



An
Bord
Pleanála

Inspector's Report ABP-308032-20

Development	Single storey dwelling house, domestic garage, effluent treatment system and associated site works.
Location	Knockroosky, Westport, Co. Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	19832
Applicant	Paul Langan
Type of Application	Permission
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	Third Party
Appellants	Siobhan and Cormac McCarthy
Observer(s)	None
Date of Site Inspection	27 th November 2020
Inspector	Máire Daly

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.76ha and is located in the townland of Knockroosky, approximately 5km southeast of Westport town. It is accessed via a narrow local road which branches off the R330 regional road. The local road provides access to numerous other one-off houses in the area.
- 1.2. The site is located on the southern side of the local road, with dwelling houses located on both adjoining sites to the east and west. The house to the east remains unfurnished. The site slopes downward in a southerly direction away from the local road, with the proposed location of the dwelling house having a finished floor level approx. 5m below road level. The site's northern boundary is comprised of mature hedgerow and the remaining boundaries have a combination of hedgerow and sparse tree cover, with several parts of the site exposed to the adjoining sites due to a lack of vegetation.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - A single-storey bungalow style dwelling house (209sq.m).
 - Domestic garage (58sq.m).
 - Effluent treatment system (septic tank and media filter), together with all associated site works.
 - Access road to front of house and south to garage.
- 2.2. Further information was requested by the planning authority in relation to the location of the domestic garage and surface water design calculations for the proposed soakpit. Further information was received on 20th July 2020. A revised site layout was submitted which showed the proposed new location of the domestic garage located closer, within 21.58m of the dwelling house and at a finished floor level (FFL) of 55.00 as requested. A shortened access road to garage was also proposed. Details in relation to the surface water design calculations were also received. The planning authority considered the information received sufficient and permission was granted.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Grant Planning Permission subject to 11 no. conditions issued on 10th August 2020.
- 3.1.2. Condition no. 10 restricts the occupancy of the dwelling to the applicant, members of the applicant's family or heirs for a period of 5 years. All other conditions are generally standard in nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 3.2.2. A Request for Further Information issued on 11th December 2019 in relation to 2 no. items as follows:
- A requirement to submit detailed surface water design calculations for the proposed soak pit.
 - Revised site layout plan relocating the proposed garage to the north i.e. closer to the proposed dwelling house in the approximate location of contour 55.
- 3.2.3. Following the assessment of the applicant's response to the Request for Further Information, a grant of permission subject to conditions was recommended as per the Notification of the Decision to Grant Permission.

3.2.4. Other Technical Reports

None received.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

- 3.4.1. One third party observation was received from Siobhan and Cormac McCarthy of Callacoon, Knockroosky, Co. Mayo (third party appellant). The observer's property is

located directly to the west of the appeal site. The following concerns were raised in relation to the:

- Location and scale of proposal and consequent impact on the rural environment and local amenity.
- FFL 4.85m above observers' house and apex of roof another 3.3m above this.
- Concerns in relation to the proposed developments reliance on hardstand, driveways and roofs circa 200sq.m in total. As a result of this increase in hard surfaces, the observers believe that an enormous amount of surface water would subsequently flow downhill and affect their home and site.
- Location of domestic garage at end of long driveway is urban/suburban in nature and would add to surface water issues.
- The proposed dwelling in the last application on site P.A. Ref.18168 was not located in such an elevated position.

4.0 Planning History

4.1. Subject site

- PA Ref. 18168 Mayo County Council (MCC) – 2018 – Application for similar development to that proposed in the current appeal **withdrawn** following request for further information.

FI request related to 1. Differentiation between existing and proposed ground levels and 2. Details of driveway and compliance with development plan standards. Concerns were also raised by the planning authority in relation to possible overlooking of the adjoining site and dwelling to the west. And concerns in relation to the excessive site works and land 'cut' required to accommodate dwelling.

4.2. Site to immediate west:

- PA Ref. 061112 MCC – 2006 – Permission **granted** for dwelling house – the Board should note that the dwelling house has been constructed approx. 21m south of the actual approved location and is orientated at an angle (east west), this differs from the plans submitted and approved.

4.2.1. Site to immediate east:

- PA Ref. 072288 MCC – 2007 – Permission **granted** for change of house type previously granted under PA Ref. 041853. The Board should note that this dwelling house remains unfinished.

4.2.2. Other nearby developments:

- PA Ref. 18922 – 2019 – Permission **granted** for dwelling house and domestic garage with effluent treatment system.

5.0 Policy Context

5.1. National Planning Framework (NPF)

- 5.1.1. In planning for the development of the countryside, the NPF acknowledges that there is a need to differentiate between demand for housing in areas under urban influence and elsewhere, as per the following objective:

National Policy Objective 19: *Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:*

- *In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and 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. Sustainable Rural Housing Guidelines for Planning Authorities (2005)

- 5.2.1. The Guidelines confirm development plans should identify the location and extent of rural area types as identified in the NSS (now superseded by the NPF). These include: (i) **rural areas under strong urban influence** (close to large cities and towns, rapidly rising population, pressure for housing and infrastructure); (ii) **stronger rural areas** (stable population levels within a well-developed town and

village structure and in the wider rural area; strong agricultural economic base and relatively low level of individual housing development activity); (iii) **structurally weaker rural areas** (persistent and significant population decline and weaker economic structure); and, (iv) **areas with clustered settlement patterns** (generally associated with counties of the western seaboard). Development Plans must tailor policies that respond to the different housing requirements of urban and rural communities and the varying characteristics of rural areas.

5.2.2. The current appeal site is located within a 'rural area under strong urban influence' as defined above and is located within 5km of Westport town.

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

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

5.4. **Development Plan - Mayo County Development Plan 2014-2020**

5.4.1. **Volume 1 – Relevant Policy**

Policy HG04 - *It is an objective of the Council to minimise ribbon development, with the exception of infill development, due to adverse impacts arising from this pattern of development relating to road safety, future demands for the provision of public infrastructure as well as visual impacts.*

Policy RH-01 - *It is an objective of the Council to ensure that future housing in rural areas complies with the Sustainable Rural Housing Guidelines for Planning Authorities 2005 (DoEHLG), Map 1 Core Strategy Conceptual Map and the Development Guidance document of this Plan.*

RH-02 - *It is an objective of the Council to require rural housing to be designed in accordance with the Design Guidelines for Rural Housing (Mayo County Council). Consideration will be given to minor deviations from these guidelines where it can be demonstrated that the deviation will not have an adverse visual impact on the landscape or on local residential amenity in the area.*

5.4.2. **Volume 2 - Section 2.3.1** outlines the Council's policy in relation to rural housing.

The site is located within a 'Rural Area under Strong Urban Influence' as confirmed with reference to Map 3 of the development plan. In such areas, applicants shall satisfy the planning authority that their proposal constitutes a genuine rural-generated housing need and must demonstrate compliance with one of the following categories:

- Persons who are an intrinsic part of the local rural community due to their having spent substantial periods of their lives living (at least 5 years) in the rural area in which they propose to build a home;
- Persons working full-time or part-time in the rural area in which they propose to build their first house; and,
- Persons whose exceptional health circumstances require them to live in a particular environment or close to family support.

Where permission has been granted for a rural housing proposal based on an applicant's links to an area, an occupancy condition shall normally be imposed under Section 47 of the Planning and Development Act 2000 (as amended).

5.4.3. **Volume 2 – Section 5.4 Infill Development** states the following - *If the ground floor level of a site has to be reduced, a maximum reduction of 1 metre will be allowed.*

5.4.4. **Landscape Appraisal**

The Landscape Appraisal of County Mayo confirms the subject site is located in the Central Drumlin Spine (Area K - glacial drumlins that are uniform at its western end near its transition with the distinct drumlins of Clew Bay) and Policy Area 4 – Drumlins and Inland Lowlands - undulating areas of pasture, woodland and forest. The development of rural dwellings in this policy area has low potential for adverse impacts on the existing landscape character.

5.4.5. **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.

5.5. **Natural Heritage Designations**

5.5.1. None relevant.

5.6. EIA Screening

- 5.6.1. Having regard to the nature and scale of the proposed development, comprising 1 no. residential dwelling house, 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

- 6.1.1. One third party appeal was lodged by Siobhan and Cormac McCarthy of Callacoon, Knockroosky, Co. Mayo. The appellants live in the dwelling adjacent to the appeal site to the west. The grounds of the appeal can be summarised as follows:
- Concerns in relation to the proposed design, its specific location and the consequent scale of the proposal at this location, given its FFL, on top of a hill that falls away steeply on all sides.
 - The proposal will have impacts on the existing landscape and rural environment by virtue of the buildings, driveways and hard landscaping.
 - The location of the proposed garage is a concern, as it is not set next to the house and instead located down a long driveway which will require engineering works.
 - Concerns regarding surface water given the 267sq.m area of roofs, surfaces and hard landscaping proposed.
 - The FFL of the house at 59.00 metres is 4.85m above the appellants' house. To construct the house at this location would require a 3m high retaining wall which would be located approximately 25m from the appellants' home.
 - Errors and omissions in the documentation provided in response to further information request – an area of only 267sq.m which relates directly to the roof surfaces are included in the calculations. The area of the driveways and

yard which amount to more than 500sq.m which should also have been included.

- The garage is not located on the 55.00m contour line as requested in the further information request.
- Several applications have been made previously on this site and the appellants note that the site boundaries in both applications differ substantially from each other.
- The site adjoining the appeal site was originally owned by the applicant's father and a derelict house which has been left incomplete since July 2010 is located here. The site was sold following receipt of planning.
- Discrepancies are noted in relation to the timelines for the submission of further information on the site. Appellants argue that they were not notified by the planning authority that further information had been received on the planning application.

6.2. Applicant Response

6.2.1. A response to the appeal was lodged by Gaven Joyce, Building Surveyor and Engineer on behalf of the applicant on 25th September 2020 and can be summarised as follows:

- The applicant is the son of a local family, who run a successful laundry business in Westport. The applicant's family home is located circa. 500m west of the proposed site.
- Land registry documents provided with the application show all the lands in the family ownership and this is the only site available to the applicant.
- In relation to the planning history of this proposed site, two of the previous planning applications were submitted by the appellant for one of her own clients. These applications were returned as invalid due to incorrect details submitted (PA Ref. 062935 and 063605).
- The request for further information was replied to within the permitted time period.

- The current application shows a modest home of 209sq.m with a ridge height of 6.15m and with cut and fill in accordance with Section 5.4 of the Mayo County Council Rural House Design Guide.
- Revised plans were submitted showing the amended location of the garage closer to the rear of the dwelling house, in the approximate area of the 55m contour line as requested by the planning authority. The proposed relocation also reduced the amount of road and hard surface construction required.
- A dig of circa. 1m maximum will be required at the location of the proposed dwelling and all excavated materials will be retained on site to make up levels and landscaping. The proposed dwelling is a standard minimum cut and fill design and will not hover in the air as stated by the appellants.
- The proposed access road is to be constructed using permeable materials. Reference to 'impermeable' on the site plan was an error and a revised site layout plan has been submitted which rectifies this error. Section 1.2 of the drainage report submitted clearly stated permeable materials.
- The site has a T-value of 34 and therefore adequately addresses the runoff or soak away concerns of the appellants. The surface water sump can be increased accordingly if necessary.
- As much natural landscaping and planting as possible shall be retained on site.
- No retaining wall is required in the construction of the proposed dwelling house.
- The proposed dwelling has a ridge height circa. 2m above the adjoining property to the west and circa. 1.5m below the uncompleted property to the east.
- The appellants' house was actually constructed circa. 20m further south of the location for which it received planning permission (PA Ref. 061112). If it had been constructed in the correct location as permitted the appellants would not have the same concerns.

6.2.2. In addition to the above, a submission has also been received from the applicant outlining his disappointment with the appeal and also reiterating the fact that the appellants' house is built in a location different to that permitted and also at a different angle. He also states that the access road to the appellants house is partially constructed on his proposed site (land registry map has been attached).

6.3. **Planning Authority Response**

- None received.

6.4. **Observations**

- None received.

6.5. **Further Responses**

- None received.

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:

- Housing Need
- Location of Dwelling, Scale and Visual Impact
- Surface Water Management
- Wastewater Treatment System
- Appropriate Assessment

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

7.3. **Housing Need**

7.3.1. The site is located within a 'Rural Area Under Strong Urban Influence'. In providing for rural housing in rural areas under urban influence, National Policy Objective 19

(NPO19) of the National Planning Framework confirms that the provision of single housing in the countryside should be facilitated based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing, having regard to the viability of smaller towns and settlements.

7.3.2. Section 2.3.1.1 (Volume 2) of the development plan confirms that people who are an intrinsic part of the local rural community due to their having spent substantial periods of their lives living in the rural area, includes:

(i) farmers, their sons and daughters, a favourite niece/nephew and/or any persons taking over ownership and running of a farm, who wish to build on the family farm holding (of at least 4 ha);

(ii) sons and daughters of non-farming persons who have spent a substantial period of their lives (i.e. at least 5 years) living in the rural area on which they propose to build and wish to build a home near their family place of residence (i.e. within 5km in any direction of family residence);

(iii) returning emigrants who spent a substantial period of their lives living in the rural area in which they propose to build, who now wish to return to reside near (i.e. within 5km) other immediate family members, to care for elderly immediate family members, to work locally, or to retire.

7.3.3. It is considered that the applicant has submitted insufficient supporting evidence to demonstrate their compliance with any of the categories above or demonstrable economic or social need to live in this rural area in line with NPO19. I note that the applicant has indicated the location of the family home to the north west of the site at a stated 500m. Following an examination of the distance using GIS this distance would appear to be closer to 800m. Having regard to the foregoing however, the applicant has not confirmed that they have lived in the identified location for a period of at least 5 years or submitted any evidence to prove same. The location of the family home is not a sufficient justification for the need for a one-off dwelling.

7.3.4. The applicant states in their response to the appeal documents that he is the son of a local family, who run a very successful laundry business in Westport. The land registry details submitted with the application show the site and other land nearby is in the ownership of the Stephen Langan (applicant's father). I note a letter has been

submitted from the applicant's father giving consent to apply for planning permission on the lands. Notwithstanding the aforementioned, the applicant has failed to submit any social or economic need or justification for a dwelling house at this location. I therefore consider that the proposed development would be contrary to both the provisions of the Mayo County Development Plan and NPO19 of the NPF.

7.4. Location of Dwelling, Scale and Visual Impact

- 7.4.1. It is disputed by the appellants that the location of the proposed building will be forward of their dwelling and that, in combination with the amount of hard landscaping involved in the proposal, will result in a visual impact on the rural environment, the existing landscape, the local access road and that of their home. They also submit that the proposed location of the dwelling on top of the adjoining elevated site, 4.85m above their own dwelling, and the location of the domestic garage located down another driveway on a smaller hill on site, will also exacerbate the negative impacts on the landscape.
- 7.4.2. The proposed dwelling house is to be located in a landscape which by its nature is undulating, given the fact that it is comprised mainly of drumlins at this location. The site is located within Policy Area 4 – Drumlins and Inland Lowlands, outlined under the Landscape Appraisal for County Mayo. It is stated that the development of rural dwellings in this policy area has low potential for adverse impacts on the existing landscape character, this is however subject to siting and design considerations.
- 7.4.3. The dwelling house is to be located in the upper half of the sloping site with a proposed finished floor level of 59.00, which is approximately 5m below the public road level. The site will require some cut and fill prior to construction to position the proposed dwelling into the hillside. The applicant has stated that a dig of 1.0m maximum would be required at the house location and that this in accordance with Section 5.4 of the development plan. Though the site falls by approximately 10m from road level to the southern boundary, I believe a dwelling house can be accommodated here, as evidenced by the two adjoining dwellings on sites to the east and west which have been constructed on similar sloping topography. I note the appellants have raised concerns in relation to a retaining wall on site, however the applicant has refuted this concern stating that no retaining wall is required. The

sections submitted with the appeal show a gradual landscaped slope falling away from the rear of the dwelling to the south of the site which I considered satisfactory.

- 7.4.4. The proposed dwelling is a single storey bungalow type design, with vertical window emphasis along the front elevation. The dwelling has a proposed height of circa 6.15m and 'L-shaped' form. A patio area is proposed to the rear of the dwelling facing south and south west. The dwelling is located approximately 27m from the nearest dwelling to east and 37m from the nearest dwelling to the west (appellants' dwelling). While I note the appellants' concerns in relation to the height of the proposed dwelling on site, I believe a separation distance of 37m is sufficient to mitigate against any of the concerns raised in the appeal. Also based on the sections submitted the proposed dwelling's ridge height is a max of 1.5m above that of the appellants' house ridge level, I do not consider this significant or that it would result in any overbearing impacts on the dwelling on the adjoining site to the west.
- 7.4.5. Having visited the site and inspected the development pattern in the area, I note the presence of a variety of house designs. I also noted the house is proposed to be set back in line with neighbouring property to the east. I acknowledge the applicant's comments in relation to the location of the appellants' dwelling to the west and having inspected the original approved plans for this site (PA Ref. 061112) I note that this dwelling has been constructed approximately 21m back from the approved location and also at an angle to the local road. The original approved location would have matched with the proposed building line of the applicant's dwelling and the established building line of the house on the site to the immediate east (PA Ref. 072288). Having assessed the current situation on site, I do not believe that the proposed design or siting of the dwelling will have any negative impacts on the amenities of the dwelling to the west. Its footprint is not considered excessive in the context of the site and overall its design would not be visually intrusive on the local landscape and as such is considered acceptable. Also, it is noted as part of the further information response received by the planning authority, the proposed garage has been relocated closer to the dwelling house on the 55.00 contour line as request, I consider this acceptable.
- 7.4.6. In addition to the above, I also note that the applicant proposes to retain as much vegetation as possible on site and has included for screen planting of native trees

and hedging to all site boundaries to ensure a sufficient level of landscaping and screening.

- 7.4.7. Having regard to the all the foregoing, it is considered that a single storey dwelling would be acceptable on the subject site and would have no significant negative impact on the amenities of the neighbouring dwellings or the surrounding rural landscape.

7.5. Surface Water Management

- 7.5.1. The Board should note that the applicant has addressed another of the appellants' concerns in relation to surface and storm water drainage by submitting a revised site layout in response to the appeal. This shows that all road surfaces on site are to be constructed of shale, thus ensuring permeability and addressing run off concerns. In addition, I note that a Storm Water Management report was submitted in response to further information, which outlined the measures proposed on site to deal with surface water runoff and the soakaway design and capacity on site. I consider the measures presented sufficient to ensure that any surface water can be dealt with on site.

7.6. Wastewater Treatment System

- 7.6.1. The applicant submitted a Site Suitability Assessment to the Planning Authority. The overall proposal is for a secondary wastewater treatment system comprised of a septic tank and media filter.
- 7.6.2. The report identifies the site within a 'Regionally Important' aquifer category with a 'High Vulnerability' classification in the GSI Groundwater maps. The site falls within the R2 response category and the assessment noted that the topsoil on site was shallow and thus no P tests were carried out. The report notes that the construction of a traditional percolation bed would be difficult.
- 7.6.3. The trial hole assessment indicates bedrock was encountered at 2.1m. A t-test value of 34.89 was recorded which was slower than expected but still within the acceptable range. The assessment suggests that due to the rocky ground construction, a percolation bed would be impractical thus it is proposed to install a traditional septic tank with discharge to media filter (in lieu of percolation area) and then with final discharge to a gravel bed of 90sqm.

7.6.4. The proposed secondary treatment system appears to comply with the CoP requirements in relation to separation distances. Overall, the proposed treatment and disposal of wastewater appears satisfactory.

7.7. **Appropriate Assessment**

7.7.1. Having regard to the minor nature and scale of the development, and the separation distance to any 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.

7.8. **Conclusion**

7.8.1. In conclusion, notwithstanding the provisions of the Mayo County Development Plan 2014 – 2020, it is considered that the applicant has provided insufficient evidence of a demonstrable economic or social need to live in this Rural Area Under Strong Urban Influence as required under National Policy Objective 19 of the National Planning Framework. Thus, the proposed development would be contrary to the proper planning and sustainable development of this rural area.

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**

The site of the proposed development is located within an “Area Under Strong Urban Influence” as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April 2005. The subject site is located in an area that is designated under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area. Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need to live in this rural area. It is

therefore considered that the applicant does not come within the scope of the housing need criteria as set out in national policy for a house at this location. Therefore, notwithstanding the provisions of the Mayo County Development Plan 2014 – 2020, the proposed development would be contrary to the over-arching national policy and to the Ministerial Guidelines, and, as such, contrary to the proper planning and sustainable development of the area.

Máire Daly
Planning Inspector

08th December 2020