



An
Bord
Pleanála

Inspector's Report

ABP-308420-20

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| Development | Construction of house, garage and associated site works. |
| Location | Kilmeena, Westport, Co.Mayo |
| Planning Authority | Mayo County Council |
| Planning Authority Reg. Ref. | 20/383 |
| Applicant(s) | Sean & Michelle Walsh |
| Type of Application | Permission |
| Planning Authority Decision | Grant |
| Type of Appeal | Third Party vs. Grant |
| Appellant(s) | Peter Gibbons |
| Observer(s) | None |
| Date of Site Inspection | 13 th January 2021 |
| Inspector | Stephen Ward |

1.0 Site Location and Description

- 1.1. Located in the townland of Coolbarreen, Kilmeena, approximately 2.5km northwest of Westport town centre, the site is accessed via a narrow local road which forms the north-eastern site boundary. The site levels fall significantly from the adjoining road level (varying c. 46.7m to 49.0m) to the south-western corner of the site (c. 41.5m). The roadside boundary consists of an overgrown stone wall with an existing agricultural access at its northern end.
- 1.2. The site has a stated area of 0.714 hectares and is annexed from a larger field bounded by a mixture of trees and hedgerows. The surrounding landscape is characterised by an undulating topography of agricultural fields and one-off housing, including a significant concentration of houses further east of the site. While the site is quite enclosed by rising land to the north and west, lower land to the south and east of the site opens up views of the wider landscape, including those across Clew Bay to Croagh Patrick.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a single storey dwelling with a stated floor area of 203 sq.m. and an overall height of c. 5.8 metres. The proposed dwelling will be excavated into the site to provide a finished floor level of 43.0m. The house design is largely based on a rectangular plan form with a pitched roof. External finishes mainly consist of plaster and stone to the walls, along with blue/black slates on the roof. A small return to the rear of the house is based on a more contemporary style with a mono-pitch roof and standing seam roof sheeting. A detached garage with a floor area of 35 sq.m. is proposed to the northwest of the site.
- 2.2. A new vehicular entrance and wing walls are proposed at a central position on the roadside boundary. The existing roadside boundary is to be removed and lowered where necessary to achieve the proposed sight distances. The other site boundaries shall consist of post and wire stock fencing planted with native species.
- 2.3. On-site wastewater treatment is proposed via an effluent treatment system and a tertiary media filter discharging to a 90 sq.m. gravel bed. It is proposed to connect to the public mains water supply and to dispose surface water to soakpits.

3.0 Planning Authority Decision

3.1. Decision

By order dated 17th September 2020, Mayo County Council (MCC) issued notification of the decision to grant permission, subject to conditions. The following conditions of the decision are notable:

- Condition 2 requires an occupancy agreement in accordance with the terms of section 47 of the Planning and Development Act 2000 (as amended).
- Condition 3 requires the removal of the entire roadside boundary and the construction of a new boundary 3.5 metres from the edge of the public road.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial planner's report (dated 30th July 2020) can be summarised as follows:

- The site is located in an area identified as 'Rural Areas Under Strong Urban Influence'.
- Land registry maps have been submitted and the applicant's family home is located in close proximity to the site.
- The design of the development is acceptable.
- Further Information is required including cross section drawing through the effluent treatment system and filter.

A Further Information Request was issued on 4th August 2020 in accordance with the recommendation of the planner's report. The applicant responded to the request on 24th August 2020. The subsequent planner's report (dated 10th September 2020) can be summarised as follows:

- The relevant further information was submitted.
- An occupancy condition applies given the location 'in a housing need area'.
- A grant of permission is recommended, subject to conditions, which is reflected in the MCC notification of decision.

3.2.2. Other Technical Reports

- Area Engineer: No objections subject to standard conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

One submission was received by the appellant (Peter Gibbons). The issues raised are covered in the grounds of appeal.

4.0 Planning History

There would not appear to be any planning history pertaining to the site.

5.0 Policy Context

5.1. National Planning Framework (NPF)

5.1.1. The NPF is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. In planning for the development of the countryside, the NPF acknowledges that there is a continuing need for housing provision for people to live and work in the countryside, but also highlights the need to differentiate between types of rural areas and housing needs.

5.1.2. National Policy Objective 19 aims to 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;

- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on 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. In supporting sustainable housing development patterns in rural areas, the guidelines outline that planning authorities should identify the needs of rural communities in the development plan process and manage pressure for overspill development in the rural areas closest to the main cities and towns.

5.2.2. Development plans should identify the location and extent of rural area types set out in section 5.3.2 of the NSS (superseded by the NPF), including rural areas under strong urban influence; stronger rural areas; structurally weaker rural areas; and, areas with clustered settlement patterns. Having identified the rural area types, planning authorities should then tailor policies that respond to the different housing requirements of urban / rural communities and the varying characteristics of rural areas.

5.2.3. Chapter 4 of the Guidelines deals with development management and provides guidance aimed at ensuring that all the necessary information and documentation is assembled to facilitate an efficient and thorough consideration of applications.

5.3. Mayo County Development Plan 2014 – 2020

5.3.1. The operative plan for the area is the Mayo County Development Plan 2014 - 2020, the lifetime of which has been extended in accordance with the provisions of section 11(1)(b) of the Planning and Development Act 2000 (as amended).

5.3.2. Westport is designated as a 'Key Town' and Policy P-01 aims to ensure sustainable development of the Linked Hub and Key Towns and to manage development outside these towns in a way that ensures the viability of rural communities.

5.3.3. Objective RH-01 of the Plan aims to ensure that housing in rural areas complies with the 'Sustainable Rural Housing Guidelines (2005)', Map 1 - Core Strategy Conceptual Map, and the Development Guidance document of the Plan. I note that

'Map 1' classifies the appeal site as being within a 'Rural Area under Strong Urban Influence'.

5.3.4. Volume 2 of the Plan sets out further guidance and standards and states that, in rural areas under strong urban influence, applicants for rural housing shall demonstrate rural generated housing need through 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 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.
- Persons whose exceptional health circumstances require them to live in a particular environment or close to family support.

5.3.5. Under Objective LP-02, the Council will consider all proposed development in the context of the Landscape Appraisal of County Mayo. The site is within 'Policy Area 2 – Lowland Coastal Zone' as per 'Map 3A - Landscape Protection Policy Areas', within which 'rural dwellings' are deemed to have medium/low potential for adverse impacts on landscape character according to the Landscape Sensitivity Matrix.

5.3.6. Objective VP-01 aims to ensure development does not adversely interfere with views and prospects as outlined on Map 4, or on the views to and from places and features of natural beauty or interest. The appeal site is not affected by any designated Scenic Routes or Views to be preserved.

5.4. **Natural Heritage Designations**

Coolbarreen Lough, a Proposed Natural Heritage Area (pNHA), is located approximately 150 metres northeast of the site. The nearest designated Natura 2000 site is the Clew Bay Complex Special Area of Conservation (SAC) located c. 1.3 km to the south, and which is also a pNHA.

5.5. EIA Screening

Having regard to the nature and scale of the proposed development, comprising just one dwelling, 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

The decision of MCC to grant permission has been appealed by Peter Gibbons, also of Coolbarreen, Kilmeena, who states that he is the owner of the property directly opposite the appeal site. The grounds of appeal can be summarised as follows:

- The proposed entrance will impact on road safety due to:
 - Its location near a corner that is prone to accidents;
 - The substandard sightlines, which do not meet Development Plan requirements; and
 - Its proximity to the existing lay-by outside the appellant's house.
- The additional traffic will unduly impact on the appellant's property, including encroachment on privacy due to car lights and general disruption.
- Previous applications (Ref. No's P01/1297 and P01/1286) were refused due to poor ground conditions and the over concentration of septic tanks and percolation areas in close proximity to Coolbarreen Lough. The proposed development may involve similar ground conditions and public health concerns.
- Previous applications (Ref. No's P05/2565, P06/2537, P06/965 and P02/1841) were refused due to impacts on the character of the landscape. The proposed development would generate similar adverse issues, would be contrary to the proper planning and sustainable development of the area, and would set an undesirable precedent.

6.2. Applicant Response

The applicant's response to the grounds of appeal can be summarised as follows:

- The proposed entrance will be set back 6 metres from the road edge and sight lines have been provided in accordance with section 16.3 of the Development Plan. Furthermore, the applicant's family own significant road frontage either side of the subject site.
- One of the refusals quoted (P01/1286) appears to be on a site owned by the appellant, and on which his house is now constructed.
- An independent engineer was used to carry out the site assessment which had average 'P Test' results of 37 minutes.
- Two quoted refusals (P05/2565 and P06/2537) were subsequently granted permission under revised applications (P16/573 and P06/3585 respectively).
- The applicants have applied to build a dwelling in accordance with the siting and design guidance of MCC.
- The applicants have a strong local need for housing based on:
 - their children's links to local sport and school facilities.
 - one of the applicants' family homes is 1.5km from the site and the applicants are currently living in a grandparents' home (also 1.5km from the site) on a temporary basis.
- According to Road Safety Authority records, no collisions have been recorded on the road serving the site.

6.3. Planning Authority Response

None.

6.4. Observations

None.

7.0 Assessment

7.1 Having regard to the documentation submitted in connection with the application and the appeal, and having inspected the site, I consider that the main issues for assessment are as follows:

- Rural Housing Policy
- Visual amenity
- Traffic
- Residential amenity
- Wastewater treatment

7.2. Rural Housing Policy

7.2.1. In accordance with CDP policy, rural generated housing need must be demonstrated for a proposal in a 'rural area under strong urban influence'. In this regard, the acceptable categories of housing need are set out in section 5.3 of this report. The applicants do not put forward housing needs relating to rural employment or health circumstances, but do refer to the category which caters for *'persons 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 in which they propose to build a home'*.

7.2.2. Section 2.3.1.1 of Vol. 2 of the CDP further clarifies this category and states that, under sub-section (a), it includes sons / daughters building on a family farm holding that exceeds 4 hectares. The application has demonstrated that it is intended to build on part of the family farm, which extends to an overall holding in this locality of c. 30 hectares. The applicant's family home is stated to be c. 1.5km from the site and it is stated that the applicants' have strong links with the community through educational and recreational associations etc.

7.2.3. I acknowledge the applicants' argument in relation to compliance with the above category. However, this must be balanced with the over-arching aims of the CDP and NPO 19 of the NPF, which outlines that rural housing proposals in rural areas under urban influence should have a demonstrable social or economic need. In this regard I note that the site is located within the immediate environs of Westport, a designated Key Town, and is only c. 1km from a nearby industrial estate at the

development limit of the town. There is significant evidence of pressure for one-off housing in this area, particularly along this road further east of the site, and on the Golf Course to the southwest of the site. It is important that development outside Key Towns is sustainably managed as set out in Policy P-01 of the CDP.

7.2.4. The appeal documents outline that the applicants are currently living in a family-owned house in the locality. While it is stated that this is a temporary measure due to the impending needs of another family member, there is no supporting evidence to substantiate this claim. I would feel that one-off housing in the environs of Westport should only be permitted in cases where a clearly demonstrated need exists.

Furthermore, I would concur with objective HG-02 of the CDP, which seeks to maximise the use of the existing housing stock throughout the County by exploring the viability of utilising existing vacant housing stock as an alternative to new build.

7.2.5. Having regard to the above, I do not consider it appropriate to disregard the potential use of the applicants' existing dwelling without a clearly demonstrated reason. And while the social and family links of the applicants to this area are noted, I consider that the housing needs of the family should firstly be addressed through the use of existing housing stock. Therefore, in the absence of substantive evidence to the unavailability of the existing house, I do not consider that a housing need has been satisfactorily established in this case.

7.3 Visual Amenity

7.3.1. As outlined in section 5.3 of this report, the site is located within a 'lowland coastal zone' and has medium potential for adverse impacts on landscape character. It is not affected by any designated scenic routes or views to be preserved. At a more localised level, I note that the dwelling is proposed at a very low-lying position and would benefit from the natural enclosure provided by the rising topography to the north and west. This rising land would screen the dwelling when viewed from the north and west, as well as providing a suitable backdrop when viewed from the south and east.

7.3.2. The proposed dwelling is of a reasonable scale and height and is of a relatively simple design which generally references traditional rural housing principles. Whilst I would feel that certain elements of the design would benefit from reconsideration,

particularly the proposed east elevation, I consider that the proposal could be accommodated without seriously impacting on the visual amenity of the area.

7.3.3. I note the concerns raised in the appeal regarding potential impacts on landscape character. However, the appeal refers to other sites and the proposed development must be judged on its merits, as outlined above.

7.4 Traffic

7.4.1. The site adjoins a stretch of narrow local road that varies considerably in terms of vertical and horizontal alignment. The width of the road is suitable for one vehicle only, save for the passing bays created by roadside boundary setbacks like that which exists opposite the subject site. An 80 kph speed limit applies to the road.

7.4.2. In accordance with section 16.3 of Vol. 2 of the CDP, the minimum access visibility requirements for a local road with a design speed of 70 kph is 120 metres in each direction. The application proposes a setback roadside entrance and indicates that a sightline of 70 metres is achievable to the northwest and a distance of 90 metres is achievable to the southeast.

7.4.3. However, I would concur with the concerns raised in the appeal regarding the manner in which the sightlines are measured. The point from which the sightlines are taken (point 'B') appears to be arbitrarily chosen and does not relate to the actual entrance point. The proposals are not in accordance with Development Plan guidance which indicates that sightlines should be measured from a setback position along the centreline of the proposed access road.

7.4.4. The proposed sightlines to the northwest (i.e. between point 'B' and 'D') do not appear to account for the vertical alignment of the road. While level details are not clearly provided, it would appear that the road level opposite the site entrance is c. 48.0m, from which sightlines should be measured at a raised level of +1.05m i.e. 49.05m. The road level at point 'D' is also estimated at 48.0m, to which sightlines should be measured at a raised level of +0.6m i.e. 48.6m. However, between points 'B' and 'D', the road rises to a crest level of c. 49.3m and, accordingly, a clear line of sight is not possible between these points. The crest of the road would appear to be less than 25 metres from the proposed entrance.

7.4.5. The matter is further complicated by the significant level differences between the subject site and the adjoining road. At the north-western end of the roadside boundary the site levels are significantly higher than the road, while at the south-eastern end the site is significantly lower than the road. I do not consider that the implications for sightline availability have been adequately considered in this regard.

7.4.6. I note that the matter of sightlines is not specifically addressed in the MCC reports, but a condition has been included in the decision requiring the setback of the entire roadside boundary for a distance of 3.5 metres from the edge of the road. Again, I would be concerned that this proposed solution, involving a significant setback over a distance of 70 metres, does not adequately address the particular circumstances of the site. I consider that wholesale removal of roadside boundaries should be avoided in the interests of protecting rural character. The widening of rural roads can also encourage increased traffic speeds and associated hazards. In this case, concerns are exacerbated by the existing roadside setback directly opposite the site. Cumulatively, I would be concerned that the existing and proposed setbacks would result in an excessive road width which would detract from the rural character of the area and interfere with the safety and free flow of traffic.

7.4.7. I would accept that it may not be feasible to travel at the applicable 80 kph speed limit and that reduced sightlines may be acceptable on the basis of using a lower design speed. However, a bespoke solution would be required to address the issues outlined above, particularly in relation to vertical alignment. The proposals submitted are seriously deficient and I am not satisfied that an access / exit with adequate sightlines has been demonstrated for the proposed development.

7.5 Residential amenity

7.5.1. The proposed dwelling will be significantly distanced from surrounding residences and I do not consider that it would adversely impact on residential amenity. I note the privacy and nuisance concerns raised by the appellant but I consider that any disturbance caused by the development would be minimal and it would not be reasonable to say that the proposal would seriously detract from the privacy or amenity of his property.

7.6 Wastewater treatment

- 7.6.1. In response to the 'EPA Code of Practice (CoP): Wastewater Treatment and Disposal Systems Serving Single Houses (2209)', the application includes a Site Suitability Assessment prepared by Gillespie Architectural and Surveying Services. It is proposed to install a tertiary treatment unit consisting of an SBR or similar treatment plant, a media filter, and final discharge to a 90m² pea gravel bed.
- 7.6.2. The Site Characterisation Form identifies the aquifer type as a 'Regionally Important – Karstified (conduit)' with 'moderate' vulnerability. Bedrock was not encountered in the trial hole and a winter water table appears to be estimated as 1.2m. Soil conditions are described as being a dark brown silt/clay near the surface, followed by a mid-brown/red coloured clay / gravel loam after a depth of c. 0.5 metres. The trial hole is evaluated as having exceptionally dry ground with highly compact subsoils. Extended dry weather was cited as a factor.
- 7.6.3. In accordance with the 'response matrix' outlined in the CoP, the site falls within the 'R1' category where an on-site system is acceptable subject to normal good practice.
- 7.6.4. Three separate percolation 'T' tests (modified) were carried out in accordance with CoP requirements and the average results give a 'T' value of 63.31. In accordance with the CoP, this would not be suitable for a septic tank system but may be suitable for a secondary treatment system with a polishing filter at the depth of the T-test hole. However, the Site Assessment raises concerns about the modified 'T' test values being progressively higher. The estimated water table at 1.2m ruled out a traditional percolation bed.
- 7.6.5. A 'P' test was carried out, the result of which was 37.86. Table 6.3 of the CoP outlines that this would be suitable for a secondary treatment system with a polishing filter at ground surface or overground. The Site Assessment also factors in the sloping nature of the site and states that a reduced percolation bed size would be appropriate. To allay concerns about high percolation values and site contours, it is proposed to install a tertiary treatment unit consisting of an SBR or similar treatment plant with discharge to media filter. Final discharge will be to a PEA gravel bed of 90m² to be laid at ground level with 300mm deep stone, geotextile layer and 300mm soil cover.

- 7.6.6. I note that the planning authority requested further information to include a cross section drawing through the proposed system to show existing / proposed ground levels, the invert level of the pipes and trench, distribution gravel, and the level of unsaturated soil available below the invert pipe level. While the planning authority appears to be satisfied with the response, I note that the section detail submitted is not particularly clear and does not clarify the invert level of the pipes / trench or the level of unsaturated soil below.
- 7.6.7. Upon my inspection of the site I would be concerned about the evident water levels. The trial hole and test holes were full of water, almost to the ground surface level. The ground surface conditions were extremely wet and evidence of rushes throughout the site also suggests a high water table and/or poor percolation characteristics. I note that the winter water table level appears to be estimated in the Site Assessment as 1.2m and was not properly clarified in the applicant's response to the planning authority's further information request. This estimation may not be reflective of varying site conditions, which were very poor at the time of my inspection.
- 7.6.8. As highlighted by the appellant, I note that permission was refused by MCC for dwellings on the opposite side of the road on grounds relating to poor percolation properties and a high water table level (P.A. Ref. No.'s 01/1297 and 01/1286 apply). And while the applicant's response suggests that the appellant's dwelling was later constructed on one of these sites, it does not appear to me that these sites were subsequently developed according to available MCC mapping. Indeed, a subsequent application on one of the sites was again refused by the Board on similar grounds (P.A. Ref. 02/1270 and ABP Ref. PL.16.200996 apply). While each case must be determined on its merits, I consider that these decisions are nonetheless instructive of local conditions.
- 7.6.9. Accordingly, having regard to the concerns outlined above regarding site conditions on the day of my inspection and the planning history of the area, I am not convinced that an adequate separation between the discharge level and the level of unsaturated soil can be achieved to demonstrate that the site is suitable for the treatment and disposal of effluent.

8.0 **Appropriate Assessment**

Having regard to the nature and limited scale of the proposed works, and the separation distance between the appeal site and the nearest European Site, it is considered that the proposed development, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on any European Sites in view of the sites' conservation objectives, and Appropriate Assessment including the submission of Natura Impact Statement is not, therefore, required.

9.0 **Recommendation**

Having regard to the above, it is recommended that permission should be refused for the reasons and considerations set out hereunder.

10.0 **Reasons and Considerations**

1. Having regard to the location of the site in a "Rural Area under Strong Urban Pressure" and policy P-01 of the Mayo County Development Plan 2014 – 2020, which aims to manage development outside Key Towns including Westport, and to national policy, as set out in National Policy Objective 19 in the National Planning Framework, which aims 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, the Board is not satisfied, having regard to the documentation submitted with the application, that the applicants have established a demonstrable economic or social need for a new dwelling within this rural area. Taken in conjunction with existing development at this location, the proposed development would set an undesirable precedent for an excessive concentration of development in a rural area outside Westport, and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The site is located along a minor road which is substandard by reason of vertical and horizontal alignment, at a point where sightlines are restricted in a northwest direction. In the absence of suitable proposals for the achievement

of adequate sightlines from the proposed entrance, it is considered that the additional traffic turning movements generated by the development would endanger public safety by reason of traffic hazard and obstruction of road users.

3. Having regard to the soil conditions and high water table observed on inspection of the site, the Board is not satisfied that effluent from the development can be satisfactorily treated and disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health.

Stephen Ward
Senior Planning Inspector

22nd January 2021