



An
Bord
Pleanála

Inspector's Report ABP-310277-21

Development	Retain house and install wastewater treatment system
Location	Carrick, Callow, Foxford, Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	21/210
Applicant	Tara Deacy
Type of Application	Permisson
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	Third Party vs. grant
Appellant	Kieran Hughes
Observer	None
Date of Site Inspection	21 st January 2022
Inspector	Stephen J. O'Sullivan

1.0 Site Location and Description

1.1. The site is in a rural area c5km east of the village of Foxford in Mayo. Its stated area is 0.1315ha. The site includes the curtilage of a single storey house and detached garage stand as well as a part of a conifer forest behind it. The stated area of the house is 142m². Its ridge height is 5.7m. It is served by a gravel driveway. There are several other houses in the vicinity, including one on the adjoining site to the south, one across the road to the northeast and another to the northwest set back c70m from the county road.

2.0 Proposed Development

2.1. The application seeks permission to retain the layout of the site and the type of house upon it. It also seeks permission to install a tertiary wastewater treatment system on the site to the north of the house. The site layout plan shows the removal of hedges from along the road to achieve sightlines of 50m at the entrance to the site.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 6 conditions, none of which significantly altered the proposed development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The development complies with the 2014 county development plan, the 2008 rural housing design guidelines and the 2009 EPA Code of Practice on treatment systems for single houses. It was noted that Coillte had agreed to the site's boundaries. A grant of permission was recommended.

3.3. Third Party Observations

A submission was received from the current appellant stating that the alterations to the site's boundaries had not been properly described.

4.0 Planning History

Reg. Ref. P04/1368 – In October 2004 the council granted permission for a house and a secondary wastewater treatment system. The permitted house would be located on part of the current appeal site. The wastewater treatment system would be located on the other (eastern) side of the county road. The description of development for this application described it as a 'change of house type' from a previous permission granted under Reg. Ref. 99/2085.

5.0 Policy Context

5.1. Development Plan

The Mayo County Development Plan 2014-2020 is the operative development plan. Section 7.3.1 of volume 2 of the plan says that housing in rural areas shall be designed in accordance with the Design Guidelines for Rural Housing. Section 14.4.1 says the boundary walls and fences shall add a pleasing design feature. Planning applications shall include details drawings and specifications for such treatments. Existing hedgerows should be retained around sites, and any which are removed to provide visibility shall be replaced by native species.

Section 6.1 of the Design Guidelines for Rural Housing refers to sustainability aspirations and state that as many trees and hedges as possible should be retained on site.

5.2. Natural Heritage Designations

None

5.3. Environmental Impact Assessment

The proposed development is to retain a particular form of house on a site where residential use was previously authorised, and some minor works including the installation of a wastewater treatment system to serve the house. It does not come within the categories of development set out schedule 5 to the planning regulations and so could not be the subject of EIA.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal can be summarised as follows-

- The appellant owns the house to the north-west of the site.
- The development damages the amenities of the area due to the extension of the site's boundaries into the Coillte woodland. As such it would contravene section 7.3.1 of the 2014 development plan and section 6.1 of the 2008 design guidance on rural housing. The extension of the site boundaries into the woods injures the natural and residential amenity of the appellant's house. The grant of permission made under P04/1368 did not take proper account of the rural design guidelines.
- The removal of forestry would lead to direct overlooking of the appellant's property and injure its privacy and residential amenity.
- The development contravenes the conditions of previous permissions. Condition no. 4 of 04/1368 required the house to be set back 4m from the roadside boundary. It is only set back by 2m. Condition no. 5 specified the position of the access to the road. The access is not in that position. Condition no. 6 specified that no surface water would be discharged to the public road. The ground on the site is elevated over the road and no drains or gullies were installed to intercept runoff, so that condition was not complied with.

- The sightlines available at the access to the road are only 10-15m rather than the 50m shown on the submitted plans. The development is therefore a traffic hazard.
- The application does not provide proposals for boundary treatments in line with section 14.4.1 of the development plan.
- The site layout plan does not accurately depict the trees on the appellant's property.
- The description of the development on the site failed to refer to the relocation of the access.
- The house should have been constructed in accordance with the previous permissions. The current proposal is an abuse of process.
- The development affects woodlands that are a habitat for red squirrels, a species protected under the Wildlife Acts and the Bern Convention. No ecological appraisal was submitted.

6.2. Applicant Response

The applicant's response can be summarised as follows-

- The only proposed removal of forestry is to provide sightlines. The adjoining wood is a commercial forestry approaching maturity when it is likely to be felled.
- The house on the site is 80m from the appellant's. The development would not create overlooking of the appellant's property. There is scope for additional screen planting on the latter property.
- There is no wall on the front of the site so condition no. 4 of 04/1368 is not relevant. The application seek permission to retain a change of house type and layout. The latter includes revised access and boundary treatments. The access is gravel which is permeable, so preventing surface water runoff onto the public road. The sightlines have not changed since the previous grant of permission.

6.3. Planning Authority Response

None received.

7.0 Assessment

- 7.1. The site has been in residential use for several years following grants of permission in 1999 and 2004 for that use on this site. The description of development refers to the retention of a particular type of house on the site and ancillary works. The residential use of the site is therefore regarded as established and its acceptability is not revisited in this assessment. The applicant has applied to retain and carry out certain works that are different from those previously authorised. Whether permission should be granted for those works depends on whether they were or are in keeping with the proper planning and sustainable development of the area. The simple fact that they are different from previously authorised works would not preclude consideration of their merits.
- 7.2. The house on the site is modest in size and restrained in designed. It is at a lower level than the rising ground and forestry to the rear and north of the site. The retention of the house type on the site would not have a negative impact on the rural character or amenities of the area.
- 7.3. The house to the north-west is a significant distance from the boundaries of the current site. Neither the prospective works nor the elements to be retained in the proposed development would have a significant impact on the residential amenities of the appellant's house or any other house in the area. The arguments to the contrary in the submitted appeal are not well founded and are not accepted.
- 7.4. The county road serving the site is narrow (c3m wide). It has poor vertical and horizontal alignment and has a poor surface condition. While these deficiencies limit the volume of traffic that it can accommodate, they also slow traffic speeds in a manner that mitigates traffic hazard. The access to the house is safe given these controls on speed. The further removal of hedgerows from the front of the site is not necessary to improve traffic safety. Indeed it would be likely to be counter-productive as it would encourage drivers to travel faster around the bend to the north of the site, vitiating any benefit from the improvement in forward visibility. The

matter can be satisfactorily addressed by condition. This would also be in keeping with the provisions of the development plan cited in the appeal to protect trees and hedges in the countryside.

- 7.5. As stated in the response to the appeal, the use of a permeable surface for the parking area between the house and the road avoids the runoff of surface water on to the road to a satisfactory extent.
- 7.6. The Code of Practice for Wastewater Treatment Systems for Single Houses issued by the EPA in 2009 is the applicable guidance for the proposed wastewater treatment system, given the date on which the site assessment for this issue was carried out and the initial application made to the planning authority. The site assessment confirms an adequate depth of soil with suitable percolation characteristics for the proposed system, which would also achieve the required separation distances from surrounding features. These results were consistent with the condition of the site observed at the time of inspection. The proposal for the treatment and disposal of wastewater is therefore acceptable.
- 7.7. The site is not designated for the protection of natural heritage or the habitats upon it. Nor is the adjoining forest. The appeal is correct to state that red squirrels are protected under the Wildlife Acts. This protection prohibits acts that harm those mammals species unless a licence has been granted. However the mere assertion regarding the presence of such a species does not reasonably provide a basis to refuse planning permission for small scale works on lands that are not designated to protect any habitat or species.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to the conditions set out below.

9.0 Reasons and Considerations

The development would not injure the rural character of the area or the residential amenities of properties in the vicinity. It would not be prejudicial to public health and would be acceptable in terms of the safety and convenience of road users. It would not injure the natural heritage of the area. The development would be in keeping with

the provisions of the Mayo County Development Plan 2014-2020. It would therefore be in keeping with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained and/or carried out and completed in accordance with the plans and particulars lodged with the application 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. Surface water from the site shall not be permitted to drain onto the adjoining public road.

Reason: In the interest of traffic safety.

3. The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 10th day of March, 2021, and in accordance with the requirements of the document "Wastewater Treatment Manual: Treatment Systems for Single Houses", Environmental Protection Agency (2009 edition). Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Within three months of installation of the system, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a

satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

4. A revised landscaping plan showing the retention of the existing trees and hedges along the roadside boundary of the site shall be submitted and agreed in writing with the planning authority.

Reason: In the interests of traffic safety and visual amenity

Stephen J. O'Sullivan
Planning Inspector

23rd January 2022