



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315734-23

<b>Development</b>	Change of house and garage type, a revised sewage treatment plant and percolation design, a revised site boundary and all ancillary site works.
<b>Location</b>	Tallagh, Belmullet , Co. Mayo
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	22998
<b>Applicant(s)</b>	Niall McGonigle & Leanne Geraghty
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Andrew & Caroline Dixon
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	26 <sup>th</sup> July 2023
<b>Inspector</b>	Ian Campbell

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Tallagh, on the southern side of a local access road (L-5250-0), c. 0.8 km north-east of the centre of Belmullett, Co. Mayo. The appeal site is located within a rural area, outside of a settlement.
- 1.2. The appeal site has a stated area of 0.3859 ha. and is broadly rectangular in shape. Topographical levels on the appeal site are indicated as c. 33 metres (OD Malin) along the northern site boundary and c. 29 metres (OD Malin) along the southern site boundary. There is an open drain along the southern boundary of the appeal site.
- 1.3. There is a detached single storey dwelling to the south-east of the appeal site. The appeal site is elevated relative to this property, which is indicated as having a finished floor level (FFL) of c. 26.7 metres (OD Malin).

## 2.0 Proposed Development

- 2.1. The proposed development comprises alterations to the design and siting of a previously permitted dwelling and garage, a revised waste water treatment system and a revised site boundary, compared to that permitted under PA. Ref. 19/587. The revised proposal entails;
  - Revised site boundary<sup>1</sup>.
  - Construction of a 1.5 storey, four-bedroom, detached dwelling:
    - stated floor area 264 sqm.
    - FFL of the house is 30.75 metres.
    - maximum ridge height 6.4 metres.
    - material finishes to the proposed house comprises render, natural stone and zinc cladding for the external walls. The roof covering appears to comprises slate/tile.
    - positioned c. 33 metres from the public road.
  - Construction of a single storey garage:

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<sup>1</sup> The area of the site under PA. Ref. 19/587 was 0.3 ha whereas the site area under the current application is stated as being 0.3850 ha.

- stated floor area 47 sqm.
- ridge height c. 4 metres.
- material finishes to the proposed garage comprises render for the external walls. The roof covering comprises cement slate (blue/black colour).
- The installation of a packaged waste water treatment (tertiary) system and a gravel distribution area<sup>2</sup>.
- A new splayed vehicular entrance.
- Landscaping.

### 3.0 Planning Authority Decision

#### 3.1. Decision

The Planning Authority issued a Notification of Decision to GRANT permission subject to 8 no. conditions on the 12<sup>th</sup> January 2023. These conditions were standard in nature.

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

The report of the Planning Officer notes that the principle of the proposed development is acceptable with reference to the planning history on the site, and that the dwelling is considered to accord with the Mayo Rural Housing Design Guide. The report of the Planning Officer recommends a grant of permission consistent with the Notification of Decision which issued.

##### 3.2.2. Other Technical Reports

Area Engineer – recommends that longitudinal sections are sought from the applicant.

#### 3.3. Prescribed Bodies

None received.

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<sup>2</sup> The house permitted under PA. Ref. 19/587 was a 3 bedroom house with a PE equivalent of 5. The revised house has 4 no. bedrooms and PE equivalent of 6. The proposed tertiary system is based on 6PE.

### 3.4. Third Party Observations

The report of the Planning Officer states that no third party observations were received however I note that 1 no. observation was received by the Planning Authority. Issues raised in the observation can be summarised as follows;

- The trail hole information is based on the previous planning application (PA. Ref. 19/587). The observers allege that the trail holes were pumped every day.
- Concerns regarding the potential for the observers' site to be flooded by sewerage and run-off noting the elevated nature of the application site relative to their site.
- The application site is poorly drained.
- There is a spring well to the rear of the observers' site which may become contaminated by run-off from the application site.
- Concerns regarding overlooking and privacy arising from the elevated nature of the application site relative to the observers' property.
- Ambiguity in drawings submitted.

## 4.0 Planning History

### Appeal Site:

**PA. Ref. 19/587** – Permission GRANTED for a house, garage and septic tank.

**PA. Ref. 08/1145** - Permission GRANTED for a house, garage and septic tank.

## 5.0 Policy Context

- 5.1. **Code of Practice Domestic Wastewater Treatment Systems (p.e. ≤ 10) 2021** - sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses.

### 5.2. Development Plan

The relevant Development Plan is the Mayo County Development Plan 2022-2028. The appeal site is zoned 'Agriculture' in the Mayo County Development Plan 2022-

2028. The provisions of the Mayo County Development Plan 2022 – 2028 relevant to this assessment are as follows:

- Volume 1 (Written Statement): Chapter 3;
  - Section 3.4.8 'Rural Single Housing'
  - Objective RHO4
- Volume 2 (Development Management Standards)
  - Section 4.5.5. 'Overlooking'
  - Section 8.4 'Effluent Treatment Systems'
- Volume 4 (Supporting Documentation) – 'Mayo Rural Housing Design Guidelines'

### **5.3. Natural Heritage Designations**

- Broadhaven Bay SAC (Site Code 000472) – c. 400 metres south.
- Blacksod Bay/Broad Haven SPA (Site Code 004037) – c. 400 metres south.

### **5.4. EIA Screening**

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site as well as the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001, as amended, 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 third-party appeal against the decision to grant permission. The grounds for appeal can be summarised as follows;

- The Planning Authority did not take the appellants' submission made in respect of the planning application into account.
- The report of the Planning Officer has not reflected all the issues raised in the report of the Area Engineer.
- The trail hole information is based on the previous planning application (PA. Ref. 19/587). The appellants allege that they observed the trail holes being pumped on numerous occasions.
- The percolation area will be 2.7 metre higher than the highest part of the appellants' site.
- The FFL of the proposed dwelling will be c. 4.7 metres higher compared to the appellants' house, resulting in overlooking and a loss of privacy.

## 6.2. Applicant Response

The applicant has submitted a response to the third party appeal noting the following;

- There is precedent for development on the appeal site (see PA. Ref.'s 08/1145, 19/587 and 22/998). The sewerage system was granted in each case in the same location.
- The appellants did not object to PA. Ref's. 08/1145 or 19/587.
- The appellants have constructed a greenhouse in the location where they claim that a well is located. The GSI website does not indicate a spring or a well at this location. The appellants did not refer to the well in their planning application (PA. Ref. 12/421) and have located their percolation area in the stated location of the well.
- The appellants' contention that the applicants pumped out the trail holes is an attempt to mislead and the applicants query why they did not photograph it and report it.
- Given the nature of the proposal, that being a change of house type, the applicant is not obliged to carry out new trail hole tests.

- The trail holes dug in 2019 were carried out in accordance with the EPA Code of Practice 2009 and returned a T-value of 22.6. Emptying the trail holes after the inspection does not affect the result.
- The proposed treatment system is a tertiary system and is superior to the secondary treatment system permitted under PA. Ref. 19/587.
- Ground conditions consisting of sandy gravelly soil are ideal for retaining and treating effluent over long periods of time prior to it entering ground water.
- Trail holes dug in 2008 also returned similar T-values as that achieved in 2019 and a septic tank was recommended in the same location. To date three engineers have recommended the suitability of the site for the disposal of effluent.
- An open ditch separates the appeal site from the appellants' site preventing any water from the appeal site entering the appellants' site.
- Overlooking concerns were not raised in respect of the previous planning application in 2019.
- The proposed development meets/exceeds the requirements in respect of overlooking set out in the Mayo County Development Plan 2022-2028.
- Hedgerow on the appellants' property provides privacy screening.
- The ridge height of the proposed house is lower compared to the houses permitted in 2008 and 2019.
- The design of the proposed house accords the requirements of the Mayo County Development Plan 2022-2028, specifically the rural design guidelines.

### **6.3. Planning Authority Response**

None received.

### **6.4. 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:

- Waste Water
- Impact on Residential Amenity
- Other Issues
- Appropriate Assessment

### **7.2. Waste Water**

7.2.1. The proposed development entails a revised waste water treatment system, specifically the provision of a tertiary treatment system in lieu of the secondary system which was permitted under PA. Ref. 19/587. The revised system is proposed due to the revised dwelling occupying a larger footprint and the consequent reduction in the space available on the site to cater for the treatment system which was previously proposed.

7.2.2. The appellants' concerns relate to the potential for effluent from the appeal site to enter their property given that the appeal site is elevated relative to their property. The appellants also contend that the appeal site is unsuitable for the treatment of effluent, note that the current proposal is relying on information based on the percolation tests which were carried out in 2019 for the previous planning application and allege that they witnessed water being pumped from the trail holes. In response, the applicants refute that water was pumped out of the trail holes, state that the site testing in 2019 was carried out in accordance with the EPA Code of Practice 2009, note that the proposed system is superior compared to the previously permitted system, and that the site has previously been deemed suitable for the treatment of effluent by three engineers.

7.2.3. The information from the Site Characterisation report submitted under PA. Ref. 19/587 has been used by the applicant to design the revised water treatment system. I have



reviewed the Site Characterisation report submitted under PA. Ref. 19/587 and note the following;

- the appeal site is located in an area with a 'Poor Aquifer' where the bedrock vulnerability is 'High'.
- a ground protection response of R1 is noted (indicating the suitability of the site for a treatment system, subject to normal good practice, i.e. system selection, construction, operation and maintenance).
- no Groundwater Protection Scheme was identified in the area.
- the trail hole depth referenced in the Site Characterisation Report was 2.1 metres. Neither bedrock nor the water table were encountered in the trail hole. The soil conditions found in the trail hole are described as comprising topsoil, silt and clay and sandy gravel. A T value/sub-surface value of 22.64 was recorded.
- Reference is made to the site as being firm under foot, and also to the presence of reeds and a stream on the site.

7.2.4. Based on the EPA CoP 2021 (Table 6.4) the site is suitable for a tertiary treatment system and an infiltration area. Table 6.3 of the EPA CoP 2021 requires a minimum depth of unsaturated permeable subsoil of 0.9 metres below the base of the infiltration areas for tertiary treatment systems. Longitudinal sections indicate that there would be 0.9 metres of unsaturated subsoil below the base of the distribution area. Based on the site layout drawing submitted I note that the proposal complies with the required separation distances set out in Table 6.2 of the CoP 2021.

7.2.5. During my site inspection I observed an abundance of rushes on the appeal site, which are indicative of poorly drained soils/poor permeability. I note that the Site Characterisation Report submitted with the application under PA. Ref. 19/587 also referred to the presence of rushes on the appeal site. Additionally I note that there are a number of streams/ditches in the vicinity of the appeal site, and the Site Characterisation Report submitted with PA. Ref. 19/587 refers to the presence of a

watercourse/stream to the south-east of the site. The EPA CoP<sup>3</sup> notes that a high density of streams or ditches tends to suggest either a shallow water table or that there is low-permeability subsoil, allowing effluent to enter ground water too rapidly. Regarding the suitability of the appeal site to cater for the treatment of effluent, noting the observed site conditions, which are indicative of poorly drained soils/poor permeability, and the information contained in the Site Characterisation Form which does not reflect the conditions which I observed on the appeal site, I am not satisfied that appeal site can cater for an on-site waste water treatment system without detriment to ground water, or that the proposed development would comply with the EPA CoP. On this basis I recommend that permission is refused.

### **7.3. Impact on Residential Amenity**

- 7.3.1. The appellants contend that the proposed dwelling will result in overlooking of their property, in particular noting the elevated nature of the appeal site relative to their property.
- 7.3.2. The revised proposal comprises a storey and a half dwelling with a ridge height of c. 6.4 metres and a FFL of 30.75 metres (OD Malin). The proposed dwelling is located in excess of 40 metres from the appellants' dwelling, whereas I note that the dwelling permitted under PA. Ref. 19/587, had a similar FFL (i.e. c. 30 metres OD Malin), a ridge height (i.e. 6.6 metres) and was located c. 10 metres closer to the appellant's property. The proposal has no first floor windows directly facing the appellants' property and I note that a belt of mature hedge provides a degree of screening between the appeal site and the appellants property. Whilst I acknowledge that there is a level difference between the appeal site and the appellants' property, having regard to the nature of this level difference, to the scale and design of the proposed dwelling, to the absence of directly opposing first floor windows, and importantly to the separation distance between the proposed dwelling and the appellants' property, I am satisfied that the proposed development would not result in significant negative impacts on the residential amenity of the appellants' property. Additionally, I note that the proposed development accords with Section 4.5.5, Volume 2 of the Mayo County

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<sup>3</sup> See Paragraph 5.4.1. Visual Assessment.

Development Plan 2022-2028 in respect of overlooking. In my opinion the proposed development would not warrant a refusal of permission on the basis of overlooking.

#### **7.4. Other Issues**

##### **7.4.1. Design & Visual Impact**

The scale/massing of the house has been broken down in to a number of smaller volumes which assists with its integration into the landscape at this location. I am generally satisfied that the proposed development has regard to the guidance set out in the Mayo Rural Housing Design Guidelines. Having regard to the scale and design of the proposed dwelling and garage, and to the character of the area, I do not consider that the proposal would result in any significant negative impacts on the visual amenity or character of the area.

##### **7.4.2. Spring well**

The appellants' appeal submission refers to the presence of a spring well on their site. The observation submitted to the Planning Authority raised concerns that this spring well could be affected by the proposed development, specifically from the treatment of effluent on the appeal site. Table 6.2 of the EPA CoP 2021 sets out guidance in relation to minimum separation distances between treatment systems and domestic wells. I note that the appellants have not provided any evidence of a spring well on their site. To consider this issue further would in my opinion require information confirming the existence and location of this well. Given the substantive issue raised above at paragraph 7.2 in respect of the suitability of the appeal site to cater for the treatment of effluent I am satisfied that further examination of this issue is not required.

##### **7.4.3. Compliance with Objective RHO4 (New Issue)**

Regarding rural housing policy, the appeal site is located within an area identified as a 'Remaining Rural Area' under the Mayo County Development Plan 2022-2028 where the provision of single housing is based on siting and design considerations and occupancy conditions are not required. However, Rural Housing Objective RHO4 of the Mayo County Development Plan 2022-2028 requires that *'housing proposals within Mayo's Coastal Areas and Lakeshores and within areas along scenic routes with designated scenic views, will be considered where the applicants can*

*demonstrate a long-standing social link to the area concerned*', in addition to other requirements, including design, safety etc. Furthermore, in such instances occupancy clauses/conditions apply. Map 10.1 (Landscape Policy Areas) of the Mayo County Development Plan 2022-2028 sets out the landscape areas for Mayo and I note that Belmullett is located within Policy Area 2 – Lowland Coastal Zone. I note that PA. Ref. 19/587 was assessed under the previous Mayo County Development Plan and with the exception of reference to the area being located within a structurally weak area no reference was made to additional requirements on the basis of the site being located within a specific landscape character area, as is the case under the current Development Plan in Objective RHO4. Additionally PA. Ref. 19/587 was not the subject of an occupancy clause/condition. Whilst the development description contained in the public notices refers to the proposal as being 'a change of house and garage type' I note that the development permitted under PA. Ref. 19/587 has not commenced and I therefore consider that the proposed development is a new application and as such should be considered under the current Mayo County Development Plan, including Objective RHO4, and therefore the applicants are required to demonstrate that they have long-standing social links to the area concerned. Furthermore should the Board be minded to permit the proposed development I submit that an occupancy condition is required. From reviewing the information submitted with the planning application/appeal I note that no information has been submitted to demonstrate the applicants long-standing social links to the area. I therefore consider that the proposal would be contrary to Objective RHO4 of the Mayo County Development Plan 2022-2028. This a new issue. The Board may wish to seek the views of the parties. However, having regard to the other substantive reason for refusal set out below, it may not be considered necessary to pursue the matter.

## **7.5. Appropriate Assessment**

- 7.5.1. The appeal site is located c. 400 metres from Broadhaven Bay SAC and Blacksod Bay/Broad Haven SPA. 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.

- 7.5.2. In relation to ex-situ effects, in the event that wintering bird species associated with Blacksod Bay/Broad Haven SPA or other SPA's in the area use the site for feeding, foraging etc. there is ample similar alternative habitat in the vicinity of the appeal site.

## **8.0 Recommendation**

- 8.1. Having regard to the above it is recommended that planning permission be refused for the proposed development based on the following reasons and considerations.

## **9.0 Reasons and Considerations**

1. Having regard to the observed site conditions, the Board is not satisfied that the site is capable of treating foul effluent arising from the dwelling and considers that the method of foul water disposal will render the treatment of the effluent unacceptable and could increase the risk of serious water pollution. Accordingly, the proposed development would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
2. Rural Housing Objective RHO4 of the Mayo County Development Plan 2022-2028 requires that 'housing proposals within Mayo's Coastal Areas and Lakeshores and within areas along scenic routes with designated scenic views, will be considered where the applicants can demonstrate a long-standing social link to the area concerned'. Documentation has not been submitted with the application to demonstrate that either of the applicants have spent a period of their lives living in the area, and consequently the applicants have not demonstrated a long standing social link to the area, as is required under Objective RHO4. It is therefore considered that the proposed development would be contrary to Objective RHO4 of the Mayo County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Ian Campbell  
Planning Inspector

5<sup>th</sup> September 2023