



An
Bord
Pleanála

Inspector's Report 307589-20

Development	Retention of dwelling house and ancillary site works and completion of the development
Location	Frasnadeffa, Ballaghaderreen, Co. Roscommon
Planning Authority	Roscommon County Council
Planning Authority Reg. Ref.	PD/19/571
Applicant(s)	Brian McGrath
Type of Application	Retention Permission and Permission
Planning Authority Decision	Grant Retention Permission
Type of Appeal	Third Party
Appellant(s)	Kieran and Rosaleen Donoghue
Observer(s)	None
Date of Site Inspection	21 st September 2020
Inspector	Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.227 ha and is located at Frasnadeffa, Ballaghaderreen, Co. Roscommon. The lands in the vicinity of the application site are rural in nature, being characterised by bogland and forested areas, with sporadic detached dwelling houses.
- 1.2. The site is rectangular in shape and is generally bounded by agricultural lands to the south and east, a local access road to the west and a single-storey detached dwelling to the north. A 2-storey detached dwelling house is located to the north-west of the application site, on the opposite side of the local access road.
- 1.3. The site accommodates a partially completed dwelling house, which has been completed to roof level. The dwelling is located towards the front of the site and reflects the building line of the neighbouring property to the north. A raised percolation area is located towards the rear of the site in the north-eastern corner. The site has been raised above the level of the adjoining agricultural lands and slopes downwards in an easterly direction from the local access road. Loose building materials were noted throughout the site, which was generally uneven under foot, with evidence of limited ponding in places.

2.0 Proposed Development

- 2.1. The proposed development comprises the retention of the as constructed dwelling house and ancillary site works (previously granted under PD/05/1143). Planning permission is also sought to complete the development.
- 2.2. The dwelling house to be retained is a single-storey detached dwelling with a stated floor area of 135.5 m and an overall height of 5.5 m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Grant Retention Permission subject to 7 no. conditions issued on 19th June 2020. The attached conditions are generally standard in nature.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports (18th December 2019 and 19th June 2020)**

3.2.2. Further Information was requested in relation to the application concerning 3 no. items, which can be summarised as follows:

(1) The requirement to engage a suitably qualified person to undertake a site characterisation assessment and submit an accurate and comprehensive Site Characterisation Report of the assessment, including (a) an accurate (as built) site layout drawing to include the type and extent of the wastewater treatment system installed; and, (b) evidence of a signed maintenance agreement with the manufacturers/installers of the proprietary effluent treatment system;

(2) Revised elevation drawings of the subject dwelling to accurately reflect the structure as existing and for which permission is sought to retain and complete; and,

(3) A detailed landscaping plan.

3.2.3. Following the applicant's response to the Request for Further Information on 12th May 2020, no objections arose subject to conditions.

3.2.4. **Other Technical Reports**

3.2.5. **Environment Section (12th December 2019 and 19th June 2020)**

3.2.6. Recommended that Further Information be sought in relation to the on-site wastewater treatment system.

3.2.7. Following the applicant's response to the Request for Further Information, no objections arose subject to conditions.

3.3. **Prescribed Bodies**

3.4. **An Taisce:** None received.

3.5. **Department of Culture, Heritage and the Gaeltacht:** None received.

3.6. **The Heritage Council:** None received.

3.7. **Third Party Observations**

3.7.1. Four submissions were made on this application, 3 no. of which were from Mr. & Mrs. Kieran and Rosaleen Donoghue, Frasnadeffa, Ballaghaderreen, Co.

Roscommon, with 1 no. submission made on their behalf by Jennings O'Donovan Consulting Engineers. The remaining submission was made by Eric and Lilly Yu, Frasnadeffa, Ballaghaderreen, Co. Roscommon.

- 3.7.2. The points which were raised can be summarised as follows: (1) the development description does not refer to the effluent treatment system and associated percolation area or the date of construction of the existing roof; (2) the Site Characterisation Form is out of date by 15 years; (3) north point not correctly indicated on submitted plans; (4) an additional bored well will impact on local water supply; (5) light pollution; (6) air pollution; (7) no consent given to alter neighbouring property boundary to achieve sight distances; (8) unsuitable ground conditions for the disposal of domestic effluent; (9) the development is not in accordance with the approved plans for Planning Authority Reg. Ref. 05/1143; (10) overshadowing and loss of privacy of neighbouring property; (11) inappropriate urban style development; and, (12) insufficient sight views at the junction of the L5551 and R293.

4.0 Planning History

- 4.1. **Planning Authority Reg. Ref. 05/1143:** Planning permission granted on 9th February 2006 to erect bungalow and install proprietary treatment system subject to 17 no. conditions at Frasnadeffa, Ballaghaderreen, Co. Roscommon.
- 4.2. Condition no. 5 required the raise percolation area to be constructed using imported material with a T value in the range 10 to 20. All other conditions are generally standard in nature.
- 4.3. **Planning Authority Reg. Ref. 04/2167:** Planning permission refused on 16th February 2005 to erect bungalow and install proprietary treatment system at Frasnadeffa, Ballaghaderreen, Co. Roscommon.
- 4.4. Planning permission was refused for 1 no. reason on the basis that the onsite ground conditions were not considered suitable for the safe disposal of domestic effluent, and as such, the development would be prejudicial to public health.
- 4.5. **Planning Authority Reg. Ref. 04/250:** Planning permission refused on 7th October 2004 to erect a dwelling house and to construct a septic tank system, incorporating a

proprietary effluent treatment unit at Frasnadeffa, Ballaghaderreen, Co. Roscommon.

- 4.6. Planning permission was refused for 1 no. reason on the basis that the onsite ground conditions were not considered suitable for the safe disposal of domestic effluent, and as such, the development would be prejudicial to public health.

5.0 Policy and Context

5.1. Roscommon County Development Plan 2014-2020

5.2. Rural Housing Strategy

- 5.2.1. The rural housing strategy for Roscommon identifies 3 distinct rural area types, with distinct planning characteristics and a different approach to rural housing settlement policy. The subject site is located in “Category C – Areas in Need of Regeneration”, where the pressure for urban generated housing development is typically lower. In this context, it is considered that individual housing development should be facilitated in principle in these areas.

5.3. Policies for the Reuse and Replacement of Existing Structures and Dwellings

- 5.3.1. **Policy 5.37:** Promote the conversion, redevelopment and use of traditional farm buildings and existing housing stock in rural areas for residential use, without applying the requirement of rural-generated local housing need.

5.4. One-off Rural Housing

- 5.4.1. Development management guidance and standards in relation to one-off rural housing are set out in chapter 9 of the plan. Key development management issues include, appropriate design and visual amenity, avoidance of ribbon development, preservation of ground water sources by controlling domestic effluent disposal, and traffic safety considerations.

5.5. Wastewater Treatment

- 5.5.1. In the interests of sanitation and public health, the Council will require effluent discharge from all forms of development to discharge to an adequate sewage treatment system where the controlled treatment of such wastes can be achieved.

Where such facilitation is not capable of being provided, the Council will not consider development proposals favourably.

- 5.5.2. On-site septic tank and associated treatment systems shall be assessed and constructed under the terms of the E.P.A. publication "Wastewater Treatment Manual Treatment Systems for Single Houses" (2009) or any amending/replacement guidance or standard.
- 5.5.3. The Planning Authority will require the following post installation submissions by developers in relation to wastewater treatment systems: (1) Evidence from a qualified practitioner that the system in its entirety and as specifically permitted by the Planning Authority has been satisfactorily installed prior to occupation of development; and, (2) A maintenance agreement specifying associated terms and conditions.

5.6. Natural Heritage Designations

- 5.6.1. The subject site is located c. 2.4 km to the north-west of Callow Bog SAC, c. 2.2 km to the north-west of Tullaghanrock Bog SAC, c. 2.4 km to the north-west of Lough Gara SPA, c. 7.6 km to the south-east of River Moy SAC, c. 8.6 km to the south-east of Cloonakillina Lough SAC and c. 7.8 km to the south-east of Flughany Bog SAC.

5.7. EIA Screening

- 5.7.1. Having regard to the nature and scale of the development to which this application relates, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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

- 6.1.1. A third-party appeal has been lodged by Kieran & Rosaleen Donoghue, Frasnadeffa, Ballaghaderreen, Co. Roscommon, the grounds of which can be summarised as follows:

- Planning permission has been refused on the site on 2 no. previous occasions, on the basis that the ground conditions are not suitable for the safe disposal of domestic effluent (Planning Authority Reg. Refs. 04/250 and 04/2167);
- The Planning Officer dealing with a subsequent application (Planning Authority Reg. Ref. 05/1143) recommended that planning permission be refused, with this decision subsequently overturned. The development permitted under this application was commenced, but not completed and was not constructed in accordance with the approved plans;
- The existing effluent treatment system and percolation area was installed in April 2019 and does not have planning permission;
- The applicant did not provide any photographs of the trial hole, tests holes or site as required under section 3.4.6 of the Site Characterisation Form;
- The site characterisation results do not reflect the onsite ground conditions, and as such, the Planning Authority's decision to grant planning permission is not based on factual test results.

6.1.2. The appeal is accompanied by a series of photographs which indicate waterlogging of the test holes and the application site; photographs of site development works; copies of previous planning decisions and Planning Officer's reports pertaining to the development of the site; and, copies of the appellants submissions on previous planning applications on the subject site.

6.2. **Planning Authority Response**

6.2.1. None received.

6.3. **Observations**

6.3.1. None.

7.0 **Assessment**

7.1. I am satisfied that the main issues for consideration in this case include:

- Principle of the Development
- Procedural Issues
- On-Site Waste-Water Treatment Arrangements
- Appropriate Assessment

7.2. Each of these issues is addressed in turn below.

7.3. **Principle of the Development**

- 7.3.1. The proposed development comprises the retention of the dwelling house as constructed on site and ancillary site works previously granted under Planning Authority Reg. Ref. 05/1143. Planning permission is also sought to complete the development. The appellants submit that the proposed development should be refused permission on a number of grounds, including on the basis of the site's planning history.
- 7.3.2. In reviewing this history, I note that permission to construct a dwelling house on the subject site was refused on 2 no. previous occasions (planning reg. refs. 04/250 and 04/2167 refer) as identified by the appellants. The refusal reason in both cases related to the onsite ground conditions, which were considered unsuitable for the safe disposal of domestic effluent, and as such, it was considered that the development would be prejudicial to public health.
- 7.3.3. In reviewing the details of Planning Authority Reg. Ref. 05/1143, under which permission was granted to erect a bungalow and install a proprietary treatment system on the site, I note that the Planning Officer recommended that permission be refused on the basis of the ground conditions, which were considered unsuitable for the safe disposal of domestic effluent. However, I further note that the Director of Services subsequently decided that drainage works which had been carried out on the site, had rendered the ground conditions suitable for the safe disposal of domestic effluent. As such, the proposed development was deemed acceptable and planning permission was granted subject to 17 no. conditions.
- 7.3.4. While the site's planning history is acknowledged, in my opinion, the principle of the development is not open for reassessment under this case, given that the development has already been deemed appropriate by the Planning Authority as per the grant of permission issued under Planning Reg. Ref. 05/1143. In addition, I

consider that the current unfinished status of the subject dwelling has a negative visual impact on the character of the subject site and surrounding lands. As such, in my opinion, the regularisation of the planning status of the site, by the completion of the dwelling and associated site landscaping works, would significantly improve the appearance of the subject site. As such, I consider that the development to which this application relates, is acceptable in principle in this instance.

7.4. Procedural Issues

- 7.4.1. While the appellants note that works have been ongoing intermittently on the site and that the statutory notices do not refer to the installation of the effluent treatment system or percolation area, I note that this retention application seeks to regularise the unauthorised status of the onsite development.
- 7.4.2. While I note that the validation of the planning application is a matter for the determination of the Planning Authority rather than An Bord Pleanála, I am satisfied that the development for which permission is now sought is adequately described in the plans and particulars which accompany the application, including those which form part of the applicant's Further Information submission.

7.5. On-Site Waste-Water Treatment Arrangements

- 7.5.1. The applicant's response to the Request for Further Information includes an EPA Site Suitability Assessment and percolation test results. It is proposed to install a packaged waste-water treatment system and polishing filter, with a raised percolation area discharging to ground water. The submission includes a letter from a chartered engineer which states that no defects were noted in the installed wastewater treatment system or raised percolation area. The submission also includes a signed 10-year service agreement for the waste-water treatment system.
- 7.5.2. The Site Characterisation Form identifies that the underlying aquifer is poor with extreme vulnerability. The depth from the ground surface to the water table is 2.5 m. The soil conditions noted in the trial hole include a clay topsoil and subsoil, with a water level recorded at 0.5 m. A groundwater response category of R2¹ is recorded, which indicates that an on-site system may be acceptable, subject to normal good practice.
- 7.5.3. A T-test result of 38.78 was recorded which indicates that the site is suitable for the development of a septic tank system or a secondary treatment system discharging to

ground water. A P-test result of 35.08 was recorded which indicates that the site is suitable for a secondary treatment system with polishing filter at ground surface or overground. I note that the proposed development complies with the separation distances to key features identified in table 6.1 of the Code of Practice and that the percolation area is sized in accordance with the areas specified in table 10.1.

7.5.4. While I have considered the appellants submissions regarding the on-site ground conditions, in my opinion, I am satisfied that the proposed wastewater treatment system would be acceptable in this instance. I also note that the Environment Section of Roscommon County Council had no objection to the proposed development subject to conditions, based on an inspection of the site and the applicant's Further Information submission. Having regard to the foregoing, I am satisfied that the proposed wastewater treatment arrangements would be acceptable in this instance.

7.6. Appropriate Assessment

7.6.1. Having regard to the nature and scale of the development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the development to be retained and completed, would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

8.1. I recommend that retention permission and permission be granted in this instance.

9.0 Reasons and Considerations

9.1. Having regard to the previous planning permission for a detached dwelling house on the subject site, the unfinished nature and negative appearance of the existing development, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the development to be retained and completed, would improve the visual amenities of the site and surrounding area and would not be prejudicial to public health. The

development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be retained and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 12th day of May 2020, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(a) The entrance gates to the house shall be set back not less than 4 metres and not more than 6 metres from the edge of the public road. Wing walls forming the entrance shall be splayed at an angle of not less than 45 degrees and shall not exceed 1 metre in height.</p> <p>(b) The proposed front boundary wall shall match the finish of the proposed dwelling, the exact height and location of which shall be agreed in writing with the planning authority within 3 months of the date of this permission.</p> <p>Reason: In the interest of traffic safety and visual amenity.</p>
3.	<p>The water supply to serve the proposed dwelling shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details, demonstrating compliance with these requirements, shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the dwelling.</p> <p>Reason: To ensure that adequate water is provided to serve the proposed dwelling, in the interest of public health.</p>

4.	<p>Surface water from the site shall not be permitted to drain onto the adjoining public road.</p> <p>Reason: In the interest of traffic safety.</p>
5.	<p>(a) The site shall be landscaped with indigenous deciduous trees and hedging species within the first planting season following the completion of the development in accordance with the landscaping plan submitted to the planning authority on 12th May 2020.</p> <p>(b) Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.</p>
6.	<p>(a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 12th day of May 2020, 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.</p> <p>(b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.</p> <p>(c) No clean uncontaminated surface water from the roof or paved areas shall be permitted to enter the wastewater treatment system.</p> <p>(d) A grease trap shall be installed to serve the food preparation area of the dwelling house and it shall be maintained in accordance with the manufacturer's instructions.</p>

	Reason: In the interest of public health.
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Louise Treacy
Planning Inspector

5th September 2020