



An
Bord
Pleanála

Inspector's Report

ABP-313377-22

Development	Retention of access and roadway with associated site works.
Location	BALLAGHAMUCK , CROSSMOLINA , CO MAYO
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	21332
Applicant(s)	Martin Carey.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Martin Carey.
Observer(s)	None.
Date of Site Inspection	6 th October 2022.
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. This appeal refers to a rural dwelling and farmstead site within the townland of Ballaghamuck, approximately 3.5km to the northwest of Crossmolina in Co Mayo. The appeal site has a stated area of 0.919 hectares and comprises a recently completed elongated driveway c 0.7km in length which is accessed by way of a cul de sac roadway off a local road. The roadway is finished in tarmac c5.7m wide with decorative stone gravel margins of c3.5m to east and c1.5m wide to west (with occasional variations). A curved stone wall borders the double steel entrance gateway with stone pillars. Post and wire stock proof fencing is provided along the length of the roadway. Lights on steel posts c2.5–3m high (15 in total) are provided at regular intervals along the roadway. A pole mounted security CCTV Camera is provided towards the southern end of the access driveway.

2.0 Proposed Development

- 2.1. The development as set out involves the retention of the existing access and new roadway including all other ancillary site work and services..
- 2.2. During the course of the application, it was clarified that there was no previous access road at this location, and it was constructed to replace a roadway further to the west which has now been removed and restored as pasture field. The roadway was constructed by the applicant on the understanding that permission was not required for an agricultural access off a private road. It was also clarified that a surface dressing was provided to the cul de sac access road to the junction of the private road with the L5612 (outside the redline boundary).

3.0 Planning Authority Decision

3.1. Decision

By order dated 23 March 2022 Mayo County Council issued notification of its decision to refuse permission for the following reason:

“It is considered that the proposed development seeking retention by reason of the construction of a substantial internal driveway (>0.7km) to access a rural

dwellinghouse location in a rural open and exposed landscape, would result in a haphazard disorderly development, and would be an obtrusive feature in the rural landscape. Accordingly, the development would interfere with the character of the landscape which it is necessary to preserve and if permitted would set an undesirable precedent for similar type of development and would be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Planner’s report sought additional information to include clarification of whether a field access previously existed at this location and details of surface water collection. The request sought an assessment under Article 6 of the EU Habitats Directive given proximity to the River Moy SAC. An accompanying advice note set out the reservations of the planning authority in regard to the exposed location of the site. Concerns were also expressed regarding works to the area at the junction with the public road (outside the redline boundary) which appear to have included the exposure of a deep channel which could have a knock on effect for road users.

Second Planner’s report following submission of additional information considers that the need for AA can be screened out. Refusal was recommended on grounds of negative visual impact as per subsequent decision.

3.2.2. Other Technical Reports

Area Engineer’s report was not provided on the Board file however a copy is embedded within the Planner’s report. It recommended a request for further information to include information regarding whether field access previously existed at this location, and detailed surface water proposals, an explanation of works outside the redline boundary which appear to comprise a continuation of works proposed for retention. Proposals to secure road edge on L5162 should be addressed as hedging appears to have been removed. Reference was also made to stream diversion at the junction.

3.3. **Prescribed Bodies**

No submissions.

3.4. **Third Party Observations**

No submissions.

4.0 **Planning History**

No Planning history on the appeal site.

5.0 **Policy Context**

5.1. **Development Plan**

The Mayo County Development Plan 2022-2028 refers.

In terms of the landscape appraisal the site falls within Policy Area 4 Drumlins and Inland Lowland. The landscape sensitivity matrix notes that within policy area 4 development proposals such as rural dwellings have low potential to create adverse impact on the existing landscape as such development is likely to be widely conceived as normal and appropriate unless siting and design are poor.

Landscape Policy NEP 14 is “To protect enhance and contribute to the physical, visual and scenic character of Co Mayo and to preserve its unique landscape character.”

Biodiversity, Designated and Non-designated Sites Policies and Objectives

NEP 1 “To support the protection, conservation and enhancement of the natural heritage and biodiversity of County Mayo, including the protection of the integrity of European sites, that form part of the Natura 2000 network, the protection of Natural Heritage Areas, proposed Natural Heritage Areas Ramsar Sites, Nature Reserves and Wild Fowl Sanctuaries (and other designated sites including any future designations).”

NEO 4 is “To protect and enhance biodiversity and ecological connectivity in County Mayo, including woodlands, trees, hedgerows, semi-natural grasslands, rivers,

streams, natural springs, wetlands, stonewalls, geological and geo-morphological systems, other landscape features and associated wildlife, where these form part of the ecological network.”

NEO 9 “Recognise the importance, in terms of their natural heritage and biodiversity, of woodlands, tree lines, hedgerows, stonewalls, watercourses and associated riparian vegetation and the role they play in supporting bat populations and where possible developments will be encouraged to retain such features.”

5.2. **Natural Heritage Designations**

The River Moy Special Area of Conservation (SAC Site Code 002298) is located within 100 metres to the west of the appeal site.

5.3. **EIA Screening**

Having regard to the limited nature of the development proposed for retention as part of the current appeal and to the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the development proposed for retention.

I note however in the context of the wider landholding and in particular with regard to restructuring of this holding by way of extensive hedgerow removal the need for environmental impact assessment cannot be excluded and a screening determination is required. Refer to para 7.2 below.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of appeal are summarised as follows:

- The roadway being retained is to access a well-established (75year+) dwelling and farm yard.
- Previous entrance to the house and farm yard was a long laneway in poor condition was subject to flooding and not fit for car access.

- Occupant of the dwelling is a wheelchair user and requires appropriate access.
- Gateway is constructed for security.
- Entrance was understood not to require planning permission as it is off a private road and entirely within the farm holding.
- No negative visual impact arises.
- Suitable drainage is provided.
- Gateway and pillars finished in local limestone in keeping with the character of the area.

6.2. **Planning Authority Response**

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

6.3. **Observations**

No submissions.

7.0 **Assessment**

- 7.1. The key issues to be addressed in this appeal relate to the matter of visual impact and the impact on the amenities of the area including biodiversity impact. The question of appropriate assessment screening also needs to be addressed.
- 7.2. On the matter of biodiversity impact, I note that the roadway now proposed for retention has been constructed immediately to the west along the line of a former hedgerow which has been removed in its entirety. The application does not indicate when this hedgerow was removed. The timing is of concern from an ecological viewpoint and I note the prohibition on such works between 1 March and 31 August in accordance with Section 40 of the Wildlife Act 1976. Furthermore no information is

provided regarding EIA Screening by the Department of Agriculture Food and Marine regarding restructuring by removal of field boundaries in the context of the European Communities (Environmental Impact Assessment) (Agriculture) Regulations S.I No 345 of 2011 and European Communities (EIA)(Agriculture) (Amendment) Regulations SI No 407 of 2017. I note that the relevant threshold for screening application is for length of field boundary to be removed above 500m while mandatory EIA is required above 4km. I note that the removal of hedgerows within the redline boundary is part of a significantly larger extent of hedgerow removal within the overall landholding which is clearly evident by comparison of aerial mapping.

- 7.3 Hedgerows are exceptionally important for biodiversity and clearly the extensive removal of hedgerow which has taken place here in conjunction with construction of the roadway is of significant concern in terms of its impact on flora and fauna. The proposal would be contrary to a number of Biodiversity Designated and Non Designated Sites Policies and Objectives including Policy NEP 1 which seeks to support the protection conservation and enhancement of the natural heritage and biodiversity of County Mayo, and Objective NEO 4 is “To protect and enhance biodiversity and ecological connectivity in County Mayo, including woodlands, trees, hedgerows, semi-natural grasslands, rivers, streams, natural springs, wetlands, stonewalls, geological and geo-morphological systems, other landscape features and associated wildlife, where these form part of the ecological network.”
- 7.4 As regards visual impact, I consider that the scale and design of the roadway proposed for retention including the provision of lighting standards results in a visually obtrusive and inappropriate development within this rural area. As outlined at Section 5.0 above, the site falls within landscape character policy area 4 Drumlin and Inland lowland and I consider that whilst the landscape has a good capacity to accept development, as acknowledged within the landscape sensitivity matrix (Section 5 of the Landscape Appraisal of County Mayo), the exposed siting and design does not adequately mitigate the negative visual impacts arising. I also consider that as outlined within the internal reports of the planning authority the

application is deficient in that the associated works outside the redline boundary are not clearly addressed.

7.5 In light of the foregoing I would concur with the decision of the planning authority and consider that refusal on grounds of visual impact is warranted.

7.6 Appropriate Assessment

7.6.1 Compliance with Article 6(3) of the Habitats Directive

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under Part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

7.6.2 Background to the application

On the issue of appropriate assessment, the application is accompanied by a Screening Assessment by Giorria Environmental Services. The appropriate assessment screening report provides a description of the proposed development, identifies European Sites within a possible zone of influence of the development, identifies potential pathways and impacts, and assesses the significance of potential impacts.

The applicants AA screening report concluded that there is no potential for significant effects on Natura 2000 sites.

Having reviewed the documents, I am satisfied that the information allows for an examination and identification of potential significant effects of the development, alone or in combination with other plans and projects, on European sites.

7.6.3 Screening for Appropriate Assessment – Test of likely significant effects

The proposed development is not directly connected with or necessary to the management of a European site and therefore it needs to be determined if the development is likely to have significant effects on a European Site.

The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas SAC and Special Protection

Areas SPA to assess whether it may give rise to significant effects on any European site.

7.6.4 Description of Development

The applicant provides a description of the project in Section 4.1 of the AA Screening Report. In summary, the proposal comprises the retention of an access and new roadway 750m in length and all associated site works.

Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Construction related – uncontrolled surface water silt / construction related pollution.
- Habitat loss / fragmentation
- Habitat disturbance / species disturbance

7.6.5 Submissions and observations.

I note that the second report of Area Planner noted that based on screening statement submitted significant adverse impacts on habitat and species can be ruled out. Therefore further assessment is not required in relation to habitats.

7.6.6 European Sites

The development site is located within 112m of the River Moy SAC Site Code 000298. A number of other European sites occur within 15km of the site within a possible zone of influence. Where a possible connection between the development site and a European Site has been identified, these sites are examined in more detail. European sites within 15km possible zone of influence include :

River Moy SAC 002298 within 100mW & S

Bellacorrick Bog Complex SAC 001922 3km W

Lough Daybaun SAC 0002177 10km W

Bellacorrick Iron Flush SAC 000466 11kmW

Killala Bay / Moy Estuary SAC 000458 12km NE

Newport River SAC 002144 14kmSW

Owenduff / Nephin Complex SAC 000534 14.5km W

Glenamoy Bog Complex SAC 000500 14km NW

Lough Conn and Lough Cullin SPA 004228 4.5km SW

Killala Bay Moy Estuary SPA 04036 12.5km NE

7.6.7 Identification of Likely Effects

The proposed development is not connected with or necessary for the conservation management of any Natura 2000 site. The site of the proposed development is not located in a European site however is within 100m of the River Moy SAC (Site Code 002298). On the basis of absence of source pathway receptor connection and distance to the remaining sites above there is no likelihood of significant effects on these sites and they are screened out.

The range of activities arising from the construction and operation of the proposed development that would possibly have any potential effects on European sites would relate to pollution arising from release of sediment or pollution to surface water during construction activities and operation.

As regards In-combination effects the development on sites in the vicinity are considered. There are no known development projects or plans with which significant in-combination effects would arise.

I note that in relation to hydrological pathways, the AA Screening report outlines that in relation to potential for threats to the following species Sea Lamprey, Brook Lamprey, Salmon and Otter “activities during road construction could have released sediment into the water. Gravel buffers along the new road will act as a soak for

surface water run off. In its current state there is no potential for significant indirect impacts on water quality.”

I consider that clarification regarding this statement in respect of the potential for release of sediment during the construction period is required. This is necessary in my view to enable a screening determination in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended.

8.0 Recommendation

I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. I recommend that permission for retention is refused for the following reason.

Reasons and Considerations

Having regard to the locational context of the site, within Policy Area 4 Drumlins and Inland Lowland, it is considered that the development for which retention is sought which by reason of its scale, extent and design which includes extensive lighting, tarmac and decorative stone finish in conjunction with extensive hedgerow removal, detracts from the visual and rural amenities of the area, interferes with the character of the landscape, contrary to Landscape Policy NEP 14 which is “To protect enhance and contribute to the physical, visual and scenic character of Co Mayo and to preserve its unique landscape character” and Biodiversity, Designated and Non-designated Sites Policy NEP 1 “To support the protection, conservation and enhancement of the natural heritage and biodiversity of County Mayo.” A grant of permission for the development proposed for retention would set an undesirable precedent for similar future development in the area and would therefore be contrary to the proper planning and sustainable development of the area.

Bríd Maxwell
Planning Inspector
17th February 2023