



An  
Bord  
Pleanála

## Inspector's Report ABP-306302-20.

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<b>Development</b>	Retain house and shed.
<b>Location</b>	Ballyholan, Downhill Road, Ballina, Co. Mayo.
<b>Planning Authority</b>	Mayo County Council.
<b>Planning Authority Reg. Ref.</b>	19377.
<b>Applicant</b>	K McFadden and J Lewis.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Paul and Julie McFetridge.
<b>Observer</b>	None.
<b>Date of Site Inspection</b>	26 <sup>th</sup> March 2020.
<b>Inspector</b>	Mairead Kenny.

## **1.0 Site Location and Description**

- 1.1. The site is located to the east of the town of Ballina and within an area which would be described as transitional/suburban. The subject site is within an area where there is a significant level of one-off housing and beyond which (to the east) a more rural character is in place.
- 1.2. The house adjoins a public road to the south (L-51322-0) and a private laneway to the east. The vehicular access is onto the laneway, which also serves a more recently constructed dwelling house to the rear of the subject house. The existing vehicular access to the site is onto the private laneway. At the public road frontage the site is the 50kph speed limit.
- 1.3. The house is a gable fronted structure with a dormer element. It is of stated area of 229.6 m<sup>2</sup>. There is a garage also on site which is of stated area of 24 m<sup>2</sup>.
- 1.4. Photographs which were taken by me at the time of inspection are attached.

## **2.0 Proposed Development**

- 2.1. Permission is sought to retain the existing dwelling house and to retain the existing shed.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to grant permission subject to conditions including:

- Proposed vehicular entrance / egress point at southern boundary to be constructed and completed within 4 months
- The existing entrance at the eastern site to be closed with a wall
- Sightlines to be maintained free from vegetation
- Surface water disposal requirements
- Use of garage / shed to be as a private domestic garage / shed only.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The original planner's report recommended that further information be requested in relation to:

- Sight visibility lines onto the public road which are restricted to northeast and southwest by vegetation – illustrate how it is proposed to achieve a permanent clear and unobstructed sightlines in accordance with the development plan.
- Legal documentation to illustrate legal interest to access the non-public road where the vehicular entrance is location.
- Parking within the curtilage for 2 no. cars.
- Surface water disposal.

Following further requests for clarification in relation to sightlines the applicant submitted a revised entrance location onto the public road along the southern site boundary. On the basis of the revised submissions permission was recommended.

### 3.2.2. Other Technical Reports

Executive Engineer report of 8<sup>th</sup> of July 2019 notes that further information should be sought as visibility is restricted to the north-east and south-west of the access by vegetation and it is queried how the sightlines required under the development plan would be achieved.

The report of the Executive Architect recommends planting of six native semi mature deciduous trees in all gardens and native hedgerows at all site boundaries.

## 3.3. Prescribed Bodies

Mayo National Roads Office – no issues.

## 3.4. Third Party Observations

The letters of objection raise a number of issues summarised as follows:

- Sightlines are inadequate and are inaccurately measured and the entrance does not comply with requirements.
- The proposed creation of a completely new vehicle entrance in an 80 km/h zone 20m away from an existing entrance would not be safe.
- The applicants objected to other development involving access onto the private laneway for reason of the inadequate nature of the public road and safety concerns. The Council's engineers had serious traffic safety concerns.
- Sightlines from the existing vehicular entrance to the site are impeded by the shed.
- There is no option but to refuse permission given that the development plan states that a minimum sightlines of 120m is required on a local road with a speed limit of 80 kph.
- The applicant has no right to pass over the laneway and the existing entrance from the laneway was developed without consent. An alternative access to the house should be provided. That laneway is owned by myself. Mayo County Council has right to pass and repass using this lane – the applicant does not.
- A condition of permission 12124 for my sister's home prevents use of the laneway for access although I am happy to facilitate such use.
- The driveway entrance onto the private lane has no permission. Application reg. ref. 991190 refers.
- Enclosures refer to enforcement and include a map showing a Road Study Area.

#### 4.0 **Planning History**

There is no recent relevant history relating to the subject site. The appellant has referred to a planning application related to the site in 1999.

Planning reg. Ref. 12124 relates to the house to the rear of the site.

## 5.0 Policy Context

### 5.1. Development Plan

#### **Ballina and Environs Development Plan 2009 – 2015**

As identified on the relevant map the site lies in an area which is zoned agriculture.

Map 7 shows the route of a bypass to the east of the site. Objective T17 is to develop Stage 2 of the outer ring road linking the N26 (Foxford Road) with the N59 – East (Sligo Road).

### 5.2. Natural Heritage Designations

To the south of the site is the River Moy SAC which is an extensive site draining a catchment area of 805 km<sup>2</sup>.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The main points of the third party appeal include:

- Minimum sightlines of development plan are not achieved.
- Sightlines have not been properly measured.
- Approval of the new driveway onto the public road is incredible.
- The fact that the house dates to the 1970s is not relevant.
- The statements on which the planner based the decision and that the visibility are improved (Orla Burke / Theresa Durkin reports) are not quantified or based on site inspections.
- These officials had previously referred to the narrow busy and inadequate nature of the road.
- Having two entrances onto a development of this nature is not proper planning and should be refused.
- It is not correct to state that effluent treatment is to an existing public sewer.

- The house has tripled in size since constructed and it has not been confirmed that the wastewater treatment is acceptable. The location of the soakways and distances from buildings and roads and septic tank should have been requested.
- Drawings are enclosed and sections of other submissions are highlighted.

## 6.2. **Applicant Response**

None.

## 6.3. **Planning Authority Response**

None.

## 6.4. **Observations**

None.

## 7.0 **Assessment**

I consider that the issues arising in this appeal should be addressed under the headings below:

- Suitability of vehicular access.
- Design and scale of dwellinghouse.
- Appropriate assessment.

### 7.1. **Suitability of vehicular access**

The house dates to the 1970s and comprised a small single storey house, which was originally in the ownership of the Council. It would appear that the house has been served since that time by way of vehicular entrance onto the private lane to the north-east. At the time of inspection I noted that while there is a house to the rear it would appear to be served by an alternative entrance and to be so restricted by planning condition. The subject house therefore would be the main generator of

traffic along the private lane. There would also be occasional use of the lane by the Council and for agricultural and other purposes.

There is a considerable amount of information on file regarding the origins of the vehicular entrance, the consent to access the land and various planning and enforcement issues. In addition a number of documents are produced in which the applicant and council officials refer to the traffic safety issues associated with the existing lane.

There can be no doubt but that the sightlines at the junction of the private lane with the public road would not meet any relevant standard. The visibility to the north-east in particular it is minimal as it is impeded by a third party's lands, which are defined by a bank, which is close to both roads. Although the public road is narrow, it is described by officials as busy. I also note that since the original house was constructed it is likely that traffic on the local road has increased significantly.

The proposed new entrance from the south-eastern site boundary of the site and directly onto the public road emerged following discussion between the applicant's agent and the planning authority. The revised entrance is shown in a submission received by the planning authority on the 14<sup>th</sup> of November 2019. The sightlines which are indicated on the relevant drawings are shown as being setback 3m from the edge of the carriageway and to be 56m / 60 m. I am satisfied that this proposal constitutes an upgrade on the existing situation and that it is in accordance with the proper planning and development of the area. I also agree with the condition of the planning authority which regulates closure of the existing entrance.

In the event that the Board considers that the retention of the existing entrance position is more appropriate, I note that the applicant's right to pass over the lane is described in a solicitor's letter dated 10<sup>th</sup> of September 2019, which is on file.

A map on file indicates that the site is within the study area of a bypass route. The development plan map indicates that the site would not be affected. The Road Design Office has confirmed that there are no issues. I consider that the Board may be satisfied that the progression of any bypass would not be impeded by the proposed development.

I conclude that the development is acceptable in terms of roads and traffic issues. In view of the proposed new vehicle entrance I recommend a condition relating to surface water drainage.

## **7.2. Design and scale of dwellinghouse.**

Regarding the design of the house which it is proposed to retain I consider that it is acceptable in terms of its impact on the visual and residential amenities of the area.

In relation to the increased scale of the house I note that the appellant queries the suitability of wastewater treatment proposals on the site. There is no evidence that there is any reason for concern in relation to the adequacy of the existing facilities. Furthermore I consider that it is unlikely that the increased scale of the house has significantly contributed to the loading on the wastewater facilities. I also note that the development relates solely to the retention of buildings and that there is other legislation which would regulate the suitability of existing facilities.

I conclude that the development is acceptable in terms of design and scale.

## **7.3. Appropriate assessment.**

Having regard to the nature and scale of the proposed development, which relates to the retention of works undertaken at an existing house, to the nature of the receiving environment and the likely emissions arising from the proposed development, I am satisfied that 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.

## **8.0 Recommendation**

8.1. I recommend that permission be granted for the reasons and considerations and subject to the conditions below.

## **9.0 Reasons and Considerations**

It is considered that, subject to compliance with the conditions set out below, the development proposed to be retained would not seriously injure the visual amenities



of property in the vicinity and would be acceptable in terms of traffic safety and the protection of the environment. The development proposed to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application as revised by the further information received by the planning authority on the 31<sup>st</sup> of July 2019, 18<sup>th</sup> of September 2019 and 14<sup>th</sup> of November 2019.

**Reason:** In the interest of clarity.

2. (a) Within six months of the date of this decision the proposed vehicular entrance/egress point at the southern site boundary shall be constructed and completed in accordance with the site layout map received by the planning authority on the 14<sup>th</sup> of November 2019.

(b) The existing vehicular entrance/egress point at the north-east and site boundary shall be closed with a boundary wall within two weeks of completion of the new vehicular access.

**Reason:** In the interest of traffic safety.

3. The attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** To ensure a proper standard of development.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the garage shall be restricted to use as a private

domestic garage/shed, unless otherwise authorised by a prior grant of planning permission.

**Reason:** To protect the amenities of property in the vicinity and in the interest of clarity.

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Mairead Kenny  
Senior Planning Inspector

3<sup>rd</sup> April 2020