individual housing development within these areas be reserved for essentially local generated housing need.

Rural generated housing need is defined in the Roscommon County Development Plan as follows:

a) People who have lived in a rural area of County Roscommon for a large part of their lives or who have rural roots in terms of their parents being of rural origin.

These would include farmers or close relatives of farmers who can substantiate that they are engaged in agriculture or are otherwise dependent on the immediate rural area (rather than a nearby town or village) for employment and or anyone taking over the ownership and running of a farm. It would also include people who have no family lands but wish to build the first home within the rural community in which they have spent a large and continuous part of their lives

Or

b) People working full time in a rural based activity who can show a genuine need to live close to their workplace and have been engaged in this employment for over 5 years. This would include those working in agriculture, horticulture, farming, forestry, bloodstock industry, inland waterways and marine related occupations, as well as part-time occupations where the predominant occupation is farming or natural resource related.

or

c) people employed locally whose work provides a service to the local community or people whose work is intrinsically linked to rural areas such as teachers in rural schools.

or

d) people with a significant link to the Roscommon rural community in which they wish to reside, by reason of having lived in this community for a minimum period of 5 years or by the existence in this community of long-established ties with immediate family members.

Urban generated housing need is defined as demand for housing in rural areas generated by persons principally living and working in urban areas, including second homes and such urban generated housing needs would be accommodated in towns and villages, and in principle on a site-specific basis in rural areas within Rural Policy Area category C (structurally weaker areas).

Lough Key Local Area Plan

This plan states that applicants seeking to build a new dwelling house on lands surrounding Lough Key will be required to demonstrate adherence to the specific planning requirements which apply to the particular zone in which the subject site is located. It is recognised that much of these lands maybe highly sought after due to the attractive and scenic qualities off the area and therefore it is essential to manage residential development pressure so as to ensure that the natural beauty of this area is not compromised as a result of excessive one-off housing development. The subject site is located in Conservation Zone 2. Zone 2 lands are primarily open farmland with the capacity to absorb a degree of development. However, because of the open nature of these pasturelands and their visibility from the lake, large amounts of development would be highly visible.

In order to provide for and protect the continued use of these lands as predominantly agricultural holdings which assist in sustaining the local community, only owner-occupier residential development will be considered subject to evidence being provided of freehold ownership of land of not less than 10 hectares within which the proposed site is located (but not necessarily all falling within this

zone). In the event of granting planning permission, the occupancy of the dwelling house will be controlled through planning regulation in order to ensure that the remains owner occupied. Speculative development will not be facilitated.

or

In instances where the landholding requirement set out in (a) cannot be satisfied, rural housing may be considered where evidence to demonstrate a rural generated housing need specific to the particular locality in which the development is proposed for the long term occupation, within close proximity to be established family home and within the rural community in which they had spent a larger continuous part of their life, and there are no alternative lands available to the applicant within the locality or in close proximity outside the LAP area.

In all instances new development should be carefully designed to minimize negative impacts. Development integration with the surrounding environment must be demonstrated in design solutions. Where possible access to the public road should be shared with an existing parent residence and the proposed new development should be contiguous to the existing building complex.

5.2. Natural Heritage Designations

5.3. The subject site is not located within or adjacent to Natura 2000 site, a Natural Heritage Area, or a proposed Natural Heritage Area. The nearest designated site is Lough Arrow SPA, SAC and pNHA which is located approximately 2.2 kilometers north of the subject site.

5.4. EIA Screening

5.5. Having regard to the nature of the development comprising of a single dwelling in an rural area it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can, therefore, be excluded by way of preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

The decision of Roscommon County Council to issue notification to refuse planning permission for the proposed dwelling house was appealed on behalf of the applicant by Cunningham Design and Planning. The grounds of appeal are outlined below

- It is stated that a Rural Housing Needs Form was submitted as part of the planning application to the local authority along with a detailed letter from the applicant outlining why they wish to build a dwelling house at the above location. This information is contained in Appendix B of the submission. It is the agent's professional opinion that the applicant meets the various housing need criteria.
- Also enclosed are details of the relevant trial hole and percolation tests that were performed on site and these are detailed in a drawing attached as appendix A. The test results were carried out on the 24th of May 2019. The reason why the applicant filled in the test holes was because he was afraid that either cattle or children from nearby dwelling houses might be in danger if the test holes were left open. The agent certifies that, as a chartered engineer and as a certified FETAC site suitability assessor, the site is suitable for an on-site waste water treatment plant. In the event of a successful grant of planning permission, the agent will be in a position to design and supervise the installation of the system to ensure its compliance with the EPA Manual for Single Dwelling Houses.
- Details of the documentation submitted with the original application to the planning authority are also attached to the appeal.

6.2. Planning Authority Response

- Roscommon County Council has not submitted a response to the grounds of appeal.

6.3. Observations

- No observations were submitted in respect of the planning application on appeal

7.0 Assessment

7.1.1. I have read the entire contents of the file, visited the subject site and its surroundings and have had particular regard to the planning authority's two reasons for refusing the application and the grounds of appeal challenging these reasons. I consider the pertinent issues in determining the current application and appeal before the Board can be restricted to the issues raised and the reasons for refusal namely:

- The applicant fulfilling the housing need criteria.
- The suitability of the site to accommodate an on-site wastewater treatment system.

7.1.2. Both these issues are dealt with under separate headings below:

7.2. Housing Need

7.2.1. Both the Roscommon County Development Plan and the Lough Key Local Area Plan set out very prescriptive criteria in relation to rural housing need. The subject site is in an area that is designated as being under 'strong urban influence' in the County Development Plan. Where more stringent criteria apply in respect of fulfilling local housing need. Furthermore, the site is located within the confines of the Lough Key Local Area Plan. There are specific planning requirements applying to the Lough Key area and these are essential in order to maintain and protect the inherent natural beauty which is a fundamental element of the attractiveness of this area, particularly from a tourism perspective. For the above reasons, I consider that the rural housing criteria needs to be applied rigorously to protect the visual and recreational amenities of the area.

7.2.2. Information submitted with the application suggests that the applicant in this instance does not meet the criteria set out in either the County Plan or the Local Area Plan. A covering letter submitted with the application indicates that the applicant currently resides in the Boyle area and works as an IT consultant. The IT business is currently

located in Boyle. It appears therefore but the applicant does not meet any of the criteria in terms of being from the local rural area, such as: a) having established family or intrinsic links with the area, other than owning the site, b) being involved in rural resource employment such as farming, teaching, forestry etc, c) Living within this rural area for a period of 5 years (the applicant has lived in Boyle since returning from the UK). Furthermore, it is not clear on the basis of the information submitted with the application, that the applicant in this instance is in possession of a freehold ownership of a landholding not less than 10 hectares. This is a specific requirement for housing located in conservation zone 2 under the Lough Key Local Area Plan. I would therefore agree with the planning authority that a housing need, in accordance with criteria set out by Roscommon County Council has not been satisfied in this instance.

7.3. Suitability of Site to accommodate an on-site Wastewater Treatment System

- 7.3.1. The subject site is located above a 'locally important aquifer' according to the information contained in the site characterisation form submitted with the application. The site is not located within a Groundwater Protection Scheme and the vulnerability of the aquifer is stated as being 'Low'. The Groundwater Protection Response is rated as R¹. The site characterisation form indicates that the trial hole excavated on site (subsequently in-filled) indicates a water table depth of 2 metres below ground level. A T value of 58 and a P value of 33 was recorded on site as per the percolation tests.
- 7.4. I have visited the site and noted that it was predominantly covered by rushes which is an inherent sign of poor percolation qualities. Furthermore, the photographs attached to this report illustrate significant evidence of surface water ponding on site. This would also support the conclusion but the site in question has inherently poor percolation characteristics. The site was exceedingly soft and wet underfoot. I do not dispute the veracity of the information contained in the site characterization form however the Board should note that the trial hold was excavated, and the percolation tests were undertaken at the end of May and thus, during the summertime when the site is likely to be drier with a lower water table.

- 7.5. There can be little doubt in my opinion having regard the wet characteristics of the site, that the water table during winter time is likely to be higher. The site characterisation form indicates that the water table level in May was 2 metres below ground level. However, I further note the trial hole description set out in section 3.2 of the Site Characterisation Form notes the presence of mottling at one metre below ground level. This would indicate a higher groundwater level throughout the year and would suggest a very stagnant water table which is again reflective of very poor permeability within soils and subsoils.
- 7.6. Based on my site inspection¹, I cannot be satisfied that there is sufficient percolation in the soils and subsoils to allow for adequate discharge of effluent from the any proposed polishing filter to be properly attenuated and discharged to groundwater in accordance with the requirements of the EPA Code of Practice. The fact that the wastewater treatment system and percolation area is to be located in the lowest part of the site is likely to exacerbate and accentuate waterlogged conditions within the soil and subsoil. I would therefore conclude, based primarily on my site inspection, that the subject site is inherently unsuitable to accommodate an on-site wastewater treatment system notwithstanding the fact that it is proposed to install a proprietary waste water treatment system with raised polishing filter. I would likewise agree with the conclusions of the planning authority that the subject site is not inherently suitable to accommodate an on-site wastewater treatment system.

8.0 Recommendation

- 8.1. Arising from my assessment above, I consider that the decision of Roscommon County Council be upheld in this instance and that planning permission to be refused for the proposed dwelling based on the reasons and considerations set out below.

9.0 Appropriate Assessment

- 9.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment, together with the proximity to the nearest European site

¹ No trial hole was available for inspection, however having regard to the vegetation and wet characteristics of the site, it is in my opinion, appropriate to apply a precautionary principle with regard to inherent percolation qualities on site.

which is in excess of 2 km away, 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.

10.0 Reasons and Considerations

1. It is the policy of the planning authority that development outside of designated urban centres should be strictly limited to local need. This is set out in the current Development Plan and Local Area Plan for the area, where it is the settlement policy to direct new residential development to designated development centres and to protect existing rural settlements outside these centres from urban overspill. The proposed development, which does not cater for locally derived housing needs, would conflict with the policies of the Development Plan and would be contrary to the proper planning and sustainable development of the area.

2. It is considered that the site is not suitable for the disposal of on-site effluent due to the inadequate percolation characteristics of the site. The proposed development would, therefore, be prejudicial to public health

Paul Caprani
Planning Inspector

18th January 2020