



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311241-21

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<b>Development</b>	Retention of automatic sliding gate, including all other ancillary site works and services.
<b>Location</b>	Gortnaraby, Crossmolina, Co. Mayo.
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	21331
<b>Applicant(s)</b>	Martin Carey.
<b>Type of Application</b>	Permission to retain.
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Martin Carey.
<b>Observer(s)</b>	Pádraig Lynn.
<b>Date of Site Inspection</b>	7 <sup>th</sup> February 2022.
<b>Inspector</b>	Bríd Maxwell

## **1.0 Site Location and Description**

- 1.1. This appeal relates to a rural site located within the townland of Gornaraby, circa 1km to the southeast of Crossmolina, Town Centre in Co Mayo. The site has a stated area of 0.175 hectares and comprises a recently altered gateway entrance to an agricultural and residential property. The site is located on a third-class road L1104 Lake Road which serves as access to Gortynor Abbey Pier on Lough Conn and also one way egress from Jesus and Mary Secondary School, Gortynor Abbey. I note a number of lighting standards have been installed along the public road and one along the access road to the dwelling and farmyard.

## **2.0 Proposed Development**

- 2.1. The proposal involves permission to retain automatic sliding gate which is 2m in height and 9.3m in length. The gate incorporates a security camera and beacon lighting which operates when opening and closing. The gate is in green colour and matches the 7-bar iron rail fencing which has been provided along the roadside boundaries.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

By order dated 9<sup>th</sup> August 2021 Mayo County Council decided to refuse permission for the following reason:

“Having regard to the development in terms of design and scale in a rural setting which would be contrary to the provision of the Mayo County Development Plan 2014-2020, it is considered that if permitted it would be visually obtrusive in this rural area, would set an undesirable precedent for similar development in a rural area which would interfere with the character of the landscape, which it is necessary to preserve. The proposed development therefore would be contrary to the proper planning and sustainable development of the area.”

## 3.2. **Planning Authority Reports**

### 3.2.1. Planning Reports

Planner's initial report asserts that significant adverse impacts on habitats and species within the River Moy SAC can be ruled out due to the nature of the development and ecological nature of the SAC, distance and lack of connectivity. Report notes that prior to construction of sliding gate incorporated a plastered wall and the access road was lined with hedgerows on both sides as evident in google street view images.

Further information required in relation to surface water collection. Design advice made reference to Paragraph 14.4 of the County Development Plan and the applicant was invited to submit revised proposals. It was asserted that the design and materials of boundary treatment does not reflect local traditions and the landscape character of the area. Front boundary walls should be constructed of local natural stone no part of which to exceed 1.2m in height.

Final Planner's report considers that the proposal is commercial industrial in character in a rural area along loop walk near the lake. An automatic gate in principle could be accepted if designed with an entrance more in character in a rural setting. Refusal was recommended.

### 3.2.2. Other Technical Reports

Flood Risk Management - Flood risk assessment not required.

## 3.3. **Prescribed Bodies**

Development Applications Unit - Department of Tourism Culture Arts Gaeltacht Sport and Media. Notes location circa 250m from the River Moy SAC and Loug Conn and Cullin SPA. There is a potential that the construction works of the electric gate and all other ancillary site works and services could have significantly disturbed qualifying interest QI bird species of this SPA if works were carried out during winter months. Disturbance could have been caused by machinery and construction related activities. There is potential that works affected QI species and Annex 1 species of the Birds Directive, particularly Whooper Swan which use the nearby fields surrounding the site. The site faces down onto the lake where waterbirds of the SPA

commonly congregate, Wetlands and Waterbirds [A999] is a QI of the SPA along with other specific species including tufted duck, Greenland white fronted geese and common gull which also have the potential to have been disturbed by works were not assessed in terms of Article 6(3) of the Habitats Directive.

### **3.4. Third Party Observations**

Submission by Mary and Padraic Dolan, Mullenmore North. Crossmolina neighbours, object on grounds the application does not include for retention of agricultural buildings recently constructed. Concerns regarding water quality impacts on Lough Conn arising from slurry run off.

Submission by Padraig & Margaret Lynn and Family. Expresses concern regarding development on the landholding. Location on important walking route. Concerns regarding intensification of agricultural use, traffic, noise disturbance. Harvesting operations during the night. Impact on hedgerows and wildlife. Unauthorised alterations of gateways.

## **4.0 Planning History**

I am not advised of any Planning History on the site.

## **5.0 Policy Context**

### **5.1. Development Plan**

The Mayo County Development Plan 2014-2020 refers.

At 14.4 Boundaries.

“The design and materials of boundary walls or fencing shall add a pleasing design feature to the overall development. Boundary treatment should reflect local traditions and the landscape character of the area. Planning Applications for all new residential developments or new accesses for existing residential developments should include detailed drawings and specifications for all site boundary treatments, including details of boundaries to be replaced or removed. The following details should be considered relating to boundary treatment:

- Existing hedgerows should be retained around the site. Where removal is required to meet visibility standards, a new hedgerow with native species shall be planted at the required setback. Where hedgerow removal is required this should not be carried out during the nesting period
- Existing dry-stone wall shall be retained around the site. Where removal is required to meet visibility standards, a new dry-stone wall shall be built to match the existing at the required setback
- In the absence of any local traditional boundary treatments in the area, front boundary walls shall be constructed of a local natural stone, no part of which shall exceed 1.2 metres in height (including pillars or gates).”

## 5.2. Natural Heritage Designations

The site is circa 175m west of the River Moy Special Area of Conservation (SAC Site Code IE 002298) and Lough Conn and Lough Cuilin SPA (Site Code 004228)

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal are summarised as follows:

- Gateway comprises upgrade of an existing entrance to dwelling and large working farmyard.
- Development initially understood to be exempted development.
- Works were carried out to make it safer for large machinery to enter and exit and to upgrade the security of the entrance.
- Fence upgraded and hedgerows trimmed to improve sightline distance.
- Iron rail fencing in green for practical stock proof fencing colour will blend with the landscape of the area and will be less visible obtrusive than other forms of fencing. Similar to nearby Enniscoe House.
- At present the dwelling is not inhabited and sliding gate chosen for essential security reasons. ~Green posts less imposing than a masonry pillar and gate

and rails carefully chosen to be less obtrusive and suitable for an entrance to a large residential farm holding.

- Works have significantly improved the safety of the entrance and provides a passing bay on narrow L1104.
- Measures have been put in place to prevent surface water run off to the road.
- Photographs appended of other entrances around Crossmolina and along lake road some of which, though higher, did not obtain planning permission.

## 6.2. Planning Authority Response

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

## 6.3. Observations

Submission from Padraig Lynn, Bearwood, Lake Road, Crossmolina is summarised as follows:

- This quiet tranquil rural area has been damaged by relentless industrial agricultural operations.
- Little regard for habitats, wildlife and local people.
- Unauthorised gateways created on holding.
- 24 hour operation during summertime. Industrialised farming, Concern that a willow processing plant for biomass is planned.
- Gateways shown in pictures to support the appeal were paid for by the applicant.
- Crush hazard potential from unattended electric gates.
- Location is on a loop walk is a designated walking route
- One way traffic system for Gortnor Abbey secondary school. School buses and traffic significant levels in morning and evening. Potential traffic hazard.

## 7.0 Assessment

- 7.1. I note that the application relates solely to the retention of the automatic sliding gate and ancillary works and services. The third-party submissions to the local authority and the observer's submissions on appeal raise wider issues with respect to alleged intensification or industrialised farming practices, 24-hour farming operations, loss of trees and hedgerows, alleged opening of unauthorised entrances and rumoured future intentions with respect to the landholding. I also note that a number of lighting columns have been installed along the roadway fronting the site which are not included in the application. Such matters are well beyond the remit of the current appeal and therefore I consider it appropriate to confine my assessment to the development subject of the application, namely the proposal to retain the automatic sliding gate.
- 7.2. The applicant has outlined a justification for the gate on the basis of the need to provide for improved security to the holding. This is a reasonable objective. The Planning Authority in its decision considers the gate to be visually obtrusive in the rural area and expressed concerns regarding setting an undesirable precedent which would interfere with the character of the landscape. Having considered the design and detail of the automated gateway I consider that it is visually acceptable. I note the gateway. Whilst it is of large proportions 2.065m high and 9.35m wide it is painted green and is translucent. I consider that the gate is visually acceptable, and I consider that additional landscaping of native species would mitigate the visual impact.
- 7.3. As regards the issue of Appropriate Assessment I note that the site is located within approximately 175m west of the River Moy Special Area of Conservation (SAC Site Code IE 002298) and Lough Conn and Lough Cuilin SPA (Site Code 004228). I have noted above the submission from the Development Applications Unit - Department of Tourism Culture Arts Gaeltacht Sport and Media which suggests that there is a potential that the construction works of the electric gate and all other ancillary site works and services could have significantly disturbed qualifying interest QI bird species of this SPA if works were carried out during winter months. Disturbance

could have been caused by machinery and construction related activities. The potential that works affected QI species and Annex 1 species of the Birds Directive, particularly whooper Swan which use the nearby fields surrounding the site. It is noted that the site faces down onto the lake where waterbirds of the SPA commonly congregate, Wetlands and Waterbirds [A999] is a QI of the SPA along with other specific species including tufted duck, greenland white fronted geese and common gull which also have the potential to have been disturbed by works and it is noted that these were not assessed in terms of Article 6(3) of the Habitats Directive.

7.4 The qualifying interests for the River Moy SAC (site code: 002298) are:

(1092) Whiteclawed Crayfish *Austropotamobius pallipes*,

(1095) Sea Lamprey *Petromyzon marinus*,

(1096) Brook Lamprey *Lampetra planeri*,

(1106) Salmon *Salmo salar*,

(1355) Otter *Lutra*,

(7110) Active raised bogs,

(7120) Degraded raised bogs still capable of natural regeneration,

(7150) Depressions on peat substrates of the *Rhynchosporion*,

(7230) Alkaline fens,

(91A0) Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles, and

(91E0) Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*).

7.5 The conservation objectives for the SAC are:

1. To restore the favourable conservation condition of Active raised bogs (7110),

2. The long-term aim for Degraded raised bogs still capable of natural regeneration is that its peat-forming capability is re-established; therefore, the conservation



objective for this habitat is inherently linked to that of Active raised bogs (7110). A separate conservation objective has not been set in River Moy SAC. (7120),

3. Depressions on peat substrates of the Rhynchosporion is an integral part of good quality Active raised bogs (7110) and thus a separate conservation objective has not been set for the habitat in River Moy SAC (7150)

4. To maintain the favourable conservation condition of Alkaline fens (7230),

5. To maintain the favourable conservation condition of Old sessile oak woods with Ilex and Blechnum in the British Isles (91A0),

6. To maintain the favourable conservation condition of Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, Alnion incanae, Salicion albae) (91E0),

7. To maintain the favourable conservation condition of White-clawed Crayfish (1092),

8. To maintain the favourable conservation condition of Sea Lamprey (1095),

9. To maintain the favourable conservation condition of Brook Lamprey (1096),

10. To maintain the favourable conservation condition of Salmon (1106), and

11. To maintain the favourable conservation condition of Otter (1355).

7.6 The qualifying interests for the Lough Conn & Lough Cullin SPA are:

(A061) Tufted Duck *Aythya fuligula*,

(A065) Common Scoter *Melanitta nigra*,

(A182) Common Gull *Larus canus*,

(A395) Greenland White-fronted Goose *Anser albifrons flavirostris*, and

(A999) Wetland and Waterbirds.

The conservation objective for the SPA is to maintain or restore the favourable conservation condition of the wetland habitat at Lough Conn and Lough Cullin SPA as a resource for the regularly occurring migratory waterbirds that utilise it.

Having regard to:

- the limited nature and scale of the proposed development (the replacement of a gateway entrance from a local road serving an established farmyard and dwellinghouse),
- the nature of the immediate receiving environment,
- the existing use of the lands,
- the separation distance between the site and the subject SAC and SPA sites
- the relatively short-term construction phase,
- no direct discharge to any surface waterbody
- no loss, fragmentation, disruption or disturbance to the European sites or their annexed species either directly or indirectly,

I do not consider that the proposal would be likely to have significantly impacted the qualifying interests of the European sites. I do not consider that the development proposed for retention would be likely to have had a significant effect individually or in combination with other plans or projects on a European site. As such, I consider that the potential for significant effects can be excluded and no Appropriate Assessment issues arise.

## **8.0 Recommendation**

- 8.1 I have read the submissions on the file, visited the site and had due regard to the development plan and all other matters arising. I recommend that the Board uphold the first party appeal and grant permission subject to the following conditions.

### **Reasons and Considerations**

Having regard to the established use of the site, and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the development proposed for retention would not injure the amenities of the

area and would thus accord with the proper planning and sustainable development of the area.

## Conditions

1. The development herein permitted relates to the retention of automatic sliding gate including ancillary site works and services in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 14<sup>th</sup> July 2021, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The scheme shall include the following:

(a) A plan to scale of not less than [1:500] showing –

(i) The species, variety, number, size and locations of all proposed trees and shrubs [which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder, which shall not include prunus species.

(l) A timescale for implementation within the first planting season.

All planting shall be adequately protected from damage until established, Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development shall be replaced within the next planting season with others of similar size and species unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

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Bríd Maxwell  
Planning Inspector  
06 April 2022