



An
Bord
Pleanála

Inspector's Report 309089-21

Development	Demolition of existing structures, construction of permanent replacement dwelling, upgrading existing septic tank & percolation area, localised works to existing water well & construction of a dry bed shed.
Location	Deerpark West, Westport, Co. Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	20751
Applicant(s)	Patrick Reilly
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v. Decision
Appellant(s)	Patrick Reilly
Observer(s)	None
Date of Site Inspection	4 th May 2021
Inspector	Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 2.069 ha and is located at Deerpark West, Westport, Co. Mayo. The site is accessed via the R335 regional road which extends in a westerly direction from Westport towards Louisburg. The site is located on the southern side of the regional road and benefits from scenic views over Clew Bay which extends to the north of the R335.
- 1.2. The site is accessed via an agricultural entrance which is set back from the public road. The site is irregularly shaped and wraps around an existing detached dwelling which adjoins the site to the west. The remaining adjoining lands are agricultural or woodland in nature. The site is generally characterised by a triangular shaped land parcel adjacent to the public road and two further distinct land parcels in the central and southern portions, all of which are connected by an unsurfaced stone track. The site levels increase significantly from the site entrance towards the central area of the site and decrease again towards its southern portion.
- 1.3. The site has been subject to clearance works, with the central area characterised by 2 no. derelict stone structures, with mossy grassland and reeds, disturbed soil and stone materials throughout. Individual trees are also present in this part of the site, while a land drain extends along its northern and southern boundaries. The southern-most portion of the site appears to have been subject to levelling works and is characterised by stony materials throughout.

2.0 Proposed Development

- 2.1. The proposed development consists of: (1) the demolition of the existing structures and the construction of a permanent replacement dwelling; (2) upgrading of existing septic tank and percolation area; (3) localised improvement works to the existing water well; and (4) construction of a dry bed shed.
- 2.2. The single-storey dwelling house has a stated floor area of 332.5 m² and is proposed in the central area of the site. It will accommodate 4 no. bedrooms, a combined kitchen/living/dining room, a lounge, utility room and bathroom, arranged around an internal courtyard. An attached garage of 31 m² is also proposed.

2.3. A dry-bed shed of 789 m² and an attached dry-bed horse shed of 73.6 m² is proposed on the southern portion of the site.

3.0 **Planning Authority Decision**

3.1. **Decision**

3.1.1. Notification of the Decision to Refuse Permission issued on 1st December 2020 for 3 no. reasons which can be summarised as follows:

(1) The proposed development is located in an area under strong urban pressure and the applicant has not established a permanent housing need at this location.

(2) The proposed development is contrary to Section 16.1.4 of the Mayo County Development Plan 2014-2020 which restricts developments along Strategically Important Regional Roads outside the 60km/hr speed limit zones of towns and villages.

(3) Mayo County Council is not satisfied that the proposed development, individually or in combination with other plans and projects, would not be likely to have a significant effect on Clew Bay Complex SAC, or any other European site, in views of the sites' conservation objectives.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

3.2.2. Basis of Planning Authority's decision.

3.2.3. **Other Technical Reports**

3.2.4. **Environment, Climate Change and Agriculture:** No flood risk assessment required.

3.2.5. **Area Engineer:** No objection subject to conditions.

3.2.6. **Road Design:** Recommends that planning permission be refused based on:

(1) the objectives of the Mayo County Development Plan 2014-2020 to restrict development outside the 60 km/hr speed limits on Strategically Important Regional Roads, and

(2) the site's location on a Strategically Important Regional Road and the precedent a grant of permission would set for similar developments.

3.3. Prescribed Bodies

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

3.3.2. **An Taisce:** None received.

3.3.3. **Irish Water:** None received.

3.4. Third Party Observations

3.4.1. One third-party submission was received from Simon Kavanagh-Joyce, Deerpark, Westport, Co. Mayo. The points which are raised can be summarised as follows: (1) the structure that exists on the site was derelict and abandoned at least 20 years ago, (2) there is no evidence that farming has been undertaken on the site in the past, (3) the land has been cleared, with trees/vegetation removed and access roads and fields created, resulting in the loss of natural habitats for protected species, (4) an entrance to the site has been created to facilitate heavy trucks and machinery, with reduced lines of sight and a negative visual impact on the entrance, roadside verge and stone wall, (5) adverse visual impact, (6) traffic hazard.

4.0 Planning History

4.1. **Planning Authority Reg. Ref. 20/357:** Planning permission refused on 30th July 2020 for the demolition of the existing structures and the construction of a permanent replacement dwelling, upgrading of existing septic tank and percolation area, localised improvement works to the existing water well and the construction of a dry bed shed.

4.2. Permission was refused for 4 no. reasons including: (1) absence of housing need; (2) the design, scale, mass and bulk of the dwelling in an open and exposed rural coastal area, would interfere with the character of the landscape; (3) the proposal is contrary to section 16.1.4 of the county development plan regarding the restricting of development along Strategically Important Regionally Roads outside the 60 km/hr

speed limit zone of towns and villages; (4) potential significant effect on Clew Bay Complex SAC.

5.0 Policy and 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:

5.1.2. **National 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,
- 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. 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).

5.2.2. Development plans must tailor policies that respond to the different housing requirements of urban and rural communities and the varying characteristics of rural areas.

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

5.3.1. The 2014-2020 county development plan remains in place until such time as the draft 2021-2027 plan is adopted.

5.4. **Rural Housing**

5.4.1. The subject site is located in a “Rural Area Under Strong Urban Influence” with reference to Map 3 (Rural Area Types) 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 who exceptional health circumstances require them to live in a particular environment or close to family support.

5.4.2. Where permission has been granted for a rural housing proposal based on an applicant’s links to an area, an occupancy condition (5 years) shall normally be imposed under Section 47 of the Planning and Development Act 2000.

5.5. **Housing Policies and Objectives**

5.5.1. **P-01:** It is the policy of the Council to ensure the sustainable development of the Linked Hub and Key Towns in the County and to manage development outside these towns in a way that ensures the viability of rural communities while ensuring environmental protection through the implementation of the objectives and Development Guidance document of the development plan.

- 5.5.2. **HG-02:** It is an objective of the Council 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.
- 5.5.3. **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.
- 5.5.4. **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), Map1 Core Strategy Conceptual Map and the Development Guidance document of the development plan.
- 5.5.5. **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.

5.6. **Landscape Appraisal**

- 5.6.1. The Landscape Appraisal of County Mayo confirms the subject site is located in Landscape Area J (Clew Bay Glacial Drumlins), with critical landscape factors which include distinct coastal vistas, prominent ridge lines, undulating topography and shelter vegetation and Policy Area 3 – Uplands, Moors, Heath or Bog. The development of rural dwellings in this policy area has low – medium potential for adverse impacts on the existing landscape character.
- 5.6.2. Section 7.1.9 (volume 2) of the development plan confirms that, where a proposal includes a new building in an existing landscape of a particular character, a Visual Impact Statement, consisting of photomontages or other visual aids showing how the development integrates into the landscape, shall be submitted with the planning application. Reference shall also be made to the Landscape Appraisal for Co. Mayo.

5.7. Roads Objectives

- 5.7.1. **RD-01:** It is an objective of the Council to protect the capacity and safety of the National Road Network and Strategically Important Regional Road network (listed in appendix 4) in the County and ensuring compliance with the Spatial Planning and National Roads Planning Guidelines (January 2013).
- 5.7.2. Appendix 4 of the development plan confirms that the R335 between Louisburg and Westport is a Strategically Important Regional Road.

5.8. Residential Development Management Standards

- 5.8.1. **Site Access:** Development along Strategically Important Regional Roads will be restricted outside the 60km/hr speed limits except, where such proposals, subject to a Road Safety Audit, can demonstrate that they do not interfere with the traffic safety of the Strategically Important Regional Road and comply with the categories listed hereunder:

(a) the provision of a new dwelling house for farmers, their sons or 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 (a farm holding shall consist of at least 4 ha) where a suitable vehicular access cannot be created from another roadway or utilising an existing access

(b) the provision of a new dwelling house where an existing inhabited dwelling house is in need of replacement and provided the existing house will not be used for further habitation

(c) extensions to existing houses or domestic garages

(d) in a situation where force majeure applies in respect of landowners on such roads or their immediate family members.

5.9. Natural Heritage Designations

- 5.9.1. The site is adjacent to the Clew Bay Complex SAC (site code 001482).

5.10. EIA Screening

5.10.1. Having regard to the nature and scale of the proposed development, comprising the demolition of existing structures, the construction of 1 no. residential dwelling, upgrading of existing percolation tank and percolation area, localised improvement works to existing water well and the construction of a dry bed shed, 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 first-party appeal has been lodged by O'Connell Design Associates on behalf of the applicant, the grounds of which can be summarised as follows:

- A previous dwelling structure on the land was destroyed by fire and replaced by a prefabricated concrete structure and later by a mobile home. The applicant wishes to construct a new dwelling and is taking over the running of the farm. As such, the applicant complies with Section 2.3.1.1 (a) of the development plan.
- There is an existing road access and existing residential development on the site. Mayo County Council has previously granted permission relating to 2 dilapidated buildings within a few kilometres of the same stretch of road (Planning Reg. Refs. P17/209 and P17/677). Planning application Reg. Ref. P17/677 was not subject to the same analysis of a Strategically Important Road where there is an existing residential development pattern.
- The Planning Authority has not been consistent in identifying the need for an Appropriate Assessment to accompany planning applications and could have requested this information or excluded it from the reasons for refusal.
- The decision of the Planning Authority is flawed and should be overturned.

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:

- Rural Housing Need
- Site Access / Road Safety
- Appropriate Assessment

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

7.3. **Rural Housing Need**

7.3.1. The subject site is located in a “Rural Area Under Strong Urban Influence”. In such areas, prospective applicants must demonstrate that they have a genuine rural housing need based on their roots in, or links to, a particular area as set out in Section 2.3.1 of the development plan. In refusing planning permission in this instance, Mayo County Council considered that the applicant had not established a permanent housing need at this location.

7.3.2. In responding to this refusal reason, the applicant’s agent submits that a dwelling structure which was previously located on the site was badly damaged by fire. It is further submitted that Mayo County Council subsequently provided the previous landowners with a prefabricated concrete structure and mobile home for their occupation, as the main dwelling was not habitable. The applicant now owns the land, is taking over the running of the farmland and wishes to construct a new dwelling. As such, it is submitted that the applicant complies with section 2.3.1.1 (a) of the development plan.

- 7.3.3. This section of the development plan relates to 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. This refers to 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 (a farm holding shall consist of at least 4 ha).
- 7.3.4. In considering the foregoing, I note that the applicant currently resides in the local area, although no further details of their existing housing circumstances have been provided. No supporting information has been provided to confirm that the applicant has “spent a substantial period of their lives” living in the area, as required under the development plan. I further note that the applicant’s entire landholding at this location is somewhat modest, notwithstanding the 4-ha threshold identified under the development plan. While the applicant’s agent contends that the proposed dwelling comprises a replacement dwelling, I do not agree given the derelict condition of the existing structures on the site.
- 7.3.5. In conclusion, I am not satisfied that the applicant has demonstrated a genuine rural housing need to live in this highly scenic, coastal location which is under strong urban influence given its proximity to the town of Westport. I note that the applicant was previously refused planning permission for a replacement dwelling on the site for 4 no. reasons, including an absence of housing need (Planning Reg. Ref. 20/357 refers). In my opinion, this matter has not been resolved under the current application and I recommend that planning permission should be refused on this basis.

7.4. Site Access/Road Safety

- 7.4.1. Refusal reason no. 2 of Mayo County Council’s Notification of the Decision to Refuse Planning Permission states, inter alia, that the proposed development is contrary to Section 16.1.4 of the Mayo County Development Plan 2014-2020, which restricts development outside the 60km speed limit zone of towns and villages to protect existing and future capital investment in the safety and carrying capacity of such roads.
- 7.4.2. In responding to this refusal reason, the applicant’s agent submits that there is an existing road access and residential development on the site. It is further submitted

that Mayo County Council removed the structures which replaced the fire damaged dwelling and all that remains is the original stone structure. The applicant's agent also submits that the Planning Authority has granted permission for residential dwellings within a few kilometres of the same regional road (Planning Authority Reg. Ref. 17/209 and 17/677 refer). It is submitted that these applications were not subject to the same analysis of a Strategically Important Regional Road where there is an existing residential development pattern.

- 7.4.3. While I acknowledge that a residential use existed on the site in the past as identified by the applicant's agent, there is no current residential use, with the existing stone structure being in ruins and uninhabitable. While I also note that replacement accommodation was provided on the site when the original structure was subject to fire damage, I note that this comprised temporary residential structures.
- 7.4.4. The R335 to the front of the site is a Strategically Important Regional Road. A speed limit of 80 km applies at this location, with a continuous white line in place. The third-party observer submits that when the site was occupied by the previous owners, access to their dwelling was via a gate directly at the road and an unfinished track within the site, with no vehicular access provided to their property. This arrangement is substantiated by a review of Google Street View imagery of the site entrance dated July 2018 and OSI aerial imagery of the site between 1995 - 2012. As such, the existing recessed agricultural entrance on the site appears to be a more recent intervention.
- 7.4.5. Thus, while a residential use may have existed on the site in the past, I am satisfied that the proposed development seeks to formalise a vehicular entrance at this location where non previously existed. As such, this development must be adjudicated on the planning policies and development management standards pertaining under the current development plan. While I note the precedent cases which have been identified by the appellant's agent, in my opinion, each application must be adjudicated on its merits.
- 7.4.6. In this regard, I note that it is an objective (RD-01) of the Council to protect the capacity and safety of the National Road Network and Strategically Important Regional Road network (listed in appendix 4) in the County and ensuring compliance with the Spatial Planning and National Roads Planning Guidelines (January 2013).

The planning guidance and standards for residential development within volume 2 of the plan also confirm that residential development on Strategically Important Regional Roads will be restricted outside the 60 km/hr speed limit zone, except where such proposals, subject to a Road Safety Audit, can demonstrate that they do not interfere with the traffic safety of the road. No such audit has been provided with the application.

- 7.4.7. Thus, having regard to the location of the site on a Strategically Important Regional Road where a speed limit of 80 km/hr applies, I am not satisfied, based on the information provided with the application, that the proposed development would not endanger public safety by reason of traffic hazard at this location. Thus, I consider that planning permission should be refused on this basis.

7.5. **Appropriate Assessment Screening**

- 7.5.1. The subject site is located directly adjacent to the Clew Bay Complex SAC (site code 001482). In refusing planning permission for the proposed development, Mayo County Council was not satisfied that the proposed development, individually or in combination with other plans and projects, would not be likely to have a significant effect on Clew Bay Complex SAC, or any other European site, in views of the sites' conservation objectives. In responding to this refusal reason, the applicant's agent submits that this information could have been requested by the Planning Authority, rather than include it as a refusal reason in this instance.
- 7.5.2. The qualifying interests for the Clew Bay Complex SAC are Geyer's whorl snail (*Vertigo geyeri*) [1013], mudflats and sandflats not covered by seawater at low tide [1140], coastal lagoons [1150], large shallow inlets and bays [1160], annual vegetation of drift lines [1210], perennial vegetation of stony banks [1220], Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330], otter (*Lutra lutra*) 1355, common seal (*Phoca vitulina*) [1365], embryonic shifting dunes [2110], shifting dunes along the shoreline with *Ammophila arenaria* ("white dunes") [2120].
- 7.5.3. The conservation objectives for the SAC are:
- (1) to maintain the favourable conservation condition of mudflats and sandflats not covered by seawater at low tide [1140],
 - (2) to maintain the favourable conservation condition of lagoons [1150],

(3) to maintain the favourable conservation condition of large shallow inlets and bays [1160],

(4) to maintain the favourable conservation condition of annual vegetation of driftlines [1210],

(5) to maintain the favourable conservation condition of perennial vegetation of stony banks [1220],

(6) to restore the favourable conservation condition of Atlantic salt meadows [1330],

(7) to restore the favourable conservation condition of Otter [1355],

(8) to maintain the favourable conservation condition of harbour seal [1365],

(9) to restore the favourable conservation condition of embryonic shifting dunes [2110],

(10) to restore the favourable conservation condition of shifting dunes along the shoreline with *Ammophila arenaria* [2120].

7.5.4. I note that it is proposed to treat domestic effluent within the site using a tertiary wastewater treatment system, while stormwater discharge will be managed by a soakaway. In my opinion, given the separation distances which arise between the Clew Bay Complex SAC and the proposed development, which vary from approx. 190 -220 m, the location of the R335 regional road between the subject site and the SAC, and the lack of substantive ecological linkages, I consider that there is no potential for likely significant impacts to arise to the Clew Bay Complex SAC on foot of the proposed development.

7.5.5. Thus, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on Clew Bay Complex SAC (European Site No. 001482), or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. I recommend that planning permission be refused for the reasons and considerations set out hereunder.

9.0 Reasons and Considerations

- 9.1. Having regard to the location of the site within a Rural Area under Strong Urban Influence as identified in Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005, and in an area where housing is restricted to persons demonstrating a genuine housing need based on their roots in or links to a particular area in accordance with Section 2.3.1 of the Mayo County Development Plan 2014-2020, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 9.2. Having regard to the location of the access/egress point onto a Strategically Important Regional Road served by a continuous white line and where a speed limit of 80 km/hr applies, and the provisions of the Mayo County Development Plan 2014-2020 which restrict development on such roads outside the 60 km/hr speed limit zone, it is considered that the proposed development would endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Louise Treacy
Planning Inspector

18th August 2021