



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307850-20

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<b>Development</b>	Retention of single storey detached structure on site used as a granny flat. Permission to extend structure to become permanent residential dwelling.
<b>Location</b>	Hazelwood Avenue, Hazelwood , Sligo
<b>Planning Authority</b>	Sligo County Council
<b>Planning Authority Reg. Ref.</b>	20121
<b>Applicant(s)</b>	Seamus Burns and Aisling Coyne
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First V. Refusal
<b>Appellants</b>	Seamus Burns and Aisling Coyne
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	28 <sup>th</sup> November 2020
<b>Inspector</b>	Máire Daly

## 1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.2204ha and is located off Hazelwood Avenue, south of the R286 Regional Road approximately 3km east of Sligo town centre. The site is located partially on and adjacent to the designated greenbelt for the town and to the immediate east of the development boundary of the Sligo & Environs Development Plan.
- 1.2. The proposed site has a shared entrance, which also provides access to the applicant's parents and sister's houses, which are located to the east and southeast of the site respectively. Development in the immediate area along Hazelwood Avenue is mainly residential and has developed in a linear pattern on either side of the road. An existing single storey detached granny flat structure of circa. 70.5sq m and a septic tank are located on site. A laneway from the public road provides access to the granny flat and the site is delineated by a low hedgerow and parking area. The laneway is shared and also provides access to the applicant's parent's house and applicant's sister's houses, both of which face onto the public road. The proposed site would be considered back land development located to the rear of both these dwellings, with the lands behind it comprised of large agricultural fields. Hazelwood Demesne is located approximately 300m west of the proposed site.

## 2.0 Proposed Development

- 2.1. The proposed development is to comprise:
  - Retention of existing single storey detached structure on site used as granny flat 70.5sq m in area;
  - 115sq m single storey extension to existing structure (granny flat) to become permanent residential dwelling house;
  - Installation of new on-site effluent treatment system and all associated site development works.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission was refused for the following reason:

*Having regard to the location of the structure to be retained and extended to the rear of the established building line at this location, it is considered that the development does not harmonise or read with the existing traditional pattern of the development in the area and would be contrary to section 5.3.2 of the County Development Plan. The development would constitute undesirable haphazard backland development, would set an undesirable precedent for further such development at this sensitive location and accordingly would be contrary to the proper planning and sustainable development of the area.*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The recommendation to refuse permission in the Area Planner's report reflects the decision of the Planning Authority, the main points can be summarised as follows:

- The area planner notes in their report, that several previous discussions were had with the applicants regarding the proposal. The applicants have been advised previously that the development of a dwelling on the site to the rear of the family home would constitute haphazard development and that it would be likely refused and that the possibility of a dwelling between the two family homes could be explored.
- While the applicant sought to regularise the granny flat on site under the subject permission, in principle the proposed development involves the provision of a dwelling house and therefore the proposal shall be assessed as such. The rural housing policy for the area was therefore applicable to the development.
- The area planner stated that a rural generated housing need was demonstrated by the applicants and that the development was consistent with the provisions of the CDP with regard to rural housing policy.

- The area planner raised no concerns regarding the proposal to share the existing entrance to the site, which is also used by the applicant's parents and sister to access their respective houses.
- The location of the proposed dwelling to the rear of the applicant's parent's dwelling does not harmonise with the existing traditional pattern of development in the area which is comprised of dwelling houses which have the benefit of road frontage onto Hazelwood Avenue. The proposed development would therefore be contrary to section 5.3.2 of the County Development Plan and would constitute haphazard backland development and set an undesirable precedent for further such development in this area.

### 3.2.2. Other Technical Reports

- Sligo County Council (SCC) Environment Section – report dated 14/05/20– Concerns raised regarding the location the existing septic tank on site, which currently serves the applicant's parents dwelling and the granny flat. This section recommended that the on-site wastewater treatment systems serving the proposed dwelling (proposed new proprietary effluent treatment plant and soil polishing filter) and the parents dwelling should be kept separate with separate site ownership. Issues of compliance regarding existing septic tank on site were raised. Further information was requested.
- SCC Roads Engineer – no report received.

### 3.3. Prescribed Bodies

- Development Applications Unit – National Parks and Wildlife Service – No response received.
- Irish Water – No response received.

### 3.4. Third Party Observations

- Submission received from Cllr. Tom Fox making representation on behalf of applicants.

## 4.0 Planning History

### Subject site

No planning history on subject site.

### Adjoining site to south east

P.A. Ref. 02/872 – Permission granted to Marie Burns (Applicant's sister) for two storey dwelling and proprietary effluent treatment system and construction of a revised joint vehicular access on the adjoining property to the north.

## 5.0 Policy Context

### 5.1. National Guidance

#### 5.1.1. National Planning Framework (NPF) – Project Ireland 2040 (2018)

Objective 19 of the National Planning Framework outlines that within areas under urban influence, single housing in the countryside will be facilitated based on the core consideration of a demonstrable economic or social need to live in the rural area and siting and design criteria for rural housing.

#### 5.1.2. Sustainable Rural Housing Guidelines for Planning Authorities (2005)

The Guidelines provide criteria for managing rural housing requirements, whilst achieving sustainable development.

#### 5.1.3. EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009)

This code of practice provides guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses (PE≤10).

### 5.2. Development Plan

The operative Development Plan is the Sligo County Development Plan 2017-2023. The following sections and policies are relevant to the current appeal.

#### 5.2.1. **Section 5.3.1 Rural housing policy areas**

The subject site is located in a Rural Area under Urban Influence.

This section states - *the Planning Authority will accommodate those applicants with a rural-generated housing need – which is a demonstrated, genuine need to live in the respective rural areas – subject to normal planning considerations.*

The following policy applies:

- **Policy P-RAUI-HOU-1 - Housing policy in Rural Areas Under Urban Influence**

#### 5.2.2. **Section 5.3.2 Siting and design of rural houses**

The following policies apply to the subject site:

- **Policy P-RHOU-1 and Policy P-RHOU-2 - Rural housing siting and design policies**

#### 5.2.3. **Section 9.3.2 Wastewater management in rural areas**

The following policy applies to the subject site:

- **Policy P-WW-5** All proposals for on-site treatment systems to comply with the Environmental Protection Agency's Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses (PE≤10) (2009).

#### 5.2.4. **Section 13.4 Residential development in rural areas** (development management standards)

### 5.3. **Natural Heritage Designations**

- The Lough Gill Special Area of Conservation (SAC) (Sitecode 001976) is located 300m to the west and south of the subject site.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

The grounds of appeal, as raised by the first party appellant can be summarised as follows:

- The Planning Authority failed to consider the circumstances of the applicants in terms of their intrinsic links to the area as the overriding consideration for rural housing proposals.

- The Planning Authority forms the view that the proposal fails to harmonise with the existing patterns of development and failed to give any regard to the fact that the structure has been in place at this location for a substantial period of time and was originally the same footprint of an agricultural shed serving the lands.
- The alternative options suggested by the planning authority would only serve to exacerbate unfavourable development patterns and would of itself represent haphazard development and would militate against the sustainable development of the area.

## 6.2. Planning Authority Response

A submission from the planning authority was received on 31/08/20 in response to the grounds of appeal. The planning authority's response addressed each of the above grounds of appeal as follows:

- The applicants' social links with the area were noted and it was considered that the applicants satisfy the provisions of the County Development Plan with regard to rural housing policy and have a rural generated housing need.
- The planning authority state that the use of the structure on site as a granny flat did not have the benefit of planning permission and therefore a precedent had not been set for the use of the structure for human habitation.
- During pre-planning discussions on 21<sup>st</sup> August, 2019, the applicants were advised that the proposed development would likely be refused and that the possibility of a dwelling between the two family homes come be explored. A dwelling between the two family homes would harmonise with existing development in this location.

## 6.3. Observations

- None.

## 6.4. Further Responses

- None.

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, inspected the site and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in relation to the current proposal are as follows:

- Rural Housing Need
- Siting and existing pattern of development in rural area
- Access and Traffic
- Wastewater Treatment System
- Appropriate Assessment

### 7.2. Rural Housing Need

7.2.1. The applicants state in their appeal that the planning authority failed to give due regard to the primacy of 'rural generated housing need' when considering their proposal. Based on an assessment of the information submitted with both the application and the appeal, I can confirm that the applicants have established a rural housing need in this 'Rural Area Under Urban Influence' and comply with those policy requirements of P-RAUI-HOU-1, as well as those listed under Objective 19 of the NPF in relation to '*demonstrable economic or social need to live in a rural area*'. The appellants have both lived in this rural area their entire lives, have not owned any previous dwelling and have family in the area for whom the applicant (Ms. Coyne) provides on going care. I note the planning authority's acknowledgement that the applicants do indeed comply with the aforementioned policies, in both the area planner's report and the planning authority's response to the ground of appeal. Section 5.3.1 of the Sligo County Development Plan highlights that applicants not only need to demonstrate 'rural generated housing need' but also need to demonstrate the suitability of the proposed development in the context of the broader and long-term proper planning and sustainable development of the area. Section 5.3.2 further expands on this stating that '*Other considerations relating to siting, design, environment, heritage, amenity and traffic considerations are also of paramount importance in the consideration of any development*'. An examination of



those other considerations relevant to this appeal is carried out in the sections that follow.

### 7.3. **Siting and existing pattern of development in rural area**

- 7.3.1. The area planner's reason for refusal referenced Section 5.3.2 of the Development Plan, stating that the proposed development did '*not harmonise or read with the existing traditional pattern of development in the area .... and would constitute undesirable haphazard backland development*'. The applicants argue that the structure to be retained (granny flat) has been successfully integrated into the existing landscape, considering that it has now been in place for a substantial period of time (circa. 2001) and is constructed on the original footprint of a previous agricultural shed on site. The Board should note that the 'granny flat' which the applicants are currently living in on site, is an unauthorised structure to the rear of the applicant's (Seamus Burns) parents dwelling. The applicants propose to extend the existing unauthorised granny flat of 70.5sqm, to form a permanent residential dwelling of a total of 185.5sqm in area at this location and argue that their proposal complies with Section 5.3.2 'Siting and design of rural housing' by virtue of its modest single storey design, incorporation of the existing granny flat into the design and siting on the plot.
- 7.3.2. While the development plan supports certain types of infill and backland development, the policy specifically refers to this type of development occurring in urban areas as a means of promoting more compact growth and even where sites may be present within settlement boundaries Policy P-UD-12 states that '*piecemeal development of backlands within towns and villages will be discouraged*'. In the case of the current appeal, the proposed site is located in a rural area on the outskirts of Sligo town, and falls under a '*Rural Area under Urban Influence*' as defined in the Development Plan. Applicants in these areas will be accommodated where they can demonstrate a genuine housing need to live in the respective rural area subject to normal planning considerations. While there is no doubt that the applicants have demonstrated their rural generated housing need in this area in compliance with Policy R-RAUI-HOU-1, it is important to note that this is only one element in the assessment of a proposal for a one off house in a rural area. Section 5.3.2 of the development plan also outlines the siting and design criteria necessary and in

particular, the development management standards required are listed under Section 13.4 *Residential development in rural areas*.

- 7.3.3. The proposed development constitutes backland development by virtue of its location to the rear of an existing line of dwellings which face onto Hazelwood Avenue and its lack of provision of road frontage along same public road. Hazelwood Avenue is located along the immediate outskirts of the Sligo and Environs Development Plan 2010-2016 development boundary and is an area under severe pressure for development, as evidenced by the established linear pattern of detached dwellings which stretches for a distance of approximately 550m on both sides of the road, from the current appeal site to the junction with the R286 (Hazlewood Road).
- 7.3.4. Section 5.3.2 of the development plan requires an examination of both the natural and built surroundings when analysing whether a site is capable of carrying the proposed development without becoming unduly dominant on either the surrounding landscape or pattern of development. The dwelling house is proposed in a rural area where an established linear pattern of development is evident. The introduction of backland development in this area in my opinion could be considered suburban in nature and contrary to the traditional pattern of development which is rural in nature. In addition, the potential impact of the development at this location is further exacerbated by the presence of the Sligo Town Greenbelt designation which is partially within the site (south west) and immediately to the west of the proposed development. The proposal does not harmonise with the existing pattern of development in the area, would constitute haphazard backland development in this rural area under urban influence and would set an undesirable precedent for future such developments in the vicinity and therefore would be contrary to Section 5.3.2 of the Sligo County Development Plan.
- 7.3.5. With regard to the applicant's third ground of appeal, which refers to 'alternative options available', I note the planning authority's response and reference to previous pre-planning meetings held. It is not within the Board's remit to comment on speculative development or alternatives to the appeal site in this case, therefore no further comment shall be made on these matters.

#### **7.4. Access and Traffic**

- 7.4.1. The applicants propose to access the site via a shared entrance and laneway off Hazelwood Avenue, which currently also provides access to Mr. Burns' parents' house and sister's house. The existing shared entrance was originally granted under P.A. Ref. 02/872 to serve both dwellings and reduce the creation of an additional entrance onto the public road. Following a site visit I would consider that there are adequate sightlines in place to serve the proposal and that the additional traffic movements created by an additional dwelling at this location would not interfere with the free flow of traffic along Hazelwood Avenue and therefore would not constitute a traffic hazard.

#### **7.5. Wastewater Treatment System – New Issue**

- 7.5.1. In relation to wastewater, a Packaged Wastewater Treatment System and Percolation Area (Polishing Filter) is proposed to service the proposed development with discharge to groundwater. The Board should note that the current granny flat makes use of an existing septic tank on site which also serves the applicant's parent's dwelling. This issue is further discussed in Section 7.5.5.
- 7.5.2. An assessment of the treatment system for the proposed development has been carried out to examine its suitability and compliance with the EPA Code of Practice (2009). The GSI Groundwater maps show that the site is located within an area with an Aquifer Category of 'Regionally Important' with a vulnerability classification of 'Extreme', representing a GWPR response of R2 (2) under the EPA Code of Practice. Lough Gill which is identified as a significant site for natural purposes is located approximately 0.5km to the south. Given the sensitivities of the site, groundwater has been identified as a potential target at risk together with the existing dwellings in the area. According to the response matrix, on-site treatment systems are acceptable in such areas subject to normal good practice and the following condition:

There is a minimum thickness of 2m unsaturated soil/subsoil beneath the invert of the percolation trench of a septic tank system; or

A secondary treatment system as described in Sections 8 and 9 (of the guidelines) is installed, with a minimum thickness of 0.6m unsaturated soil/subsoil with P/T values from 1 to 50 (in addition to the polishing filter which should be a minimum depth of

0.6m), beneath the invert of the polishing filter (i.e. 1.2m in total for a soil polishing filter).

- 7.5.3. The trial hole assessment submitted by the applicant encountered limestone bedrock at a depth of 2.2m (below ground level), however the sides of the dig fell in after excavation and left a depth of 1.7m.
- 7.5.4. The site characterisation records a T-test value of 6.39. This T result is considered acceptable. The site is unsuitable for a septic tank due to insufficient depth of soil, therefore a mechanical system is required. The results of the P-test at 25.33 were also considered acceptable and as above it was determined that the site is unsuitable for a septic tank due to insufficient depth of soil, therefore a mechanical system is required.
- 7.5.5. It is noted that the current site has an existing septic tank located on it which serves the applicant's parents dwelling to the east. It is proposed to relocate this septic tank 3m to the south to make room for the proposed extension to the existing granny flat. The current granny flat on site was constructed without the benefit of planning permission and makes use of this septic tank also. The capacity of the existing septic tank is unknown and while it is noted that the applicants have stated in their appeal that they are willing to upgrade the current septic tank on site to ensure compliance with the EPA standards in so far as possible, basing a decision on further possible compliance is considered wholly inappropriate and contrary to proper planning. The subject site is located in an unserviced area with a current proliferation of individual wastewater treatment systems. While the site characterisation form submitted indicates the wastewater treatment system proposed can adequately deal with wastewater from the proposal, no assessment of the proposed wastewater treatment system in combination with the existing septic tank on site has been submitted as part of the appeal. I also note the presence of a regionally important aquifer and the fact that groundwater has been identified as a potential target risk together with existing dwellings in the area. Based on the aforementioned, I am therefore not satisfied that the proposed development would not be prejudicial to public health. As stated above this is a new issue and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

## **7.6. Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development and separation distance to the nearest 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.

## **8.0 Recommendation**

- 8.1. It is recommended that permission for the proposed development be refused for the reasons and considerations set out hereunder.

## **9.0 Reasons and Considerations**

1. The proposed development, because of its location and inadequate frontage, constitutes inappropriate backland development which would seriously injure the amenities of property in the vicinity by reason of uncoordinated piecemeal development, would not accord with the existing pattern of development in this rural area and would set an undesirable precedent for further such development in this area and accordingly would therefore be contrary to the proper planning and sustainable development of the area.
2. It is considered that, taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of development served by individual wastewater treatment systems and septic tanks. The proposed development, would, therefore, be prejudicial to public health.

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Máire Daly  
Planning Inspector

16<sup>th</sup> November 2020