



An
Bord
Pleanála

Inspector's Report

ABP-311112-21

Development	Construction of veterinary clinic, entrance and associated site works
Location	Carrowbaun, Westport, Co. Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	21545
Applicant(s)	Tom Fabby.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Tom Fabby.
Observer(s)	Carrabawn Residents Association.
Date of Site Inspection	23rd June 2022.
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. This appeal relates to a site 0.27 hectares located at the junction of the N59 and L1816 approximately 1.6km to the south of Ballina Town Centre, Co Mayo. The western appeal site boundary faces onto the N59 Leenaun Road while the southern boundary faces onto the L1815. The site which is part of a larger agricultural field is visibly wet with significant reed growth evident particularly at the western end. Roadside boundaries are defined by a mix of stone walls, hedging and fencing with overhead ESB power lines crossing the site towards the southwestern corner. A Daybreak Service station and shop is located on the opposite side of the N59 L1816 road junction to the south of the site and there are a number of dwellings also in close proximity. The site is located immediately to the south of the corridor for the proposed South Westport Ring Road as defined within the Development Plan.

2.0 Proposed Development

- 2.1. The application seeks permission for a veterinary clinic, entrance and associated site works. The development involves the provision of a single storey building of circa 253sq.m. comprising two single storey pitched roof blocks overlapping with one another. It is proposed to finish the buildings in corrugated roofing and cladding.
- 2.2. Vehicular entrance is to be located towards the eastern extremity of the local road site frontage with a driveway and parking provision around the proposed building. Proposed servicing is by way of connection to the public foul sewer, stormwater sewer and public water supply. Internal floor layout provides for two consulting rooms, reception and veterinary shop, prep area, theatre, associated offices and staff facilities.

3.0 Planning Authority Decision

3.1. Decision

By order dated 20 July 2021, Sligo County Council issued notification of the decision to refuse permission for the following reason:

The proposed development would contravene materially the development objective LUO-03 of the Westport Town and Environs Development Plan 2010-2016 (incorporating variations 1-4) as extended which states that 'it is an objective of the Council that uses, other than the primary use for which the land is zoned, may be permitted provided they do not conflict with the primary land use objective matrix table outlined in section 5'. The proposed commercial development is not a permissible use on lands zoned for agricultural purposes in the Land Use Zoning Matrix. Therefore, the development proposed would be contrary to proper planning and sustainable development of the area.

The proposed development, involving the creation of a new vehicular access onto a Local Road the L1815 which adjoins the National Secondary Route N59, would be contrary to Section 38.4.1 of the Mayo County Development Plan 2015-2020 with specific reference to Table 10. The proposed development fails to meet the required 200m distance from the national road junction. Therefore the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the extra traffic generated. Therefore, the development proposed would be contrary to the proper planning and sustainable development of the area and if granted would set an undesirable precedent for similar type developments in the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Executive Planner's report notes entrance location circa 100m from the road junction contrary to section 38.4.1 of the Mayo County Development Plan 2014-2020 table 10 which requires a minimum distance of 200m from a National Road junction. Site is zoned agricultural and proposed commercial use is not permissible. Refusal was recommended.

A separate unsigned attachment to the Executive Planner's report sets out a request for further information recommending that the applicant explore possibility of acquiring land to the east and relocating of the proposed vehicular entrance,

clarification of the nature of the business, traffic movements, operations, noise. No such request issued.

3.2.2. Other Technical Reports

Road Design Report recommends refusal on traffic safety grounds as new access is within 200m of the National Road Junction.

Executive Engineer notes that the proposed sightline improvement scheme at the crossroads for which a land dedication agreement with the landowner is in place. No development will be permitted within this dedicated land. Applicant will be responsible for the management of surface water and diversion /adjustment of services. A setback of 4.5m minimum along the site frontage to be taken from the eastern extend of the dedicated land and road frontage set back and suitably surfaced with gradient to fall away from the road.

Veterinary Inspector report. No objection to permission subject to licenses for all procedures to be carried out. No insult to the environment must result from effluent and animal by-products generated.

3.3. Prescribed Bodies

No submissions

3.4. Third Party Observations

Submission from Carrowbaun Residents Association, objects to the proposal on a number of grounds related to traffic congestion, flooding. The site is zoned Agricultural High Amenity area. Entrance directly opposite a residential dwelling will give rise to negative impact on privacy. Development is out of character. Exact nature of the business is unclear.

4.0 Planning History

I am not advised of any planning history on the appeal site.

5.0 Policy Context

5.1. Development Plan

5.1.1 The Westport Town and Environs Development Plan 2010-2016 as extended, and the Mayo County Development Plan 2014-2020 as extended refer. I note that the members of Mayo County Council adopted the Mayo County Development Plan 2021-2027 on the 29th of June 2022. The new plan will come into effect on 10th August 2022, (i.e. 6 weeks from the date of adoption.)

Within the Westport and Environs Development Plan 2010-2016 the site is zoned K Agriculture / High Amenity. The objective of the Agriculture/High Amenity land use is to protect this area from development other than permitted agricultural uses and to protect the landscape character of this area. This zone consists of a number of landscape areas, which serve an important amenity function.

Non agricultural or other resource based development will not normally be permitted in these areas. Agricultural uses and buildings, Agri-rural and rural enterprise activities, Agri-tourism and other farm diversification enterprises and other suitable proposals that support the development of alternative rural enterprises, garden centre, open space, recreational amenities and allotments are land uses which will generally be permitted in this zone.

5.1.2 At 7.1.3 in relation to Access location it is stated that "Access onto a local road off a National or Regional road shall not be sited closer to a junction of the National or Regional road as follows:

Type of Access	National Roads	Regional Roads
Access to a House	100m	35m
Access to a Housing Development	150m	50m

Access to Service Stations,

Commercial & Industrial Sites

200m

70m

Note: The distance from the junction is measured from the running edge of the lane or from the back of a hard shoulder where this is provided or from the proposed realigned road edge or hard shoulder edge.

5.1.3 As noted above the site adjoins immediately south of the South Westport Bypass reservation as defined in the Development Plan.

5.2. **Natural Heritage Designations**

The site is not within a designated area. The nearest such sites are

Clew Bay Complex SAC within 2,2km to the northwest.

Brackloon Woods SAC within 3.5km to the southwest.

5.3. **EIA Screening**

5.3.1 Having regard to the limited nature and scale of the proposed development, and the nature of the receiving environment, and lack of connectivity to a sensitive area, there is no real likelihood of significant effects on the environment arising. The need for environmental 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 The appeal grounds are submitted by Emmet O Donnell Architect on behalf of the applicant Mr Tom Fabby. The appeal is accompanied by a request for an oral hearing of the grounds of appeal. The Board decided at meeting on October 10th

2021 that there was sufficient written evidence on file to enable an assessment of the issues raised and therefore considered that an oral hearing should not be held.

Grounds of appeal are summarised as follows:

- Applicant Westvets currently occupies a leased premises on the western edge of the town on the R335 Lease is due to expire.
- Location of the site of the site in relation to the ring road corridor effectively sterilises the land to the north meaning that no other development can take place immediately to the north.
- Land use zoning matrix does not mention veterinary practices.
- Westvets is the only veterinary practice located in Westport dealing with large animals and agricultural clients. As such the practice provides an essential service to the local agricultural community.
- Site at the edge of town within an easily accessible semi-rural location.
- Proximity to ring road was considered to be appropriate as it would enhance accessibility in the future.
- Decision to refuse is directly at odds with the explicit pre-planning advice that “the location and use is appropriate in context”. Advised to look for an edge of town site, close to existing commercial development and not a densely populated area.
- Mayo County Council roads department confirmed that the site was outside the road corridor.
- Essential supports to agricultural sector provided by this practice should render it suitable for consideration on this contained fragment of agriculturally zoned land.
- Appendices 7-10 inclusive comprising letters from various agencies which support the fact that the proposal is an essential support services to the agricultural community.
- Planner’s report references possible request for additional information to consider alternative access 200m from the junction. This would be a possibility and landowner’s consent is appended with the appeal.

- Chief Veterinary Inspector's report notes the central interdependence between large animal vet and the farmer and shows that the proposal should not be viewed as just a commercial development.
- Refusal is at odds with pre planning position and apparently unduly influenced by Carrabawn Residents Association.
- Western end of the site is wet however the easterly portion is dry.
- Scale of building is consistent with a single dwelling. Design is contemporary and respectful of agricultural built heritage.
- Traffic levels would not be significant.

6.2. **Planning Authority Response**

The Planning Authority did not respond to the grounds of appeal.

6.3. **Observations**

Submissions by Carrabawn Residents Association, Carrabawn Westport maintains the objection to the proposed development. Roadway incapable of catering for the additional traffic. Existing surface water problems and runoff to residential dwellings will be exacerbated. Noting proposed suggestion within the appeal to relocate the entrance to the Larkhill road this is not suitable from a traffic perspective. Proposed building would be out of character.

7.0 **Assessment**

- 7.1. The key issues to be addressed in the appeal can in my view be assessed under the following broad headings.

Principle of Development - Zoning

Traffic and Road Safety

Design and Impact on residential and other amenities

Appropriate Assessment

7.2 Principle of Development – Zoning

7.2.1 The Council's first reason for refusal was on the following grounds

“The proposed development would contravene materially the development objective LUO-03 of the Westport Town and Environs Development Plan 2010-2016 (incorporating variations 1-4) as extended which states that ‘it is an objective of the Council that uses, other than the primary use for which the land is zoned, may be permitted provided they do not conflict with the primary land use objective matrix table outlined in section 5’. The proposed commercial development is not a permissible use on lands zoned for agricultural purposes in the Land Use Zoning Matrix. Therefore, the development proposed would be contrary to proper planning and sustainable development of the area.”

7.2.2 The first party appellant contends that the proposal should be considered on the basis that it supplies an essential rural service to the local agricultural and rural community and should not be viewed merely as a commercial development. It is asserted that on this basis the proposed development would not contravene the zoning objective.

7.2.3 The objective of the Agriculture/High Amenity land use is to protect this area from development other than permitted agricultural uses and to protect the landscape character of this area. This zone consists of a number of landscape areas, which serve an important amenity function. Non-agricultural or other resource based development will not normally be permitted in these areas. Agricultural uses and buildings, agri-rural and rural enterprise activities, agri-tourism and other farm diversification enterprises and other suitable proposals that support the development of alternative rural enterprises, garden centre, open space, recreational amenities and allotments are land uses which will generally be permitted in this zone. I note that the zoning matrix within the development plan which outlines that no development is

within the Agricultural / High Amenity land use is permissible in principle while development types listed as open for consideration include agricultural machinery outlet, allotments, cattle shed, major playing fields.

7.2.4 I note that the proposed veterinary surgery, by its nature, would serve both the rural and the urban community. It is a resource based, commercial use and I do not accept the argument that it should be viewed as an agricultural use suitable for consideration within the Agriculture High amenity zoning. I conclude that the proposal would materially contravene the zoning objectives of the development plan, would set an undesirable precedent for similar such development and would be contrary to the proper planning and sustainable development of the area.

7.2.5 On the matters raised regarding pre-planning advice obtained from the local authority I note that as stated in Section 247(3) of the Planning and Development Act advice is given in good faith and without prejudice to formal consideration of any subsequent planning application and cannot be relied upon in the formal planning process or in legal proceedings. Formal consideration of a planning application is necessarily more extensive than considerations at pre planning stage.

7.3 Traffic and Road Safety

7.3.1 The Council's second reason for refusal was as follows:

The proposed development, involving the creation of a new vehicular access onto a Local Road the L1815 which adjoins the National Secondary Route N59, would be contrary to Section 38.4.1 of the Mayo County Development Plan 2015-2020 with specific reference to Table 10. The proposed development fails to meet the required 200m distance from the national road junction. Therefore, the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the extra traffic generated. Therefore, the development proposed would be contrary to the proper planning and sustainable development of the area and if granted would set an undesirable precedent for similar type developments in the area.

7.3.2 Within the grounds of appeal it is outlined that an alternative entrance could be provided from the Lankhill Road to the east to increase the distance from the N59 road junction. I note that this alternative entrance proposal is outside the current redline boundary and could not therefore be considered as part of the current appeal. Having assessed the application and appeal as submitted, I consider that refusal on grounds of traffic hazard is warranted. I note the concerns raised within the submission of Carrabawn Residents association regarding the capacity of the Local Road L1815 to cater for additional traffic and I consider that these concerns are valid. I note the not insignificant level of traffic generated by the Daybreak service station on the opposite corner of the N59 to the south of the site and also a number of dwellings in the vicinity. I consider that the provision of an additional entrance at this location would give rise to traffic hazard and obstruction of road users and would therefore be contrary to the proper planning and sustainable development of the area.

7.3.3 As regards the location of the site immediately adjacent to the corridor for the proposed South Westport Ring Road I note that the Regional Design Office did not object to the proposal on grounds of potential impact on the road corridor.

7.4 Design and Impact on Residential and other amenities.

7.4.1 As regards the design and layout of the proposal I note the contemporary character of the proposed design which is based on traditional rural forms and finishes. I consider that the visual impact is suitably mitigated by way of design and landscaping. However, noting the agriculture / amenity zoning pertaining to the site and in the context of national and local planning policies seeking to prevent urban sprawl and maintain the urban rural distinction any development on the site would have a negative impact on the amenity function and open and rural landscape character. The proposal would contribute to the encroachment of random development in the rural area, and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure.

7.4.2 As regards noise and other disturbance to established residential amenity in the vicinity I consider that the nature of the proposed use would give rise to significant impacts as to warrant a refusal on these grounds.

7.4.3 As regards servicing, I note that the issue of surface water and flooding was raised in the submissions of the observers who outlined an issue of flooding on the roadway towards the western end of the site. I note that the development proposes connection to public storm sewers however the Council's technical reports on file did not address the matter nor confirm storm sewer capacity. As regards public water supply and foul sewer connection specific details of connection are not provided and whilst the file was referred to Irish Water no correspondence was received to confirm capacity.

7.5 Appropriate Assessment.

7.5.1 On the issue of appropriate assessment screening under the Habitats Directive (92\43\EEC) having regard to the nature and scale of the proposed development and nature of the receiving environment and location within a serviced area, I consider that it is reasonable to conclude that there is no potential for significant effects and that therefore Appropriate Assessment is not required. It is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

I have read the submissions on file, visited the site, and had due regard to the provisions of the Development Plan and all other matters arising. I recommend that planning permission be refused for the following reasons

Reasons and Considerations

1. Having regard to the zoning of the site - K Agriculture / High Amenity within the Westport and Environs Development Plan 2010-2016 as extended, the objective of which is to protect this area from development other than permitted agricultural uses and to protect the landscape character of the area, it is considered that the proposed development which is commercial in nature would contravene materially the said objective and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the site on a minor road L1815 which is substandard in terms of width and to the location of the proposed entrance within 90m of the junction with the National Secondary Route N59, it is considered that the additional traffic generated by the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users and would therefore be contrary to the proper planning and sustainable development of the area.

Bríd Maxwell
Planning Inspector
8th July 2022