



An
Bord
Pleanála

Inspector's Report ABP-309506-21

Development	New dwelling with effluent treatment system.
Location	Derryribbeen, Clogher, Westport, County Mayo.
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	20586.
Applicants	Ian Duggan and Joanna Potter.
Type of Application	Permission
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant	Ian Duggan and Joanna Potter.
Observer(s)	None.
Date of Site Inspection	19 th May 2021.
Inspector	Philip Davis.

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1.0 Introduction

This appeal is by the applicants against the decision of the planning authority to refuse permission for a single dwelling in a rural area – the reason for refusal relates to policy on protecting landscapes (LP-01 of the 2014 Mayo County Development Plan).

2.0 Site Location and Description

2.1. Derryribeen

Derryribeen townland is located in the drumlin hills of west county Mayo, roughly 5km south-east of the town of Newport. Castlebar is 10km to the east and Westport is 8km to the south. The area is characterised by a mixture of pasture with upland bogs and lakes, with fields mostly small and bounded with ditches and hedges. Settlement in the area is relatively sparse with scattered dwellings on the minor road network and some small clusters, although older OS plans indicate a significant number of what were probably farm cottages in the area in the early 19th Century. The area is served by a network of L-roads, mostly connecting to the R311 to the north. The lands drain generally to the north, to the Owennaorockagh River, which flows west to Clew Bay.

2.2. Appeal site.

The appeal site is a roughly rectangular shaped field of grazing land with a site area given as 0.66 hectares, bounded by ditches and hedges. The field is on a slightly elevated ridge about 60 metres AOD that runs for a little under a kilometre, north to south. The field is on the south side of a very narrow *cul de sac* unclassified road which connects to a number of dwellings and lanes to the north and west. To the south and west of the site are open fields, with further fields to the north beyond the road. There is a newly constructed dwelling to the east, at a lower level. The slope drops away sharply further east to the small Derriribeen Lough, which drains to the north.

3.0 Proposed Development

The proposed development is a single dwelling with a floorspace given as 240 square metres served by a proprietary wastewater system.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to refuse permission for the single reason that it is considered to be an obtrusive feature on the landscape and would materially contravene objective LP-01 of the Mayo County Development Plan 2014-2020 with regard to the protection of the character of the landscape.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- Notes that the site is part of a family landholding, and the applicant is connected with the family.
- The applicant is considered to comply with rural housing needs.
- It is noted that it is part of a larger landholding and there appears to be less visually intrusive locations for a possible dwelling.
- A refusal is recommended.

4.2.2. Other Technical Reports

Drainage engineer: Recommends standard conditions.

4.3. Prescribed Bodies

None on file.

4.4. Third Party Observations

None on file.

5.0 Planning History

There are no indications of previous applications or appeals relating to the lands.

6.0 Policy Context

6.1. Development Plan

The appeal site is in a rural unzoned area. It is in an area considered to be '*under strong urban pressure*' by the planning authority.

6.2. EIAR

Having regard to the nature of the proposed development and the absence of any sensitive receptors in the immediate vicinity, the development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded and a screening determination is not required.

6.3. Natural Heritage Designations

There are no designated habitats in the immediate vicinity of the site. The Clew Bay Complex SAC site code 001482 is some 5-km to the west. The local watercourses all drain to Clew Bay.

7.0 The Appeal

7.1. Grounds of Appeal

- It is acknowledged that the site is visible, but a pole framework erected demonstrated that the site was well screened by a mature treeline to the east.
- It is argued that the visual impact was carefully considered prior to the application in the design and location of the dwelling.
- It is argued that other potential sites within the landholding are not suitable because of topography and/or soil type.

7.2. **Planning Authority Response**

The planning authority did not respond to the grounds of appeal.

7.3. **Observations**

None.

8.0 **Assessment**

Having inspected the site and reviewed the file documents, I consider that the appeal can be assessed under the following general headings:

- Material contravention
- Principle of development
- Policy and visual impact
- Public health
- Other planning issues
- Appropriate Assessment

8.1. **Material Contravention**

The planning authority stated in their decision that the proposed development is considered a material contravention of a stated policy in the Development Plan. I note that under S37(2) of the Act, as revised, the Board may only grant permission when one or more of four stated certain circumstances, as set out in 37(2)(b) of the Act.

I will address the substance of the appeal below, but I would note that none of the four stated circumstances (as set out below) would appear to apply.

- (i) the proposed development is of strategic or national importance,
- (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- (iii) permission for the proposed development should be granted having regard to regional spatial and social strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

8.2. Principle of development

The appeal site is in open countryside in an area considered by the planning authority to be 'under strong urban pressures' as defined in the Sustainable Rural Housing guidelines. Although the area is very rural, it is within easy commute of Castlebar and Westport, and there is an obvious sprawl of housing in the area that seems unconnected with farming, so I would concur with this assessment. Under the rural housing policy in the Development Plan (which expired in 2020 but is still considered by Mayo to be the operable Plan until such time as the new development plan is adopted), the applicant is considered to qualify under exemptions for such areas as the site is part of a family landholding.

In such circumstances, applications are generally viewed favourably subject to a number of criteria set out in the Development Plan – these include policy LP-01, on landscape protection.

8.3. Policy and visual impact

Policy LP-01 of the Mayo County development Plan states:

It is an objective of the Council, through the Landscape Appraisal of County Mayo, to recognise and facilitate appropriate development in a manner that has regard to the character and sensitivity of the landscape and to ensure that development will not have a disproportionate effect on the existing or future character of a landscape in terms of location, design and visual prominence.

The appeal site is in rolling countryside, characterised by a series of low drumlin type ridges and hills, often heavily vegetated with mature plantations or high hedges. The site is on one such prominent ridge, extending north to south and visible from the adjoining main road about 500 metres to the south-east. The nature of this topography is such that houses can be well hidden when in the natural folds of the landscape, but can be visible from many angles when on a local hilltop or ridge line. Most development in the townland is on lower lands, closer to the depression holding Derryribben Lough. Older OS maps indicate that there may have been a cluster of farm dwellings along this network of roads in the early 19th Century, and there are still a number of dwellings along here including a newly constructed one adjoining the site.

The applicant has argued that the nature of the topography and soil types has limited the choice of site within the wider landholding. Given the nature of the area, I accept that much of the land may well be problematic for development for a range of technical, environmental and planning reasons. Notwithstanding this, it is hard to see a worse choice of site on the landholding in visual terms – it will most probably break the skyline and be visible from a very significant area. While I note that it is currently partially screened by vegetation, I do not consider that this is sufficient to mitigate the damage to the landscape that would be caused by developing this site. I do not consider that the applicant has demonstrated that all reasonable other alternatives have been fully assessed.

I therefore concur with the planning authority in their reason for refusal and I recommend that the Board uphold it.

8.4. **Public health**

The applicant submitted a site suitability assessment for the proposed wastewater treatment system. This identified the site as being over a locally important aquifer of low vulnerability. It identified the water table at 0.8 metres below the ground level, with generally impermeable, loamy and peaty soil.

I would consider such a site to be generally unsuitable for the disposal of wastewater, even if treated. The applicant has proposed a system including raised bed, which in some circumstances may be acceptable. However, I note that the proposed percolation area is around 25 metres from the adjoining dwelling, which crucially is at a lower level than the appeal site, so likely downgradient from any surface or subsurface flows. I would consider this to be a highly unsatisfactory situation as the possibility of surface flows in the event of a failure of the wastewater treatment plant or the percolation beds should be a realistic possibility in the real world application of such treatment plants.

As this issue was not addressed in the application or appeal, I would consider it to be a 'new issue', so I do not recommend it as a reason for refusal, but I would note that any resubmission of the dwelling should have regard to the generally unsatisfactory nature of the local geology and topography for any wastewater disposal. I further note that there is an upcoming revision of EPA Guidelines on the disposal of wastewater on such impermeable soils which may be of relevance.

8.5. **Other planning issues**

Traffic

The road connection is very substandard in both width and alignment and the nearby junction with the L-road running through the townland. I would be concerned at the precedent of permitting dwellings along such a road with the implications for road safety, but as there is a substantive reason for refusal and this was not addressed in the appeal I would consider this to be a new issue, but one that would need to be addressed in any grant of permission.

Water services

The area is served by a group water scheme and it is indicated that the applicant can connect.

Conservation

There are no protected structures or recorded ancient monuments on or adjoining the site.

Flooding

There are no records of flooding for the site and no visual indications that it could be prone to flooding.

Contributions

The proposed development would be subject to a standard S.48 Development Contribution, there are no indications that any other development contributions would apply.

8.6. Appropriate Assessment

There are no designated habitats in the immediate vicinity of the site. The Clew Bay Complex SAC site code 001482 is some 5-km to the west. The local watercourses all drain to Clew Bay. The qualifying interests are generally coastal saltwater mudflats, wetlands and lagoons, but also include freshwater habitats and old sessile oak woods and species such as the otter. The conservation objective is to generally maintain the favourable conservation status of those habitats and species. The appeal site is on the watershed of two minor streams, both of which drain ultimately to Clew Bay. The streams do not flow within the site so having regard to the small scale of the works and the attenuation distance between the site and the designated habitats I do not consider that there are any pathways for pollution or other direct or indirect means by which the conservation objectives of the SAC could be impacted upon.

I therefore consider that 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 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.

9.0 Recommendation

I recommend that the Board uphold the decision of the planning authority to refuse permission for the reasons and considerations set out below.

10.0 Reasons and Considerations

Having regard to the location of the proposed dwelling on an elevated and exposed ridge, it is considered that the proposed development would constitute an obtrusive feature on the landscape and would materially contravene objective LP-01 of the Mayo County Development Plan 2014-2020 whereby it is an objective to recognise and facilitate appropriate development in a manner that has regard to the character and sensitivity of the landscape and to ensure that development will not have a disproportionate effect on the existing or future character of a landscape in terms of location, design and visual prominence. This policy is considered reasonable, therefore, the proposed development would interfere with the character of the landscape, would be contrary to objective LP-01 of the Development Plan and would therefore be contrary to the planning and sustainable development of the area.

Philip Davis
Planning Inspector

21st May 2021