



An
Bord
Pleanála

Inspector's Report

ABP-311124-21

Development	Construction of a house, septic tank with proprietary effluent treatment unit and percolation area.
Location	Carn and Drumminracahill, Breaffy, Castlebar, Co. Mayo.
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	20914
Applicant(s)	Dearbhla & Raymond Friel.
Type of Application	Permission.
Planning Authority Decision	Grant Permission with conditions.
Type of Appeal	Third Party
Appellant(s)	Thomas and Claire Dolan
Observer(s)	Cllr Michael Kilcoyne.
Date of Site Inspection	9 th February 2022.
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. This appeal relates to a site 0.7543 hectares located within the townlands of Carn and Drummincrahill, Breaffy, Castlebar Co Mayo. The appeal site comprises two field patterns located on a narrow country road which runs in an east/west direction approximately 3 kilometres to the south of Castlebar. The local access road links up with a larger third class road which runs north-westwards and links up with the N84 and the outskirts of Castlebar. The appeal site incorporates a small hillock near the front northeastern boundary and shows a rise from a ground level of 37 metres AOD on the southwestern portion of the site to a height of 44 metres near the front north-eastern boundary of the site. The site has a road frontage of c.138.5 metres. Agricultural lands adjoin with the nearest dwellinghouse is located on the opposite side of the road to the north. A stream is located to the western boundary of the site. The site is visibly wet marginal grassland. Castlebar Golf Club is located to the northwest on the opposite side of the local road serving as access to the site.

2.0 Proposed Development

- 2.1. The application involves permission to construct a dwellinghouse, septic tank and proprietary effluent treatment unit and percolation area together with all ancillary site works and services.
- 2.2. The proposed dwelling design and orientation was altered during the course of the application to the local authority specifically in response to a request for additional information. The final design has a substantial footprint of 419m² with an integrated double garage of 63m². The design is roughly L shaped with stepped elevations and a central sunken courtyard. External finish includes white render, cut stone and slate roof. Proposed dwelling is to be located towards the eastern site boundary with the vehicular entrance from the western end of the site frontage. The proposed entrance involves removal and setting back of roadside hedgerow for a distance of in excess of 55m (initial proposal involved setting back the majority of the road frontage in

excess of 100m). I note that the initial proposal indicated a finished floor level of 41.3m. Amended site layout does not specify finished floor level.¹

3.0 Planning Authority Decision

3.1. Decision

3.1.1 By order dated 21st July 2021 Mayo County Council issued notification of the decision to grant permission and 15 conditions were attached which included the following:

Condition 2. First Occupancy.

Condition 3 Existing fence to be removed for a distance of 25m centred around the proposed entrance.² Any new wall shall be of local stone and set back 3m from the edge of the surfaced carriageway.

Condition 13. House shall be finished in nap plaster or dash with no colour components. Any stone shall be local stone.

Condition 14. Existing trees hedgerows to be retained shave at the house location or to achieve sightline visibility.

Condition 15. Development Contribution €357 in accordance with the Mayo County Council Development Contribution Scheme.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner's initial report sought additional information regarding the applicant's housing need. A reduction on proposed hedgerow removal was advised and access to the site to be indicated to enable inspection of trail hole. The applicant was advised to amend design to comply with Mayo Rural Housing Guidelines.

¹ I note that there are issues with regard to the detail and quality of plans submitted including inaccurate scale on the submitted plans, and text font size necessitating recourse to a magnifying glass to decipher, however this issue has not been raised by the parties to the appeal.

² I note that the submitted layout, which is incorrectly scaled, demonstrates removal of in excess of 55m of roadside hedgerow

Second report sought clarification regarding sightlines and access to facilitate trial hole inspection.

Final report recommended permission subject to conditions.

3.2.2. Other Technical Reports

3.2.2.1 Area Engineer's report indicates no objection. No surface water to discharge onto the public road. Channel to be provided across driveway to prevent this. Setback along the frontage to the east is significant. Some of this area on the eastern end may be finished in grass / verge.

3.2.2.2 Senior Executive Engineer. No flood risk assessment required.

3.2.2.3 Executive Architect. Information should be sought regarding applicant's ownership in the locality. Perhaps a more suitable location may transpire. This would mark the first development on this side of the road for a considerable distance and on land that is of marginal quality verging on wet farmland. Proposed dwelling is large and presents a myriad of hipped roof configuration which is not consistent with the rural housing guidelines. The removal of large sections of extant hedgerow along the Drummincrahill Road should be avoided.

3.3. Prescribed Bodies

No submissions.

3.4. Third Party Observations

3.4.1 Submission from Tomas and Claire Dolan, Drummin, Castlebar owners of adjacent farmland object to the proposal on the following grounds:

- Site notice located in Carn not Drummincrahill.
- Site is within an area under strong urban pressure.
- Negative impact on day to day running of farm.
- Potential drainage problems.

4.0 Planning History

ABP Ref. PL16.234874 (Mayo County Council Ref 09/697) The Board refused permission for construction of a dwelling, treatment unit and ancillary site works to the Pádraig and Thomas Dolan on grounds of housing need and traffic hazard.

P9/28 planning permission was sought by Kenneth and Julie Moran to construct a dwellinghouse and associated site works on the site in question and this application was withdrawn.

P06/2312 planning permission was sought by Anita Bourke for the construction of a dwellinghouse on the appeal site. Planning permission was refused on the grounds that, on foot of a site inspection, Mayo County Council was not satisfied that the site was suitable for the safe disposal of domestic effluent notwithstanding the use of a proprietary wastewater treatment unit.

06/1346 planning permission was sought by Anita Bourke to construct a dwellinghouse at Cottage Road, Breaghwy, Castlebar, County Mayo. This application was deemed to be incomplete.

5.0 Policy Context

5.1. National Planning Framework, Department of Housing Planning and Local Government 2018

National Policy Objective 19 Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e., within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements

5.2. Development Plan.

5.2.1 The Mayo County Development Plan 2014-2020 refers.³ The site lies within the area under strong urban influence. The policy of the planning authority is that that applications for houses in rural areas under strong urban influence must meet a rural housing need under the categories set out in section 2.3.1 of volume 2 of the plan, which are

– 2.3.1.1 Persons who are an intrinsic part of the local rural community due to their having spent substantial periods of their lives, living in the rural area in which they propose to build a home. This category refers to:

a. Farmers, their sons and daughters, a favourite niece/nephew and/or any persons taking over ownership and running of a farm, who wish to build on the family farm holding (a farm holding shall consist of at least 4ha).

b. Sons and daughters of non-farming persons who have spent a substantial period of their lives (i.e. at least 5 years) living in the rural area on which they propose to build and wish to build a home near their family place of residence (i.e. within 5km in any direction of family residence).

c. Returning emigrants who spent a substantial period of their lives living in the rural area in which they propose to build, who now wish to return to reside near (i.e. within 5km) other immediate family members (i.e. mother, father, brother, sister, son, daughter or guardian) to care for elderly immediate family members, to work locally, or to retire.

2.3.1.2 Persons working full-time or part-time in the rural area in which they propose to build their first house. This category of housing need refers to:

³ I note that in relation to the Draft Mayo County Development Plan 2021-2027, my interrogation of the Mayo County Council website to determine the current status indicates that the material amendments to the draft plan were available for public display from 29th March 2022 to the 26th April 2022

a Persons involved in full-time farming, forestry, inland waterway, or marine related occupations.

b Part time occupations where the predominant occupation is farming/natural resource related.

c Persons whose work is intrinsically linked to rural areas such as teachers in rural schools or other persons whose work predominantly takes place within the rural area in which it is proposed to build. For the purpose of clarity, proposed sites shall generally be required to be located within 10 km (6.2 miles), in any direction, of an applicant's place of work.

Section 4 states that ribbon development will not be permitted outside the 60kph speed limit. It is defined as more than 5 houses in a rural over 250m of road frontage. Section 5.3 states that single vacant sites between houses will be considered to avoid dereliction and decay.

5.3. Natural Heritage Designations

The River Moy Special Area of Conservation (Site Code 002298) lies within 3km to the east of the site.

Lough Carra Masc Complex SAC (Site Code 001774) and Lough Carra SPA (Site Code 4051) lie approximately 9km to the south.

5.4. EIA Screening

The proposed development is of a class under Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, namely Class 20. Infrastructure projects, (b)(i) construction of more than 500 dwelling units. However, as the proposed development comprises a single dwellinghouse, it is significantly subthreshold the 500 unit limit provided under that part. I am satisfied that due to the limited nature of the development and nature of the receiving environment there is

no real likelihood of significant effects on the environment arising from the proposed development and Environmental Impact Assessment is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 The appeal is submitted by Thomas and Claire Dolan, Drummin, Castlebar, owners of the adjoining agricultural land.

- Acknowledge that the site size was increased from that previously refused PL16.234874 P(09/697) in order to improve sightlines.
- Applicant's housing need is questioned. No local connection.
- Location of proposed effluent treatment system close to boundary is of concern. Pollution concerns arise having regard to ground conditions and proliferation of existing wastewater treatment systems in the area.
- Significant loss of hedgerows to provide sightlines.
- Scale of dwelling with significant footprint and excavations will result in an incongruous structure.
- Negative impact on traffic safety.

6.2. Applicant Response

6.2.1 The response by RTES Consulting Engineers on behalf of the first party is summarised as follows:

- The site is situated circa 2.2km south of the applicant's former residence which was subject to CPO for N5 Road Construction.
- By virtue of residing within 2.3km for a period in excess of 10 years the applicants have an intrinsic link with the site. (Section 2.3.1 and 2.3.1.2(c) of the Mayo County Development Plan.)
- Applicant's business and place of work is within 4km of the site.

- Following the previous refusal, the applicant acquired an additional field to address concerns regarding sightlines. A large portion of the native hedgerow can be retained. Sightlines of 70m and 72m can be achieved in both directions.
- Previous applications by other parties are not relevant to the current appeal.
- Section 6.2 of the Mayo County Development Plan states that one off houses in a rural area under urban influence must have a site area of equal to or greater than 3000m² and have site area covering in excess of 60%. Both guidelines have been met and exceeded.
- Refute the argument that the applicants' housing need is a housing desire.
- Following CPO of their former dwelling the applicants have been living in rental accommodation.
- Former dwelling was a detached dwelling on a private site and the proposal is a replacement to reinstate their constitutional right.
- Position and location of the proposed tertiary treatment system is towards the southeast corner of the site at a distance of 3.385m from the landholding boundary in excess of minimum requirement of 3m.
- Site suitability assessment demonstrates that the site is hydraulically suitable for discharging to ground water via septic tank and percolation area and secondary treatment systems and complies with EPA standards.
- OPW floodmaps show no record of flood events.
- Note 19/876 site to the east of the appeal site which was subject to grant of permission to the third party appellant.
- As with any one off rural house there will be some removal of trees and hedgerows to accommodate site works. Applicants will minimise tree and hedgerow removal.
- Proposal will involve earthworks to obtain the approved floor levels. Extensive landscaping will address screening.
- House design was extensively reconfigured following further information request. Design and orientation mitigates visual impact.

- It is acknowledged that the road is narrow and overgrown in part however the creation of a safe sight triangle egressing the site reduces traffic risk. Access is c330m east of the L1704 along a relatively straight road.
- Applicants feel that they have demonstrated compliance with rural housing policy.

6.3. **Planning Authority Response**

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

6.4. **Observations**

Submission from Councillor Michael Kilcoyne, supports the application highlighting the following:

- The family home was subject to CPO by Mayo County Council in October 2020 to facilitate the construction of new slip road (Part of N5 Motorway)
- Site is close to former home and Dearbhla's place of work at Thomas Street, Castlebar.
- Family currently living in rental accommodation.
- Applicants are involved in local community and voluntary organisations.

7.0 **Assessment**

7.2 I consider that the proposal should be assessed under the following broad headings.

- Rural housing policy
- Servicing Wastewater Treatment, Traffic Safety and Impact on Rural Amenity
- Appropriate Assessment

7.3 **Rural Housing Policy**

- 7.3.1 Mayo County Council core strategy and settlement strategy is set out within Chapter 1 of the Mayo County Development Plan 2010-2016. The site is located in an area designated as an area under strong urban influence. The Objective RH-01 is “to ensure that future housing in rural areas complies with the Sustainable Rural Housing Guidelines for Planning Authorities 2005 (DoEHLG). Map 1 Core Strategy Conceptual Map and the Development Guidance Document of this plan. The Policy requires that applicants shall satisfy the planning authority that their proposal constitutes a genuine rural generated housing need based on their own roots in or links to a particular rural area.
- 7.3.2 Policy Objective 19 of the National Planning Framework seeks to ensure that, in providing for the development of rural housing, a distinction is made between areas under urban influence, i.e., within the commuter catchment of cities and large towns and centres of employment, and elsewhere. In rural areas under urban influence, it is policy to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.
- 7.3.3 The applicants indicate that the proposed dwelling is intended as a replacement dwelling for their previous home, which was located 2.5km to the north (to the east of the development boundary of the Castlebar Town and Environs Development Plan therefore also within an area under strong urban influence) and which was the subject of a CPO for the purpose of the N5 road construction. The appeal site is located within an area where there is significant pressure for one-off urban generated housing as is clearly evident in terms of the site history and planning and development history in the locality. The general area is clearly at risk in terms of the dilution or blurring of the urban rural divide. Whilst the agent for the first party seeks to argue that the replacement of the dwelling which was subject to CPO like for like, I note a contrast in location character. In any event I am not satisfied that the application substantiates a genuine rural housing need. Whilst the applicants lived within the urban rural fringe for a significant period their place of work is within the town of Castlebar and employment is not rural based.

7.3.4 It remains national and local policy to direct new housing to urban centres. Mayo County Development Plan Policy P04 is to support the sustainable development of the countryside and rural villages in the County. I do not consider that a genuine rural housing need for a house at this location has been demonstrated in this instance. A grant of permission would in my view not comply with Policy Objective 19 of the National Planning Framework, would undermine rural housing policy and would be contrary to the proper planning and sustainable development of the area.

7.4 Servicing - Wastewater Treatment and Traffic Safety & Impact on Rural Amenity.

7.4.1 As regards site suitability for effluent treatment I note that the site suitability assessment report outlines that the site varies from limestone mound to flat ground with variation from firm ground to areas of soft ground post heavy periods of rain. In the trial hole excavated to 2.2m water table was encountered at 1.6m. (I note that there appear to be discrepancies in the detail submitted report Para 3.2 Trial Hole regarding water ingress). I also am concerned that the report fails to take account of drainage ditches to the west of the site and the open well as identified on ordnance survey maps which lies within 64m to the east of the site.

7.4.2 As regards the submitted information the T value of 30.78 was recorded. The assessor's comment is noted as follows: "The site has passed the T tests on the day of testing (8/11/2020). These tests are limited to the test holes and no liability can be accepted for variations in ground conditions." The soil is described as a clay not dilatant crumb uncompact topsoil with compact clay in the .3m to .5m horizon with a compact clay with large stone to 0.8m and a silty sandy clay with grained compact grey with large stone from 0.8m to the base of trial hole. A P Value of 33.28 is identified. It is proposed to install a packaged wastewater treatment plant and soil polishing filter.

7.4.3 I have a number of concerns with regard to the wastewater treatment proposal. I note the variation in site character from the mounded area to the north-eastern part of the site to the lower lying and visibly wet areas to the west and southeast. I note

that the trial holes were excavated on higher ground whereas the proposed treatment system is to be located within lower lying areas to the southeast. I consider that in light of the detail submitted and having regard to the number of dwellings in this area, concerns arise with regard to proliferation of wastewater treatment systems and on this basis, I consider that the proposal would be prejudicial to public health.

7.4.4 I note that the third-party party appellant raises concerns with regard to traffic. The road serving as access to the appeal site is extremely narrow, is largely single carriageway, and is not capable of accommodating significant traffic volumes. Whilst the applicant has increased the site size from the previous application (refused on appeal by the Board PL16.234874), for the purposes of achieving improved sightlines, the current proposal involves the removal of in excess of 55m of hedgerow in order to achieve the required sightlines. This is clearly inappropriate and will result in significant adverse visual impact as well as being detrimental to the preservation of rural amenity. As regards the design and siting of the dwelling I have noted the proposal to site the substantial single storey structure on the more elevated part of the site. This coupled with loss of hedgerow will, in my view, result in inappropriate suburban type development in this rural area under significant urban pressure contrary to the proper planning and sustainable development of the area.

7.5 Appropriate Assessment

7.5.1 Having regard to the nature and scale of the proposed development, impact pathways would be restricted to hydrological pathways. The physical distance from the appeal site to the nearest European sites is such that any impact from the hazard source will be well diminished along the pathways in question by the time it reaches the receptor. Having regard to the nature of the proposed development and/or nature of the receiving environment and/or proximity to the nearest European sites, no Appropriate Assessment issues arise and it is not considered that the 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

- 8.1 I recommend that permission be refused for the reasons stated in the attached schedule.

Reasons and Considerations

1. It is a policy of the current Mayo County Development Plan 2014-2020 “to support the sustainable development of the countryside and rural villages in the County” (P-06). This policy is considered reasonable. Having regard to the location of the site within an area identified as under the urban influence of Castlbar town where housing is restricted to persons who can demonstrate rural-generated housing need and to National Policy Objective 19 of the National Planning Framework issued by the Department of Housing, Planning and Local Government in February, 2018 which, for rural areas under urban influence, seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area, the Board is not satisfied that the applicant has sufficiently demonstrated that they have a rural-generated housing need. As a result, the Board considers that the proposed development would contribute to the further 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. Having regard to the characteristics of the site and to the density of houses served by individual wastewater treatment systems in the immediate vicinity, the Board is not satisfied, on the basis of the information submitted in connection with this appeal, that the site can be drained satisfactorily by means of a septic tank, notwithstanding the use of a proprietary wastewater treatment system. It is considered, therefore, that the proposed development would be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

3. Taken in conjunction with existing and permitted development in the area, the proposed development which would necessitate the removal of in excess of 55m of hedgerow, would constitute an excessive density of suburban type development in a rural area which would militate against the preservation of the rural environment and lead to demands for the provision of further public services and community facilities.

Bríd Maxwell
Planning Inspector

18th May 2022