



An
Bord
Pleanála

Inspector's Report ABP-310110-21.

Development	3 bedroom dwelling.
Location	Finned, Carney, County Sligo.
Planning Authority	Sligo County Council.
Planning Authority Reg. Ref.	2136.
Applicants	Helen & Thomas Devaney.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellants	Helen & Thomas Devaney
Observers	None.
Date of Site Inspection	22 nd June 2021.
Inspector	Philip Davis.

Contents

1.0 Introduction	3
2.0 Site Location and Description	3
3.0 Proposed Development	4
4.0 Planning Authority Decision	4
4.1. Decision	4
4.2. Planning Authority Reports	4
4.3. Prescribed Bodies	5
4.4. Third Party Observations	5
5.0 Planning History.....	5
6.0 Policy Context.....	5
6.1. Development Plan.....	5
6.2. Natural Heritage Designations	6
7.0 The Appeal	6
7.1. Grounds of Appeal	6
7.2. Planning Authority Response	7
8.0 Assessment	7
9.0 Recommendation.....	14
10.0 Reasons and Considerations	14

1.0 Introduction

This appeal is by the applicants against the decision of the planning authority to refuse permission for the demolition of sheds and the construction of a 3-bedroom dwelling with effluent treatment unit in a rural area in County Sligo. The reasons for refusal relate to housing policy and visual impact.

The proposed development was screened out for AA, but for reasons I will outline in further detail below I conclude that it requires an NIS and as such the Board is precluded from granting permission.

2.0 Site Location and Description

2.1. Finned, Sligo

Finned townland (in some sources spelled '*Finnide*') is a sandy peninsula on the north side of Drumcliff Bay just south of the estate village of Carney, some 10 km from Sligo Town and around 3 km east of Lissadell House. The peninsula is approximately 1-km long and extends in a roughly south-westerly direction into the bay in the form of a low ridge. It is predominantly pasture and is served by a single third class L-road road running from the village of Carney which splits in two, terminating at each side of the peninsula. There is a scattering of dwellings and farmhouses along this road.

2.2. Appeal site

The appeal site is an area of land with a site area given as 0.2686 hectares, located on the western side of one of the minor roads serving Finned. The land is uncultivated and has a low ornamental stone wall and gated entry along the frontage and a small stone shed and a more modern shed within the lands. There are indications of some ground level structures having been put in place, but with the works never completed. The other sides of the site are bounded by low ditches and hedges.

To the west, north and south are fields. There is a farmhouse about 60 metres to the north, and a dwelling 150 metres to the south. The northern shore of the peninsula is 150 metres to the north and the southern is around 350 metres

distance. The village of Carney is 750 metres to the north-east, about 1.2km by road.

3.0 Proposed Development

The proposed development includes the demolition of existing sheds on site and the construction of a 3-bed dwelling with a carport and effluent treatment unit and associated site works. The gross floor space of the proposed dwelling is given as 270 m².

4.0 Planning Authority Decision

4.1. Decision

The planning authority refused for two reasons, which I'd summarise as follows:

1. It is within the green belt of the village of Carney and within a Visually Vulnerable Area, and the applicant does not qualify for an exemption for housing in such area under policy P-GBSA-HOU-1 of the Sligo County Development Plan.
2. It is considered that the design of the dwelling is not in conformance with design criteria for new houses in rural areas, and so would seriously injure the visual amenities of the area.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- Notes a previous permission for a dwelling in 2004, with later amendments.
- Site is in the 'green belt' of the village of Carney (Carney Mini-Plan in the CDP 2017-2023), and designated as '*visually vulnerable*' in the Landscape Characterisation Map. It is also within a '*coastal zone*' as defined in Section 10.4.1 of the CDP. In such areas, applicants for dwellings must fulfil certain criteria.

- Notes the submission for exemption on health grounds but states that this is not a ground for an exemption under the CDP.
- Notes the location in a visually vulnerable coastal area. The design of the dwelling is considered not to adhere to the standards set out in the CDP (section 13.4.3).
- The access and effluent system are considered acceptable.
- Refusal recommended for two reasons.

4.2.2. Other Technical Reports

Area Engineer: No objection subject to conditions.

Environmental Services: No objection subject to conditions.

4.3. Prescribed Bodies

None on file.

4.4. Third Party Observations

One letter of objection raising concerns with the impact on water supply.

5.0 Planning History

04/08: Permission for a dwelling, granted May 2004.

07/746: Amendments to the above granted.

6.0 Policy Context

6.1. Development Plan

The appeal site is in open countryside but is identified as part of the 'green belt' around the village of Carney in the Sligo County Development Plan (SCDP) 2017-2022. It is in an area identified as 'visually vulnerable' in the landscape characterisation section of the SCDP and as a 'coastal area'. In such areas, policy on one-off rural housing applies.

6.2. Natural Heritage Designations

The shoreline and bay around Finned are designated both SAC and SPA, for shoreline, mudflat and littoral habitats – **the Drumcliff bay SPA** site code 004013 and the **Cummeen Strand/Drumcliff Bay SAC** (000627). The site is also within 1 km of the **Ballintemple and Ballygilgan SPA** (004234).

7.0 The Appeal

7.1. Grounds of Appeal

The applicant outlines in detail a rationale for the proposed development, arguing that the applicant has a demonstrable rural housing need and direct connections with the Finned area in accordance with Development Plan policy, and this was accepted by the planning authority.

Key points made are as follows:

- It is argued that the application of restrictive policy objectives in the area and similarly designated areas has been inconsistent, with a number of permissions highlighted, in particular highlighting the previous grants on the site - **PL04/8** and **PL07/746**.
- It is submitted that the planning authority has been inconsistent with regard to applying the housing needs requirement for applicants in the area.
- It is argued in some detail that the planning authority did not correctly apply policy with regard to housing need, and states that the applicants are seeking to downsize (*'rightsize'*) to a dwelling in an area they have a close connection to. A letter from the applicants GP is refereed to, stating that they have a need for an appropriate house for the particular family needs. A number of letters are attached noting the particular medical needs of the applicant family.
- It is noted that the applicants have demonstrated a clear association with the area – the site has been within their family ownership for 24 years.
- It is argued that the planning authority has incorrectly interpreted and applied national policy with regard to setting rural housing criteria. It is argued that

taking the entirety of national, regional and development plan policy, the applicants qualify under housing need criteria.

- It is argued that the site is fully suitable for a dwelling – it is noted that a dwelling was on the site, and elements for a new house have already been constructed under the previous permission. It is also noted that the site is well screened.
- It is argued in some detail that the proposed design is appropriate for the site and fully in accordance with national policy on design and the development plan.
- It is finally noted that the applicants already live in a Green Belt area (Strandhill) so it does not represent a precedent for a relocation from an urban area.
- In all other respects, including AA and other issues, it is argued that the site is appropriate for a dwelling.

7.2. Planning Authority Response

The planning authority has submitted two letters in response to the appeal. The Board is referred to the Planning Report. It is also noted that some details submitted in the appeal by the applicant was not submitted with the original application – notwithstanding this it is not considered that the applicant complies with Category A or B of policy P-GBSA-HOU1 of the Sligo County Development Plan 2017.

8.0 Assessment

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

- Principle of development
- Visual impacts
- Other planning issues
- Appropriate Assessment

8.1. Principle of development

The appeal site is in open countryside, identified as part of a 'green belt' around the small attractive estate village of Carney. It is also identified as 'visually vulnerable' and a 'coastal area'. In such areas there is generally a presumption against one-off dwellings unless the applicant has fulfilled housing needs criteria set out in policy P-GBSA-HOU-1 of the Sligo County Development Plan 2017-2023. I would note that the area is within 10 km of Sligo Town and easy car commuting distance and so I would consider the general area to be one under '*strong urban pressure*' as defined in the Sustainable Rural Housing Guidelines 2009. I would consider the SCDP to be generally consistent with those Guidelines in both its designation of the area and in its interpretation of the policy objectives.

The first reason for refusal relates to the qualifying criteria as set out in policy P-GBSA-HOU-1 in the Sligo County Development Plan 2017-2023:

It is the policy of Sligo County Council to:

P-GBSA-HOU-1 Accommodate proposals for one-off rural houses in the green belts and sensitive areas, subject to normal planning considerations including Habitats Directive Assessment and compliance with the guidance set out in Section 13.4 Residential development in rural areas (development management standards), where a housing need is demonstrated by the following categories of applicants:

A. landowners, including their sons and daughters, who wish to build a first home for their permanent occupation on the landholding associated with their principal family residence;

B. persons whose primary employment is in a rural-based activity with a demonstrated genuine need to live in the locality of that employment base, for example, those working in agriculture, aquaculture, forestry, horticulture or other natural resource based employment;

AND where such persons can demonstrate that the home they propose is in the interests of the proper planning and sustainable development of the area.

"Normal planning considerations" are set out in Section 13.4 of the SCDP as follows:

Normal planning considerations

The “normal planning and sustainable development considerations” used in assessing planning applications include the following criteria:

- ♣ How the proposal relates to the Core Strategy, general policies and specific objectives of the County Development Plan;
- ♣ Whether there are any archaeological or other heritage factors involved;
- ♣ Whether the site is in a sensitive area, e.g. adjoining a scenic road, located in a sensitive rural landscape, in a visually vulnerable area, in a coastal zone or in a known flood risk zone;
- ♣ Whether the site is in an exposed location where the proposed development would be visually obtrusive;
- ♣ The settlement pattern of the area and the potential for overdevelopment or ribbon development;
- ♣ Whether the siting, design and scale of the proposed structure are appropriate to the surrounding natural and built environment;
- ♣ Whether the proposed site entrance is on a dangerous or high-speed stretch of road; ♣ Whether a large number of mature trees or an excessive length of roadside hedgerow need to be removed to provide an entrance;
- ♣ Whether there are any sewage disposal, drainage or water supply concerns;
- ♣ Whether there are any pollution or other public safety concerns;
- ♣ Whether the proposed development would unduly affect other properties in the area (e.g. by overlooking or overshadowing).

The list of criteria given above is not exhaustive. Advice on specific development proposals can be obtained as part of pre-planning consultations offered daily at the County Council’s planning office.

The applicant has set out in considerable detail her family and personal circumstances in her submission both to the planning authority and in the appeal. It is based on a family connection to the area and landowners, the planning history in the site, and particular personal circumstances, in additions to arguments suggesting that the planning authority has been inconsistent in its application of the rules and in interpreting national guidelines. I would not question any of these as facts and there is clearly a potential family connection and need to be close to the family.

Notwithstanding this, policy P-BBSA-HOU-1 is quite clearly set out and only permits

exemptions to restrictions to landowners with a direct need to live in the area, and those with a direct economic need or link to the rural area. The personal needs outlined by the applicant do not come within these headings, which I consider to be appropriate in the particular circumstances of this visually sensitive area which is within the commuting belt of Sligo. I therefore conclude that the planning authority were correct in their assessment and that this is based correctly on national and local policy with regard to permitting development in sensitive and under pressure rural areas.

I therefore recommend that the board uphold this reason for refusal.

8.2. Visual impacts

The second reason for refusal relates to the sensitivity of the landscape of the area and related policies (P-DCZ-1 and 2). These policies state:

It is the policy of Sligo County Council to:

P-LCAP-1 Protect the physical landscape, visual and scenic character of County Sligo and seek to preserve the County's landscape character. Planning applications that have the potential to impact significantly and adversely upon landscape character, especially in Sensitive Rural Landscapes, Visually Vulnerable Areas and along Scenic routes, may be required to be accompanied by a visual impact assessment using agreed and appropriate viewing points and methods for the assessment.

P-LCAP-2 Discourage any developments that would be detrimental to the unique visual character of designated Visually Vulnerable Areas

With regard to coastal zones, policy is as follows:

It is the policy of Sligo County Council to:

P-DCZ-1 Generally restrict development in the coastal zone except where it can be demonstrated that it does not detract from views, visually intrude on the coastal landscape or impact on environmentally sensitive areas. Between coastal roads and the sea, exceptions will be considered only for sustainable tourism development, public infrastructural works and development that is contiguous with existing towns and villages and subject to compliance with the Habitats Directive.

P-DCZ-2 Restrict the location of industrial development within the coastal zone to resource-based activities that have a clear and demonstrable need, i.e. those dependent on resources available at the sea or coast (e.g. maritime industries, mariculture). All such proposals will be subject to the strict application of location, siting and design criteria and subject to compliance with the Habitats Directive.

P-DCZ-3 Prohibit development in coastal areas where the natural erosion process is likely to threaten the viability of such development

Finned is in a low-lying peninsula around 1 km in length and 0.5 km in width that extends into Drumcliff Bay, which is just north of Sligo Bay. The area, despite its proximity to Sligo Town, appears little visited and quiet. The landscape is flat, but generally well wooded in sections and affords fine views over the bay and to Benbulbin Mountain to the north. It is south of Carney village and about 2 km east of the Lissadell House demesne. It is not a core touristed area of the county (Ballygilgan Strand nearby is muddy and not well used), but it has strong landscape qualities, and its flat, low-lying nature makes it quite vulnerable to inappropriate development. As such, I consider the designations and related policy objectives to be appropriate.

The parts of Finned closer to Carney has a significant number of dwellings, often in small ribbons along the single road running through the spine of the peninsula. The appeal site is in the more remote section with just a handful of dwellings. The access road terminates at the muddy shoreline, at a small slip apparently used by recreational fishermen. The site is surrounded by mature trees and so is relatively well screened from most perspectives.

The proposed dwelling is a standard suburban style dwelling typical of such proposals. It does not follow into any particular local style and its use of materials, cladding and roofing appears quite random. It is neither particularly contemporary nor traditional in styling.

While I would consider that the site has potential for a modest dwelling that would, along with the retention of the mature trees fit in with the landscape, I do not consider that the design as submitted makes any attempt to do so.

I therefore concur with reason 2 for refusal issued by the planning authority and I recommend that the Board uphold this decision.

8.3. Other planning issues

8.3.1. Drainage/Flooding

The site is on low-lying land under 10 metres AOD. The available online OPW information indicates that the site has not historically flooded, but past flood events are noted on the lands immediately to the south. As these are presumably of tidal origin it must be assumed that these will get worse with climate change so it can't be ruled out that the site is potentially vulnerable.

The site characterisation details submitted with the wastewater treatment system indicates T and P values under 25 (clay soils) along with a high water table - the survey appears to have been carried out in the winter period. Although the trial holes were not visible during my site visit, the appearance of the lands and vegetation would certainly support this assessment.

Given the low-lying nature of the lands, the proximity of the coastline, and the high water table/poor permeability of the site, I would have concerns about the public health and environmental impact of a further wastewater system discharging to groundwater in this immediate area. In particular I note the implications for the designated EU habitats (I address this in more detail in the AA section below). But as this has not been raised in the appeal I do not consider that it is a specific ground for refusal.

The site is on a public mains water supply line so no private well is required.

8.3.2. Conservation/archaeology

There are no protected structures in the vicinity and the site is not visible from Lissadell House or Carney. There are a number of recorded ancient monuments close by, including a midden of unknown date and a *fulacta fia* within 100 metres. But there are no indications that the site works will impact on these or that there are any remains on the site. There is a stone shed on the site, but it appears to be of late 19th Century date at the earliest and there is no indication that it has any conservation value. The earliest OS plans indicate what appears to have been a cottage on site but there are no visible remains of this and no indications that this may justify an archaeological study.

8.3.3. *Traffic and roads*

The site is served by a very substandard, narrow L-road. The sight lines are acceptable, but I would question whether permitting further developments on such a public road that is difficult to access by emergency vehicles and is generally substandard would be appropriate. But as this issue was not raised in the appeal, I do not recommend it as a reason for refusal.

8.3.4. *Development contributions*

The proposed development would be subject to a standard S.48 Development Contribution in accordance with the adopted Scheme.

8.4. **Appropriate Assessment**

The shoreline and bay around Finned is designated SAC and SPA, for shoreline, mudflat and littoral habitats – the **Drumcliff bay SPA site code 004013** and the **Cummeen Strand/Drumcliff Bay SAC (000627)**. At its closest, the designated area is within 100 metres of the appeal site (across the road to the east, up to the shoreline). The site is also within 1 km of the **Ballintemple and Ballygilgan SPA site code 004234**. All these designated habitats are coastal habitats designated for their importance for a variety of species and habitats associated with mudflats, dune systems, and tidal and littoral zones.

Apart from the proximity of the site to the designated wetland habitats, I note that the site characterisation system for the proposed wastewater treatment system indicates a high groundwater level, which is likely to be in hydraulic continuity with the coastal wetlands. While the risk is low, I do not consider that it can be ruled out without further investigation that in the proposed development, along with in combination effects of other such residential developments in the area, would not impact on water quality, and as such on the conservation objectives of the Drumcliff Bay SPA and SAC.

On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not result in adverse effects on the integrity of **Drumcliff bay SPA site code**

004013 and the **Cummeen Strand/Drumcliff Bay SAC (000627)**, in view of the sites Conservation Objectives. The addition of a wastewater treatment system in an area of high water table in apparent hydraulic continuity with the estuarine habitats listed in the conservation issues could potentially, in combination with other such developments, degrade the water quality of the area and as such conflict with the conservation interests of these designated habitats.

In such circumstances the Board is precluded from granting permission.

9.0 Recommendation

I recommend that the Board uphold the decision of the planning authority to refuse planning permission for generally the same reasons. I also conclude that the Board is precluded from granting permission in the absence of an NIS.

10.0 Reasons and Considerations

1. Having regard to the location of the site within the green belt of the village of Carney and that is considered to be an 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 local need in accordance with the current Sligo County Development Plan, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan under policy P-GBA-HOU-1 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.

2. It is the policy of the Planning Authority as set out in policies P-LCAP-1 and PLCAP-2 of the Sligo County Development Plan to protect the physical landscape, visual and scenic character of this Visually Vulnerable area and to ensure that new development can be absorbed and integrated successfully in the rural setting. It is likewise the policy not to detract from views or the coastal landscape of coastal areas (Policy P-DCZ-1). It is considered that, notwithstanding the presence of mature trees, the proposed development would seriously injure the visual amenities of the area by reason of its scale and massing and design, and would therefore be contrary to policies to protect the visual qualities of such area and would thus be contrary to the proper planning and sustainable development of the area.

3. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not result in adverse effects on the integrity of Drumcliff bay SPA site code 004013 and the Cummeen Strand/Drumcliff Bay SAC (000627), in view of the site's Conservation Objectives. The addition of a wastewater treatment system with disposal to groundwater in an area of high water table on impermeable soils in apparent hydraulic continuity with the estuarine habitats listed in the conservation objectives of those designated habitats could potentially, in combination with other such developments, degrade the groundwater quality of the area and as such conflict with the conservation interests of these designated habitats. In such circumstances the Board is precluded from granting permission.

Philip Davis

Planning Inspector

30th June 2021