



An  
Bord  
Pleanála

## Inspector's Report ABP-310156-21.

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<b>Development</b>	New Private entrance to dwelling house and construction of an agricultural entrance.
<b>Location</b>	Ballyacgibbon North, Cross, County Mayo.
<b>Planning Authority</b>	Mayo County Council.
<b>Planning Authority Reg. Ref.</b>	20899.
<b>Applicant</b>	Gabriel Coen
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Michael John Coen.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	23 <sup>rd</sup> June 2021.
<b>Inspector</b>	Philip Davis.

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## 1.0 Introduction

This appeal is by a neighbouring resident against the decision of the planning authority to grant permission for a new access on a residential site near the village of Cross in Co. Galway. The grounds of appeal relate mostly to issues around access and land ownership.

## 2.0 Site Location and Description

### 2.1. Ballymacgibbon North

Ballymacgibbon North townland is located around 0.5 km west of the village of Cross (*An Crois*) in Count Mayo. It lies on the R346, which connects Cross to Cong, 5km to the west. The townland is on gently rolling farmland typical of the region, with mid to large sized fields bounded by high hedgerows. There is an intermittent scatter of dwellings and commercial operations west of Cross, in addition to a number of large farmsteads.

### 2.2. Appeal site.

The appeal site, with a site area given as 0.20 hectares, is a plot of land with a detached single storey dwelling located on the southern side of the R346 just outside Cross, just outside the speed control area for the village. At this point the road has no footpath or hard shoulder. There are detached dwellings on either side of the house on large plots with agricultural fields to the south. The applicant also owns agricultural land in the vicinity.

## 3.0 Proposed Development

The proposed development consists of a new private entrance on revised site boundaries and the construction of an agricultural entrance to lands to the rear.

## 4.0 Planning Authority Decision

### 4.1. Decision

The planning authority decided to grant permission subject to five standard conditions.

### 4.2. Planning Authority Reports

#### 4.2.1. Planning Reports

- Notes no zoning or relevant policies.
- Notes the response of Area Engineer and Road Design Section.
- States that ongoing enforcement issue on the site is not relevant to the application.
- Permission recommended.

#### 4.2.2. Other Technical Reports

**Area Engineer:** No objection.

**Road Design Section:** No objection subject to conditions.

### 4.3. Prescribed Bodies

None on file.

### 4.4. Third Party Observations

Observation from Michael John Coen:

States that the application is subject to an ongoing enforcement issue. It is argued that the application description is inaccurate. It is argued that there are already an excessive number of accesses to the main road.

## 5.0 Planning History

**P88/768:** Permission granted for extensions and renovations to dwelling.

**P01/467:** Permission granted for extension of cottage with thatch roof.

**PE53.20:** Enforcement file relating to a boundary wall on the site (still apparently a live enforcement case).

## 6.0 Policy Context

### 6.1. Development Plan

The site is on unzoned lands and there are no policies set out in the development plan of direct relevance to the appeal.

### 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

The **Lough Corrib SAC (site code 000297)** is at its closest approximately 500 metres south of the site. The **Lough Corrib SPA (site code 004042)** is at its closest about 1.5 km to the south-west. The site is within the overall catchment of Lough Corrib. The nearest watercourse is a river 250 metres to the south-east.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

- It is argued that the application is part of an ongoing enforcement issue in relation to the construction of a common boundary between the applicant's land and the appellants property (the immediate neighbour). The details are under file **PE53/20**. It is argued that the retention of this boundary should have been part of the application. It is noted that in the FI request details of

all boundaries was requested, but the applicant only submitted details of the front boundary.

- It is argued that the proposed access represents an additional access onto a stretch of road (80kph) where there is already a high concentration of entrances in close proximity, and so represents a hazard.
- It is argued that the wastewater treatment system layout is incorrectly represented on the site layout plans.
- It is argued that it is inappropriate to grant permission pending the outcome of the enforcement action.

## **7.2. Applicant Response**

- It is denied that there is an ongoing enforcement issue with regard to the fencing.
- It is submitted that the access is safe and will be carried out entirely in accordance with the conditions attached to the permission.
- A report is provided in the appendix with regard to the objection raised about the location of the septic tank/percolation area. It is stated that it is within the applicant's own lands.
- In summary, it is stated that the proposed works are entirely in accordance with development plan requirements and the planning authority has satisfied itself that the proposed access is safe.

## **7.3. Planning Authority Response**

None on file.

## **7.4. Observations**

None

## 8.0 Assessment

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

- Preliminary issues
- Principle of development
- Traffic safety
- Other planning issues
- Appropriate Assessment

### 8.1. Preliminary issues

The appellant has raised a number of issues with regard to boundary fencing and other property related issues. While I consider the question of whether there are unauthorised works on the site to be relevant, other issues raised are civil matters and I do not propose to address them in detail. In this regard, the provisions of S.34(13) of the Act applies, i.e. *'A person shall not be entitled solely by reason of a permission under this section to carry out any development.'*

### 8.2. Principle of development

The site is in a rural area just outside the boundary of the village of Cross, although functionally the village does sprawl for some distance to the west along the R356 with a number of dwellings and commercial units extending for perhaps a kilometre beyond the village centre. The appeal site is one of a line of dwellings on large plots, with a substantial grassed area between it and the road, with an intermittent footpath leading to the village.

Cross is identified as a 'rural village' in the Mayo County Development Plan (MCDP) 2014-2020 (but still not replaced), the lowest level in the urban settlement hierarchy. There are no specific zonings or policies relating to this type of development.

The appellant has argued that the proposed development is facilitating an unauthorised development, one subject to enforcement. On this issue, the planning authority stated in their report:

*‘Liaised with Enforcement section 18/01/21 and 27/01/21 via email correspondence. PE/53/20- in relation to party boundary fence on the eastern side of site. Not related to this planning application site. **File currently with Enforcement Section.**’*

As such it seems that the appellant is correct that there is an ongoing enforcement issue on the site but did not consider it to be functionally connected to the application.

The appellant has also argued that there is an issue with the septic tank for the dwelling extending beyond the site. The applicant has submitted a report disputing this. The planning authority did not comment on this matter. I don't consider that this is an issue that can be definitively established in this appeal, but I would consider that as it is not functionally connected with the proposed development, it is a matter for the planning authority to decide if they wish to take enforcement. As there is sufficient space on the site for a septic tank/disposal area even with the proposed access, I do not consider that the proposed works would preclude alterations to the wastewater treatment system if required.

I would conclude that the proposed development is not contrary to the provisions of the development plan or other policies or guidelines and past and present planning history does not appear to be particularly relevant to the matter at hand. I therefore consider that the proposed development should be assessed on its own merits.

### 8.3. **Traffic safety**

The appeal site is on a straight stretch of regional road on the outskirts of Cross village at a point where speed is limited to 80kph. There is no clearly defined footpath or hard shoulder, although there is a wide reservation between the front of the houses and the highway. The road is generally straight with good sight lines,



although there are many individual dwelling accesses to the road in addition to commercial and agricultural gates.

The applicant is proposing, in effect, to construct a new access next to the existing house entrance, to provide access to agricultural land to the rear. The appellant has raised concerns about the number of accesses along this main road and I would concur in principle that a multiplicity of accesses along a regional road such as this is a potential hazard, even when at the edge of a village where speeds should be a little lower.

Notwithstanding this, I note that the planning department and traffic division consider that the proposed development would not significantly increase the amount of traffic accessing the main road and that sight lines are sufficient to ensure a reasonable level of safety, although they set a number of conditions to improve sight lines.

I would concur with this approach, and I do not consider that it represents a precedent for other such development or that there would be a significant increase in traffic hazard along this stretch of road.

#### 8.4. **Other planning issues**

I would consider the design to be acceptable in terms of visual impact and it would not be out of character with this transitional village/rural area.

I do not consider that there are any other planning issues raised in this appeal.

#### 8.5. **Appropriate Assessment**

The **Lough Corrib SAC** (site code 000297) is approximately 500 metres south of the site. The **Lough Corrib SPA** (site code 004042) is at its closest about 1.5 km to the south-west. The site is within the overall catchment of Lough Corrib. The nearest watercourse is a river 250 metres to the south-east. The SAC is designated for a variety of oligotrophic and mesotrophic inland waters along with associated habitats such as bogs, fens, petrifying springs and oak/bog woodland, in addition to a number of individual freshwater mammal and fish species. The SPA is designated for a range of water birds in addition to the hen harrier.

Notwithstanding this, the works are minor in scale within an existing developed site and do not impact upon run-off or groundwater and as such there would be no direct

disturbance of habitat, no pathways for pollution and no potential for indirect or cumulative impacts.

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. 004042 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 grant permission for the proposed development, subject to the conditions set out below.

## **10.0 Reasons and Considerations**

Having regard to the location of the site in a transitional zone between a village and a rural area, the planning history of the site, and to the policies and objectives of the Mayo County Development Plan 2014-2020, it is considered that the proposed development would be in accordance with the proper planning and sustainable development of the area.

## **11.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 23<sup>rd</sup> day of November 2020 and the 12<sup>th</sup> day of February 2021 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Prior to the commencement of development, the existing hedge west of the proposed accessed shall be permanently removed over a distance of 3 metres from the front pillar. All details of the final layout plan, including details of drainage and management shall be in accordance with the details set out in Appendix 1, Volume 2 of the Mayo County Development Plan 2014-2020.

**Reason:** In the interest of traffic and pedestrian safety and to provide adequate sight visibility.

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Philip Davis  
Planning Inspector

2<sup>nd</sup> July 2021