



An
Bord
Pleanála

Inspector's Report

ABP-311926-21

Development	House with garage, installation of septic tank & percolation area with associated site works.
Location	Moher Townland, Lanesborough, Co Roscommon
Planning Authority	Roscommon County Council
Planning Authority Reg. Ref.	21486
Applicant(s)	Marie O'Donnell & Brendan Doyle
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Marie O'Donnell & Brendan Doyle
Observer(s)	None
Date of Site Inspection	25 th May 2022
Inspector	Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Moher, a rural area c. 0.5 km west of Ballyleague.
- 1.2. The appeal site is relatively flat, broadly rectangular in shape, has a stated area of 0.4650 ha and is located on the eastern side of the L6114. The appeal site is part of a larger agricultural landholding and is under grass. The boundaries of the appeal site comprise hedgerow and trees. Access to the appeal site is from a gated agricultural entrance.
- 1.3. The adjoining lands to the north, south and east are indicated as being within the applicants' control/ownership, as depicted by the blue line boundary.

2.0 Proposed Development

- 2.1. The proposed development comprises;
 - Construction of a two storey, four-bedroom, detached dwelling:
 - stated floor area c. 270 sqm.
 - ridge height c. 7.8 metres.
 - material finishes to the proposed house comprise nap plaster and sandstone cladding for the external walls. The roof covering has not been specified.
 - positioned centrally within the appeal site, with a c. 37 metre set back from the public road.
 - a natural stone boundary wall, not exceeding 1 metre in height is proposed to the front/west of the appeal site (no elevational drawings submitted).
 - A single-storey domestic garage:
 - stated floor area c. 55 sqm.
 - ridge height 5 metres.
 - material finishes to the proposed garage comprise nap plaster for the external walls. The roof covering has not been specified.

- positioned north-west of the proposed dwelling.
- The installation of a packaged waste water treatment unit with a packaged tertiary unit.

Whilst not referred to in the development description contained in the public notices, the proposed development also entails;

- A new vehicular access, utilising an existing agricultural entrance.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission on the 19th October 2021 for one reason which can be summarised as follows;

1. The proposed development is located in a rural area under urban influence (Category B- Areas Under Urban Influence) as identified in Section 5.11 of the current County Development Plan (2014-2020). The Planning Authority is not satisfied, based on the information submitted, that the applicants meet the criteria for a rural generated house for this category area in accordance with the Sustainable Rural Housing Guidelines, and Table 5.3 of the Roscommon County Development Plan 2014-2020. The proposed development would therefore be contrary to Section 5.11 and Policy 5.29 of the County Development Plan 2014-2020 and to the Sustainable Rural Housing Guidelines issued to Planning Authorities.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (dated 13th October 2021) includes the following comments;

- Documentation suggests that the applicants are of rural origin and have established familial and intrinsic ties to the area. The family home is in proximity to the application site. The information presented is deemed acceptable in the context of demonstrating ties to the rural area. However, this is not the

applicants' first home and as such the applicants cannot be considered to have a housing need.

- The design of the proposed house is deemed acceptable.
- A 90 metre sightline is provided, with minimal set back works required.

The report of the Planning Officer recommends a refusal of permission consistent with the Notification of Decision which issued.

3.2.2. Other Technical Reports

Environment Section (report dated 8th October 2021) – no objection subject to standard conditions relating to the waste water treatment system, surface water run-off and construction waste.

3.3. Prescribed Bodies

None received.

3.4. Third Party Observations

None received.

4.0 Planning History

Appeal Site

PA. Ref. 20/313 – Permission REFUSED for a house, garage, septic tank and percolation area. Reason for refusal concerned non-compliance with rural settlement policy and the Sustainable Rural Housing Guidelines 2005. Applicants - Brendan Doyle & Marie O' Donnell.

Lands to south

PA. Ref. 15/297 – Permission GRANTED for cattle shed, a farmyard manure storage pit and a cattle handling pen. Applicant - Brendan Doyle.

5.0 Policy Context

5.1. National Policy

5.1.1. National Planning Framework (NPF) – Project Ireland 2040 (2018)

National Policy Objective 15 of the National Planning Framework states -

‘Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.’

National Policy Objective 19 of the National Planning Framework states -

‘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.

5.1.2. Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10) 2009

The Code of Practice (CoP) sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses. The EPA CoP 2009 was revised in March 2021, replacing the previous Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10) issued in 2009. As stated in the preface of the revised CoP, the revised CoP ‘applies

to site assessments and subsequent installations carried out on or after 7th June 2021. The 2009 CoP may continue to be used for site assessments and subsequent installations commenced before 7th June 2021 or where planning permission has been applied for before that date'. I note that the planning application was lodged with Roscommon County Council on the 25th August 2021 and the site assessment carried out in July 2020. Based on the forgoing, the EPA CoP 2009 is considered to be the relevant CoP for the purpose of this appeal.

5.1.3. Ministerial Guidance

Sustainable Rural Housing, Guidelines for Planning Authorities (2005)

The Guidelines provide criteria for managing rural housing, whilst achieving sustainable development. Planning Authorities are required to identify rural area typologies that are characterised as being, under strong urban influence; stronger rural areas; structurally weak; or made up of clustered settlement patterns.

5.1.4. Development Plan

The relevant development plan is the Roscommon County Development Plan 2021-2027.

The appeal site is not subject to a specific land-use zoning, being located in the open countryside.

Chapter 3 of the Roscommon County Development Plan 2021-2027 sets out the policy for rural housing. Section 3.10 of the Development Plan provides that any rural areas located within the commuter catchment of a city or large town are considered to be 'areas under urban influence', specifically areas where 15% or more of the ED population commute for employment (based on CSO data). Map 3.1 'Commuter Catchment Areas' indicates the parts of the County which are affected by such commuting patterns. These areas of the County are identified on Map 3.1. Areas 'under strong urban influence', are referred to as 'Policy Zone A', with 'remaining rural areas' referred to as 'Policy Zone B'. Depending on the Rural Policy Zone in which a dwelling is proposed, applicants will be required to demonstrate to the Planning Authority how they qualify with the applicable criteria. Applicants seeking a dwelling within an area 'under strong urban influence' must have a demonstrable economic or

social need to live there (the criteria for which is set out in Table 3.2). In respect of 'remaining rural areas' the Roscommon County Development Plan provides that *'single dwellings in areas other than those under urban influence will be facilitated based on siting and design criteria, and also having regard to the viability of smaller towns and rural settlements'*.

Other objectives/sections of the Roscommon County Development Plan 2021-2027 relevant to this assessment are as follows:

PPH 3.12

Facilitate single houses in rural areas subject to appropriate siting and design criteria, including demonstration of adherence to the principles set out in the County Roscommon Rural Design Guidelines. In addition, in the case of proposals for single houses in defined Areas under Urban Influence, applicants will be required to demonstrate a social or economic link (as per Table 3.2) to the rural area in which they proposed to build.

PPH 3.13

Direct urban generated housing in rural areas to the towns and villages (serviced and unserviced) in the county as set out in the Settlement Hierarchy in Table 2.3.

Section 12.7 – Rural House Design Considerations

Figure 12.3 – Sight Distance Requirements

5.2. Natural Heritage Designations

- Lough Ree SPA (Site Code 004064), c. 500 metres south
- Lough Ree SAC (Site Code 000440), c. 380 metres south
- Lough Ree pNHA (Site Code 004064), c. 380 metres south
- Corbo Bog SAC (Site Code 002349), c. 3.6 km west
- Corbo Bog pNHA (Site Code 000602), 3.6 km west

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. 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

This is a first-party appeal against the decision to refuse permission. The grounds for appeal can be summarised as follows;

- The first home stipulation should only apply to the rural community in which the first party has spent a large portion of his life, and not universally. The RSES and NPF support rural housing for economic and social reasons and do not refer to cases where applicants own property in an area remote from the site where a new dwelling is proposed. The free movement of capital and people should not be constrained by the Council.
- The Council did not consider the application afresh, but rather relied on the decision of the previous application i.e. PA. Ref. 20/313. The changed circumstances of the first party was not considered in the new application. The first party no longer own property elsewhere.
- No other parties are interested in developing in Moher.
- One of the first parties is a registered farmer, farming part time, which is typical of farming in Ireland, where 60% of farmers farm on a part-time basis.
- The development plan upon which the decision to refuse permission was based is outdated. The site is not located in an area under urban influence in the Draft Development Plan.
- The carbon footprint of the first party would be reduced if they are permitted to build the proposed dwelling as they will not have to commute from Portumna.

6.2. **Planning Authority Response**

None received.

6.3. **Observations**

None received.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including the appeal, and having inspected the site, and having regard to the relevant national and local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Design/Siting & Impact on Visual Amenity
- Access
- Waste water
- Rural Housing Policy
- Appropriate Assessment
- Other Issues

7.2. **Design/Siting & Impact on Visual Amenity**

7.2.1. The appeal site is located in the Slieve Bawn and Feirish Bogland Basin Landscape Character Area, which is considered to have a 'very high landscape value'. The appeal site is not affected by any protected views. The appeal site is flat, partially screened by trees and hedgerow and is not overtly visible within the adjoining landscape.

7.2.2. The proposed dwelling comprises a contemporary style two storey dwelling. The massing of the proposed dwelling is broken up into distinct volumes and I consider the design of the proposed dwelling to be sympathetic to the character of the area. I do not consider that the proposed dwelling would result in any significant negative impacts on the visual amenity or character of the area.

7.2.3. I similarly consider that the scale and design of the proposed garage would not result in any significant negative impacts on the visual amenities of the area.

7.3 Access

7.3.1. In accordance with Figure 12.4 of the Roscommon Development Plan 2021-2027, sightlines of 90 metre are required. The appeal site is located on the outside curve of a bend in the road which enhances visibility at the proposed vehicular entrance. Based on the site layout plan submitted, sightlines of 90 metres are achievable in a both directions. The first party have indicated that achieving sightlines will require the trimming/removal of a number of trees and hedgerow to the south of the appeal site. I note that this area is located within the blue line boundary associated with the appeal site. Having regard to the forgoing I consider sightlines at the proposed vehicular entrance to be acceptable.

7.4 Waste Water

7.4.1. The Site Characterisation Report submitted with the application identifies that the subject site is located in an area with a Regionally Important Aquifer where the bedrock vulnerability is high. A Ground Protection Response of R2¹ is noted by the applicant. Accordingly, I note the suitability of the site for a treatment system (subject to normal good practice). Where domestic water supplies are located nearby, particular attention should be given to the depth of subsoil over bedrock such that the minimum depths required in Section 6 are met and that the likelihood of microbial pollution is minimised. The applicants' Site Characterisation Report identifies that there is no Groundwater Protection Scheme in the area.

7.4.2. The trail hole depth referenced in the Site Characterisation Report was 2 metres. No bedrock was encountered in the trail hole. Water was observed in the trail hole at a depth of 1.7 metres. The soil conditions found in the trail hole are described as comprising clay with small stone. Percolation test holes were dug and pre-soaked. A T value of 52 was recorded. Based on the EPA CoP 2009 (Table 6.3) the site is unsuitable for a septic tank system as wastewater from a septic tank system is likely to cause ponding at the surface of the percolation area. A secondary treatment system with a polishing filter at the depth of the T-test hole may be suitable according to the EPA CoP. I observed the trail hole on the site and the information contained in the Site

Characterisation form is consistent with my observations on the site. The percolation test holes were not visible.

7.4.3. Table 6.2 of the EPA CoP requires a minimum depth of unsaturated permeable subsoil of 0.9 metres below the base of the polishing filter for secondary treatment systems. The applicants' Site Characterisation Report indicates that there would 0.8 metres of unsaturated subsoil. Noting the inadequate depth of unsaturated subsoil, it is proposed to install a tertiary treatment system with a soil polishing filter (specifically a Tricel wastewater treatment system and a puraflo module laid on a gravel bed). It is also proposed to excavate a perimeter french drain around the percolation area to intercept any water entering the percolation area. Whilst no longitudinal section of the soil polishing filter has been submitted, based on the description of the system I am satisfied that the proposed system will provide the required depth of unsaturated subsoil to treat effluent on the site. I am also satisfied that the proposal complies with the required separation distances set out in Table 6.1 of the CoP 2009.

7.4.4. The EPA CoP requires a trail hole depth of 3 metres in areas with Regionally Important Aquifers. The trail hole was excavated to a depth of 2 metres. However, noting the proposal to install a tertiary treatment system with a soil polishing filter with an adequate depth of unsaturated subsoil to treat effluent on the site, I am satisfied that the treatment of effluent on the site can be catered for without a risk to groundwater.

7.4.5. The Site Characterisation Report submitted with the application concludes that the site is suitable for treatment of waste water, Based on the information submitted, I consider that the site is suitable for the treatment system proposed.

7.5 Rural Housing Policy

7.5.1. The first party are seeking permission for a dwelling in the rural area. The scale of Map 3.1 of the Roscommon County Development Plan 2021-2027 (attached with report) is such that locating the appeal site relative to the zones identifying areas under urban influence is difficult. Using the R371 and the N63 as reference points, I consider the appeal site to be located within the part of the County identified as 'Remaining Rural Areas'. Such parts of the County falls under 'Policy Zone B'.

7.5.2. The Roscommon County Development Plan provides that '*single dwellings in areas other than those under urban influence will be facilitated based on siting and design criteria, and also having regard to the viability of smaller towns and rural settlements*'.

I consider the design and sitting of the proposed dwelling to be acceptable. The proposed development is not urban generated and as such I do not consider that the proposal would negatively affect the viability of smaller towns and rural settlements. On this basis, I consider that the proposed development accords with the provisions of the Roscommon County Development Plan 2021-2027 in relation to rural housing, specifically Objective PPH 3.12.

7.5.3. I consider that the appeal site is not located within a rural area 'under urban influence', where applicants are required to demonstrate compliance with the criteria set out in Table 3.2 of the Roscommon County Development Plan 2021-2027. Notwithstanding this, on consideration of the supplementary information submitted by the first party, I consider that the first party have demonstrated their intrinsic link to the area and engagement in a rural based activity (i.e. farming) and as such would meet the criteria set out in Table 3.2.

7.5.4. The report of the Planning Officer stated that the applicants were not considered to have a housing need on the basis that the proposal was not the applicants' first home. The requirements set out under Table 3.2 of the Roscommon County Development Plan 2021-2027 provide that '*the demonstration of an economic need or social need will not warrant the granting of permission for a dwelling in the rural area where an individual has already benefitted from a permission for a dwelling on another site, or owns an existing property within the rural area¹, unless exceptional circumstances can be demonstrated*'. Firstly, I note that Table 3.2 relates to proposals for dwellings within areas under urban influence and not remaining rural areas. Furthermore, in the event that the appeal site was considered to be located within an area under urban influence, based on the documentation submitted with the appeal submission I note that the first party have sold the previously owned property (correspondence from the first party's solicitor submitted with the application attests to this), and I also note that this property was not situated within a rural area. Having considered the relevant provisions of the Roscommon County Development Plan 2021-2027, I do not consider that the previous ownership of property would disqualify the first party from being considered for a dwelling in the rural area of Roscommon in this instance. Having regard to the forgoing, I consider that the first party comply with the policy set out in the NPF, the Sustainable

¹ My emphasis added

Rural Housing Guidelines, and the Roscommon County Development Plan 2021-2027.

7.5.5. Should the board be minded to grant permission for the proposed development, I do not consider that there is a requirement to attach an occupancy condition as the appeal site is located within a part of the County where the provision of single housing is based on siting and design considerations, and not the requirement to demonstrate that they have an economic or social need to reside at such a location. I also note that the reference in the Roscommon County Development Plan 2021-2027 to the restriction of the occupancy of a dwelling is referred to in under Table 3.2, which relates to areas under urban influence, and not remaining rural areas where I consider that the appeal site is located.

7.6 Appropriate Assessment

Having regard to the nature and limited scale of the proposed development and the lack of a hydrological or other pathway between the site and European sites, it is considered that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

7.7 Other Issues

There is a Recorded Monument (RM Ref. ROO36-033 - Ringfort) located c. 80 metres to the north-west of the appeal site. The report of the Planning Officer noted that no part of the appeal site was located within the protection zone of this Recorded Monument and as such an Archaeological Assessment was not deemed to be required. Noting the location of the appeal site outside the protection zone associated with the Recorded Monument, I similarly do not consider it necessary to require an Archaeological Assessment to be undertaken. I note that the Development Applications Unit of the DoH LGH was consulted in respect of the proposed development and no report was received by Roscommon County Council. On this basis I do not consider there to be a requirement to attached a planning condition in the event of a grant of permission requiring archaeological monitoring during site preparation/construction.

8.0 Recommendation

- 8.1. Having regard to the above it is recommended that permission is granted based on the following reasons and considerations and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the Roscommon County Development Plan 2021-2027, to the location of the site in an area identified as 'remaining rural area' and not under urban influence, to the prevailing pattern and character of existing development in the vicinity and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not be prejudicial to public health, and would be acceptable in terms of traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be 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 with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the detailed requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
3.	<p>Prior to commencement of development, the developer shall enter into water connection agreement with Irish Water.</p>

	Reason: In the interest of public health.
4.	<p>(a) 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 25th August 2021, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. 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.</p> <p>(b) Within three months of the first occupation of the dwelling, 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.</p> <p>Reason: In the interest of public health.</p>
5.	<p>The garage shall be used solely for use incidental to the enjoyment of the main dwelling and shall not be sold, rented or leased independently of the main dwelling and shall not be used for the carrying on of any trade, business or commercial/industrial activity. The structure shall not be used for the purposes of independent habitation.</p> <p>Reason: To ensure that the development shall be in accordance with the permission, and that effective control be maintained.</p>
6.	<p>The external finishes of the dwelling and garage shall comprise natural slate of blue/black colour for the roof and neutral coloured render for the external walls, unless otherwise agreed in writing with the Planning Authority prior to commencement of development. Stone cladding shall comprise natural stone.</p>

	<p>Reason: In the interest of visual amenity.</p>
7.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity.</p>
8.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
9.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission</p>

Ian Campbell
Planning Inspector

17th August 2022