



An
Bord
Pleanála

Inspector's Addendum Report

ABP-315734-23

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

1.0 Introduction

- 1.1. This report is an addendum report to the Inspector's report in respect of ABP-315734-23 (dated 5th September 2023).
- 1.2. On the 7th of February 2023 the Board decided to defer consideration of this case and to issue two separate further information requests;

A Section 132 notice was issued **to the applicant** as follows:

1. (a) The Board may consider that the evaluation of site suitability requires further consideration and that further information may be necessary for the purpose of enabling it to determine this appeal.

(b) Noting the Site Characterisation Report submitted with the application was dated 2019, the applicant is requested to submit a new Site Characterisation Report.

A Section 137 notice was issued **to the parties** as follows:

2. (a) The Board may consider that development on the subject site granted under the previous permission (PA. Ref. 19/587) has not commenced. Therefore, the Board may consider that the appeal should be assessed as a new application.

(b) The Board notes the Mayo County Development Plan 2022-2028, which came into effect on 10th August 2022, includes Rural Housing Objective RHO4 that requires '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.

(c) Given the location of the subject site within Policy Area 2 - Lowland Coastal Zone as set out in the Natural Environment chapter of the Development Plan (page 186 of the written statement), the parties are invited to provide commentary in relation to policy objective RHO4, as it relates to the subject appeal, or any other Development Plan matters you may consider of relevance.
- 1.3. The applicant (John O' Hara on behalf of Niall McGonigle and Leanne Geraghty) and the appellants (Andrew and Caroline Dixon) responded within the prescribed period. Submissions were received by the Board on the 4th of March 2024 from Andrew and Caroline Dixon and the 6th of March 2024 from John O' Hara. Both parties, the

applicant and the appellants, also submitted subsequent responses, both of which were received by the Board on the 3rd of April 2024.

- 1.4. This report considers the submissions made on foot of the request for further information.

2.0 Response(s) to the Board's Decision to Request Further Information

- 2.1. The **applicants** made the following points in their submission to the Board (dated the 5th of March 2024 and received by the Board on the 6th of March 2024).

Re. Wastewater Treatment:

- The submission outlines;
 - New Site Characterisation Form submitted (the details of which are addressed at paragraph 3.1 below) .
 - New sub-surface (T) and surface test (P) were carried out.
 - In response to the Boards indication that the proposed development may be assessed as a new application given that the development permitted under PA. Ref. 19/587 has not been commenced the percolation area has been relocated. The proposed new effluent treatment system is now located in the south-east corner of the site (relocated from the previously proposed south-west corner).

Re. Landscape Impact:

- Dwellings have low potential to impact the applicable landscape character type based on Figure 10.1 of the Mayo County Development Plan 2022 -2028. The design of the proposed dwelling is in keeping with Mayo County Council's rural housing guidelines.

Re. Objective RHO4:

- In order to demonstrate the applicants' long-standing social links to the area the following has been submitted –
 - Map indicating family home of Niall McGonigle, which is less than 2km from the subject site.

- Correspondence from the schools which Niall McGonigle and Leanne Geraghty attended.
- Correspondence from Peace Commissioner regarding involvement of Niall McGonigle in local sports clubs and in relation to Leanne Geraghty.
- Correspondence from Niall McGonigle and Leanne Geraghty's employer (both based in Belmullet).
- Correspondence from Elected Member attesting to Niall McGonigle's links to area.

2.2. The **appellants** made the following points in their submission to the Board (dated the 4th of March 2024 and received by the Board on the 6th of March 2024).

Re. Objective RH04:

- The applicants and their families have no connection to the area/site.
- The sitting of the house on an elevated site and its design, specifically the extent of glazing and the resultant overlooking of the appellants' property, renders the proposal non-compliant with the requirements of Objective RHO4 as it relates to high standards in sitting and design. Additionally, it is not clear if sightlines to the north of the proposed vehicular access are achievable.

Re. Wastewater Treatment:

- The testing of the site entailed the digging of a second trial hole and the digging of a drain which the appellants question (photographs attached to submission).
- Concerns remain in relation to the potential impact of the proposed development on a spring well within the appellants' site.

2.3. Arising from the submissions made to the Board (above) the parties were invited to make further submissions, in accordance with Section 131 of the Planning and Development Act, 2000, as amended.

2.4. The **applicants** made the following points in a subsequent submission to the Board (dated the 1st of April 2024 and received by the Board on the 3rd of April 2024).

Re. Objective RHO4:

- Map submitted indicating distance between subject site and location of the applicant's family home, workplace and schools which he attended.
- Regarding the existence of an alternative site on which to accommodate the proposal, the site of Niall McGonigle's family home would not accommodate an addition dwelling. Furthermore, the subject site is the only land owned by Niall McGonigle.
- Sightlines to the north of the proposed vehicular access are achievable and a letter of consent from the landowner to the north has been submitted. Based on 50 kmph, the speed at which traffic reasonably travels at, the sightline requirement is 70 metres, however sightlines of 90 metres are achievable.

Re. Wastewater Treatment:

- Trial holes were initially dug but were filled with rain. New trial holes were subsequently dug. A trench was dug to prevent water ingress into the trial holes. This trench will form a French drain around part of the site.

Re. Spring Well:

- There is no well located in the east corner of the site. The area identified by the appellants is simply a low lying area where water temporarily accumulates.

Re. Overlooking:

- Minimum separation distances are met/exceeded (i.e. 22 metres required whereas 49 metres is provided). If additional privacy is required the appellants can allow their hedge to grow.

Re. Design:

- The dwelling accords with the Mayo Design Guidelines for houses in rural areas. The applicants note that the house is sited on the lowest contour, does not break the skyline, and its massing has been broken up into distinct volumes.

2.5. The **appellants** made the following points in their subsequent submission to the Board (dated the 1st of April 2024 and received by the Board on the 3rd of April 2024).

Re. Objective RHO4:

- Leanne Geraghty's family home is situated c. 17 km from the subject site.
- Lands owned by Niall McGonigle's father have not been indicated.
- Letters of support warrant a house at the location of Niall McGonigle's family home.

Re. Wastewater Treatment:

- Despite claims to the contrary, rushes are clearly visible on the site in the photographs submitted by John O' Hara. Further photographs enclosed showing iris and rushes.
- There is a spring well on the subject site.

Re. Sightlines:

- The applicable speed limit at the subject site is 80 kmph and the relevant sightline requirement is 120 metres.

3.0 Assessment

3.1. Procedural Issue:

- 3.1.1. A notice was issued to the applicants under Section 132 of the Planning and Development Act, 2000, as amended, requesting the submission of an up-to-date Site Characterisation Report, noting that the report submitted with the planning application/appeal was prepared in 2019. In addition, a notice was issued to the parties under Section 137 of the Planning and Development Act, 2000, as amended, stating that as the permission granted under PA. Ref. 19/587 had not commenced that the Board may consider the proposed development as a new application. Subsequent to this the Board noted that under the current Mayo County Development Plan 2022 – 2028 the site is located within a specific landscape characterisation and as such the requirements of Objective RHO4, including the requirement to demonstrate a long-standing social link to the area, now pertained, and the parties (which included the applicants) were invited to provide commentary in relation to compliance with Objective RHO4, or any other Development Plan matters considered of relevance.

3.1.2. In response to the Boards indication that the proposed development may be assessed as a new application, the applicant revised the proposed development, specifically the treatment system and percolation area have been relocated from the south-west of the site to the south-east of the site. I note that the notice issued under Section 137 indicating that the Board may assess the proposal as a new application was in the context of the requirements of Objective RHO4 or any other Development Plan matters considered of relevance, and in my opinion did not provide for changes to the proposed development, but rather requested a response to the specific requirements of Objective RHO4 and Development Plan matters. I submit to the Board that such changes could be prejudicial to third parties, separate to those parties connected to the appeal, who would not be aware of the changes made to the proposal, specifically the repositioned wastewater treatment system and percolation area. However, should the Board form a different view and consider that the revised proposal is acceptable I have set out my assessment of the proposed revised waste water treatment system below.

3.2. Wastewater Treatment:

3.2.1. The applicants have submitted a new Site Characterisation Report. The proposed waste water treatment system and percolation area are indicated at a different location. Trial holes have therefore been dug at different locations compared to the tests which were previously undertaken.

3.2.2. The Site Characterisation Report identifies that the subject site is located in an area with a 'Poor Aquifer' where the bedrock vulnerability is 'High'. A ground protection response to R(1) is noted. Accordingly, I note the suitability of the site for a treatment system subject to normal good practice. The applicants' Site Characterisation Report identifies that there is no Groundwater Protection Scheme in the area.

3.2.3. The trial hole depth referenced in the Site Characterisation Report was 2.4 metres. Bedrock was not encountered in the trial hole. The water table was recorded at a depth of 0.9 metres (bgl)¹. The Site Characterisation Report notes water ingress into the trial hole at a depth of 1.5 metres². Reference is made to the water table stabilising at 1.25

¹ Below Ground Level.

² This may be indicative of a perched water table.

metres below ground level. The soil conditions found in the trial hole are described as comprising peaty soil for the upper 0.6 metres and brown gravelly clay subsoil for the 1.8 metres below. Percolation test holes were dug and pre-soaked. A T value/sub-surface value (following a modified test procedure) of 55 was recorded (the third test hole was abandoned). A P value/surface test was carried out and a result of 56 recorded. Based on the EPA CoP 2021 (Table 6.4) the site is suitable for a tertiary treatment system and infiltration area. I did not inspect the trial holes which were dug for the new Site Characterisation Report. The Site Characterisation Report submitted with the application concludes that the site is suitable for treatment of waste water. I am satisfied that the proposal complies with the required separation distances set out in Table 6.2 of the CoP 2021.

- 3.2.4. Having reviewed the applicant's submission I am not satisfied that issues concerning the observed conditions on the site (during my site inspection on the 26th July 2023) have been adequately addressed. As stated in my initial report I observed an abundance of rushes on the site during my site inspection, which is indicative of poorly drained soils/poor permeability. The new Site Characterisation Report states that there are 'no rushes or wetland species' on the site however I note that photographs included in the Site Characterisation Report clearly show the presence of rushes on the site. At the time of my site inspection I also observed that ground conditions were wet underfoot and I note that this was also noted in the updated Site Characterisation Report. Drainage ditches are also located on the site/in the vicinity and I note that a high density of streams or ditches tends to suggest either a shallow water table or that there is low-permeability subsoil. In my opinion the applicants' submission does not sufficiently address these observed site conditions and on the basis of the forgoing, I am not satisfied based on my observations during my site inspection that the appeal site can cater for an on-site waste water treatment system without detriment to ground water and I recommend that permission is refused.

3.3. Objective RHO4

- 3.3.1. As the appeal site is located within Policy Area 2 – Lowland Coastal Zone the provisions of Objective RH04 apply.

3.3.2. Objective RHO4 of the Mayo County Development Plan 2022 – 2028 provides that;

Housing applications, 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, whilst ensuring that it:

- *Does not impinge in any significant way on the character, integrity and distinctiveness of the area.*
- *Cannot be considered at an alternative location.*
- *Meets high standards in siting and design.*
- *Satisfies all other criteria with regard to, inter alia, servicing, public safety, and environmental considerations.*
- *Demonstrates enhancement to local landscape character and ecological connectivity.*

Note: An occupancy clause will be attached to any grant of planning permission

3.3.3. The applicants have submitted documentation attesting to their long-standing social link to the area. I note that the information submitted includes correspondence from schools located in Belmullet and that both applicants are employed in Belmullet. Objective RHO4 of the Mayo County Development Plan 2022 – 2024 does define what is considered to constitute 'long-standing' and the objective does not prescribe a time period within which applicants must have resided within a particular area in order to satisfy the requirements of Objective RHO4. Additionally, Objective RHO4 does not qualify what is considered to be 'the area concerned'. Having regard to the information submitted by the applicants and the requirements of Objective RHO4 I consider that the applicants have satisfactorily demonstrated that they have 'long-standing social links to the area' and therefore that they comply with Objective RHO4 in this regard.

3.3.4. As addressed in my initial report (see paragraph 7.4.1), I consider the design of the proposed development to be acceptable and I am satisfied that it will not adversely affect the character or distinctiveness of the area.

3.3.5. Regarding consideration of the proposal at an alternative location, based on the information submitted, and specifically noting that the applicants state they do not own

other lands, I am satisfied that the proposed development cannot be considered at an alternative site.

3.3.6. Regarding public safety and specifically in relation to sightlines, the applicants' submission indicates achievable sightlines to the north of 72 metres, extending to 90 metres when the roadside boundary of the adjoining property to the north is set back. A letter of consent from the adjoining landowner to the north has also been submitted in relation to the setting back of the site boundary. Sightlines to the south are indicated as 78 metres. The applicants' submission notes that provision is made in the Mayo County Development Plan 2022 – 2028 for sightlines to be based on the 85th percentile speed for the road noting that the road has poor horizontal/vertical alignment and that on this basis that the required sightlines accord with the requirements of the Mayo County Development Plan 2022 - 2028. Noting narrow width of the road and its vertical alignment I consider it reasonable to base sightline requirements on 50kmph and therefore the sightlines indicated on *Drawing No. ELSA1* submitted to the Board on the 6th of March 2024 are acceptable. I consider that the proposed development satisfies the requirements of RHO4 in relation to public safety.

3.3.7. Objective RHO4 also requires that the proposed development satisfies requirements in relation to servicing and environmental considerations. As addressed above at paragraph 3.2, I am not satisfied based on my observations during my site inspection that the appeal site can cater for an on-site waste water treatment system as proposed without detriment to ground water and in this regard the proposed development does not accord with the requirements of Objective RHO4. Although not specifically included as a reason for refusal in the initial report dated 5th September 2023 the Board may wish to include non-compliance with this requirement of Objective RHO4 as a separate reason for refusal.

4.0 Recommendation

4.1. I refer to the previous Inspector's Report and recommendation dated 5th of September 2023. Having regard to the additional submissions received I conclude that the applicants have failed to adequately address the issues as raised by the Board in relation to the treatment of wastewater on the site, including the requirements of

Objective RHO4 in respect of servicing and environmental considerations. I therefore recommend that permission for the proposed development is refused.

5.0 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. The subject site is located within Policy Area 2 - Lowland Coastal Zone. Objective RHO4 of the Mayo County Development Plan 2022 – 2028, which pertains to housing applications within Mayo's Coastal Areas and Lakeshores and within areas along scenic routes with designated scenic views, provides that proposals will be considered where the applicants can demonstrate inter alia that the proposed development satisfies servicing and environmental considerations. Noting 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 proposed development could increase the risk of serious water pollution. Accordingly, it is considered that the proposed development would be contrary to the requirements of Objective RHO4 of the Mayo County Development Plan 2022 – 2028, as it relates to servicing and environmental considerations, 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.

Ian Campbell
Planning Inspector

7th August 2024