



Development	Construction of house, domestic garage, proprietary wastewater treatment system, soil polishing filter, and ancillary site works.		
Location	Thornhill, Murrisk, Westport, Co. Mayo.		
Planning Authority Ref.	221119		
Applicant	Peter Gill		
Type of Application	Permission	PA Decision	Refuse Permission
Type of Appeal	First Party v Refusal	Appellant	Peter Gill
Observer(s)	John O' Grady Seamus O' Grady Florence O Grady Michael O' Grady		
Date of Site Inspection	22 nd August 2023	Inspector	Ian Campbell

1.0 Site Location/and Description.

The appeal site is located on the western side of a local access road (Bertra Road), which is accessed from the R335 in the townland of Thornhill, c. 2km west of Murrisk, Co. Mayo. The appeal site has a stated area of c. 0.5 ha and is relatively flat. The

entrance to the appeal site is situated at a bend/turn in the road. The appeal site appears to be used in connection with agriculture. The appeal site forms part of a larger landholding which is indicated as being within the applicant's ownership/control, as depicted by the blue line boundary. There is a cluster of detached dwellings in the vicinity of the appeal site. The boundaries of the site comprise hedgerow and a stone wall. The appeal site enjoys panoramic views over Clew Bay to the north and Croagh Patrick to the south.

1.1 Proposed development.

The proposed development consists of;

- Construction of a single storey, contemporary style 3 bedroom house;
 - stated floor area c. 158 sqm.
 - maximum ridge height c. 3.7 metres.
 - material finishes to the proposed house comprise render, stone and timber cladding for the external walls. The roof covering comprises metal cladding.
 - positioned c. 17 metres from the public road.
- Domestic garage;
 - stated floor area c. 60 sqm.
 - maximum ridge height c. 3.3 metres.
 - material finishes to the proposed garage comprise render.
- Proprietary waste water treatment system (septic tank) and percolation area.
- Landscaping and associated site works.

1.2 PA's Decision.

Decision: The Planning Authority issued a Notification of Decision to REFUSE permission on the 16th February 2023 for 2 no. reasons. The proposed development was refused on the basis that it would be contrary to Objective NEP 14¹ of the Mayo

¹ To protect, enhance and contribute to the physical, visual and scenic character of County Mayo and to preserve its unique landscape character.

County Development Plan 2022-2028, and the requirements of Objective NEO 26² of the Mayo County Development Plan 2022-2028.

Report(s) of PA: The report of the Planning Officer notes that the proposal would negatively impact the sensitive coastal landscape. The proposal was assessed against the requirements of Objective NEO 26 of the Mayo County Development Plan 2022-2028 and the Planning Authority concluded that the proposal failed to meet the criteria contained within the policy. The report of the Planning Officer recommends a refusal of permission consistent with the Notification of Decision which issued.

Area Engineer: The report of the Area Engineer recommends that conditions relating to drainage and access are attached to any grant of permission.

Observations to PA: 5 no. observations were received by the Planning Authority. The issues raised in the observations were summarised by the Planning Authority as follows;

- Traffic Safety.
- Removal of hedgerow/wall.
- Landscape impacts.
- Excessive scale of garage and concern regarding its use.
- Absence of water supply.
- Access to site is not a public road.
- Ribbon development.
- Accuracy of photomontages and drawings.
- Impact on residential amenity/overlooking.

² To consider applications for development, within Mayo's Coastal Areas and Lakeshores and within areas along scenic routes with designated scenic views, that 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.
- Contributes to and enhances local landscape character.

Satisfies all other criteria, with regard to, inter alia, servicing, public safety and environmental considerations. Rural housing applications along Coastal Areas and Lakeshores must comply with the requirements set out in Objective RHO 4 (Chapter 3).

- Site is unsuitable.
- Flooding.
- Creation of precedent.

1.3 Planning History.

Appeal Site:

None

In Vicinity:

PA. Ref. 2360016 – Permission GRANTED for the installation of c.15 km of 250mm trunk main.

1.4 Planning Policy

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.

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

National Policy Objective 15 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 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’.

Sustainable Rural Housing, Guidelines for Planning Authorities (2005)

The appeal site is located within an area identified as an ‘Area Under Strong Urban Influence’ (see Map 3.1. Mayo County Development Plan 2022 - 2028). The Guidelines state that these areas exhibit characteristics such as proximity to the immediate environs or close commuting catchment of large cities and towns, rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such urban areas, or to major transport corridors with ready access to the urban area, and pressures on infrastructure such as the local road network.

Development Plan - The relevant Development Plan is the Mayo County Development Plan 2022-2028. The appeal site is not subject to any land-use zoning. The provisions of the Mayo County Development Plan 2022 – 2028 relevant to this assessment are as follows:

Volume 1 (Written Statement)

Chapter 3

- Map 3.1 ‘Rural Areas Under Strong Urban Influence’
- Objective RHO1
- Objective RHO4

Chapter 10

- Map 10.1 ‘Landscape Policy Areas’
- Map 10.2 ‘Scenic Routes & Views’

Chapter 11

- Objective NEO26
- Objective NEP14

Volume 2 (Development Management Standards)

- Section 2.0 Residential (Rural)
- Section 2.8 Rural Housing Garages/Sheds

- Section 2.10 Effluent Treatment Systems
- Section 7.6 Access Visibility Requirements

Volume 4 (Supporting Documentation)

- 'Mayo Rural Housing Design Guidelines'

1.5 Natural Heritage Designations

Clew Bay Complex SAC (Site Code: 001482) – c. 0.5 km north-east of the appeal site.

1.6 The Appeal

1.6.1 First Party (Peter Gill)

This is a first-party appeal by Keith O' Connell on behalf of Peter Gill against the decision to refuse permission. The grounds for appeal may be summarised as follows;

- The proposed development is similar to that permitted under PA. Ref. 18/395, and to other developments in the area.
- The Planner's assessment of Objective NEP14 is subjective and no substantive reasoning is given. A more thorough assessment of the proposal was warranted.
- The proposal is located adjacent to existing development and the proposal does not detract from the area, as demonstrated by the photomontages, which are accurate. The drawings are also accurate.
- The proposed garage complies with Section 2.9.4 of the Development Plan.
- The proposal complies with Section 3.1. 'Strategic Aim' of the Mayo County Development Plan 2022-2028.
- The assessment of the proposal with reference to Objective NEO26 was carried out in a tick box manner.
- The applicant has demonstrated his long standing social links to the area however this was not considered.
- Irish Water have approved a new water scheme which passes the site. Water can also be sourced from the family well.
- The proposal does not result in ribbon development.

- The design of the proposed house meets high standards in terms of siting and design.
- The main reason for the refusal is based on frivolous and vexatious submissions.
- Regarding overlooking, the proposal is c. 17 metres from the boundary with the neighbouring property and does not have a first floor. The position of the garage also ensures privacy between both properties.
- The site is not subject to flooding.
- Access is via a public road.
- The removal of hedgerow and the wall relates to lands owned by the applicant and Mayo County Council.

The appeal is accompanied by a letter from the appellant stating that he has resided in Thornhill all his life; his father gave him the site; that he works in a bar in Westport; that there are no affordable houses in the vicinity; that he helps his father with the running of family farm during his time off and intends to continue doing so should permission be granted; that the proposal is similar in design to the house granted under PA. Ref. 18/395, and that he is willing to accept conditions, including an occupancy clause should permission be granted.

A letter from the appellant's parents has also been submitted stating that, the site has been chosen so as not to fragment the farm; that it is one of the most unobtrusive locations within the farm; that the proposal will be screened by planting; that the house is modest in size and will not obstruct the landscape; that traffic generated by the proposal will be minimal and that the appellant helps with the family farm.

Correspondence from Mayo County Council accompanies the appeal stating that the road to the front of the appeal site is under the charge of Mayo County Council.

1.6.2 P.A. Response

None received.

1.6.3. Observations

The following observations were received in respect of the appeal.

John O' Grady

- The appeal is vexatious and frivolous. The points made to date are legitimate.
- The observer's lands extend to the boundary wall.
- The location of the appellant's family home is a better site for the proposal.

Seamus O' Grady

- The proposal is not similar to PA. Ref. 18/395. This house was next to the family home. It is unclear why the proposal is necessary noting its location, which is distant from the family home.
- Adjoining houses have pitched roofs.
- Describing the proposal as being 'nestled adjacent to existing property' is inaccurate.
- The appellant's reference to the strategic aims of the Development Plan do not include reference to the requirements of the NPF, specifically the requirement to demonstrate a functional economic or social requirement for housing in areas under urban influence.
- The applicant's local social standing should not outweigh the objectives of the Development Plan, or planning legislation.
- There is no evidence that Irish Water have approved a water scheme passing the site.
- The photomontages are inaccurate, specifically the position of the proposal and the addition of trees.

Florence O' Grady

- The observations submitted are genuine and not frivolous.
- The proposal will have a major impact on the observer and her property.
- The appellant has other sites to build the house.

Michael O' Grady

- The observations submitted are not frivolous.

- The proposal is contrary to Objective NEP14.
- The proposal is out on its own and in open countryside.
- The observations submitted are from separate households.
- The photomontages submitted by the appellant are inaccurate. There are no trees at the location indicated. The proposal will detract from the landscape.
- The water pipe has planning consent but does not exist. There is no well.

1.7 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.

1.8 AA Screening

The appeal site is located c. 0.5 km south-west of Clew Bay Complex SAC. 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.

2.0 Assessment

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

- Rural Housing Policy (New Issue)
- Design & Visual Impact

- Access (New Issue)
- Waste Water
- Issues Arising

2.2. Rural Housing Policy (New Issue)

- 2.2.1. The appeal site is identified in the Mayo County Development Plan 2022 – 2028 (see Map 3.1) as being within an ‘Area Under Strong Urban Influence’. In accordance with the Mayo County Development Plan 2022 – 2028 applicants seeking a house within such areas are required to demonstrate compliance with Objective RHO1. Under this objective applicants are required to demonstrate a social or economic link to the area. Under Objective RH01 a genuine housing need is considered to include farmers, their sons and daughters, close relations or any persons taking over the running of a farm in the area in which they propose to live; sons, daughters or other relations of non-farming persons who have spent a period of their lives living in the general rural area in which they propose to build a home; returning immigrants who spent a period of their lives living in the rural area in which propose to build; persons involved in farming activity including equine enterprise, or persons employed or are intending to take up employment in any other local service, enterprise or profession.
- 2.2.2. The appellant states that he assists with the running of the family farm, and that should he be granted permission that he will continue to assist with the running of the farm. Land Registry documentation has been submitted with the application/appeal which relates to the family home (located c. 450 metres south-west). The appellant has not submitted any evidence of his role on the family farm, or of the existence of same. That being said I note that Objective RHO1 also makes provision for applicants seeking a house in a rural area who have spent a period of their lives living in the general rural area in which they propose to build a home. However, with the exception of a letter from the appellant and his parents, no verifiable documentation has been provided to demonstrate that the appellant has spent a period of his life living in the area, and furthermore the appellant has not demonstrated his relationship to owners of the property which is indicated as the family home. A Birth Certificate would typically suffice in this regard.

2.2.3. I note the location of the appeal site in an rural area under strong urban influence, within easy reach of urban settlements. I also note the proliferation of single dwellings in this rural locality, which is reflective of the significant pressure this rural area is under. Based on the documentation submitted with the application and the appeal, the appellant has not in my opinion clearly demonstrated a housing need that would necessitate a dwelling at this rural location. I am not therefore satisfied that the applicant has satisfactorily demonstrated compliance with the requirements of the Mayo County Development Plan 2022-2028 as it relates to applicants seeking permission for a dwelling within the rural area of the county. This is a new issue and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal, it may not be considered necessary to pursue the matter.

2.3. Design & Visual Impact

2.3.1. The Planning Authority refused permission for the proposed development on the basis that it would interfere with the character of the landscape, contrary to Objective NEP 14 of the Mayo County Development Plan 2022-2028, and the requirements of Objective NEO 26 of the Mayo County Development Plan 2022-2028.

2.3.2. Observations to the appeal note that the photomontage are inaccurate. From reviewing the photomontage submitted I note that the proposed garage is not indicated. I note that photomontages are computer generated and as such the appearance and prominence of a building(s) can be altered depending on how planting and landscaping is indicated. Importantly however there is no requirement for the submission of photomontages with a planning application and the proposed development can be adequately assessed on the basis of the drawings submitted. Having reviewed the drawings submitted and the photomontage I am satisfied that the image gives a reasonable approximation of how the proposed house will appear in the landscape.

2.3.3. Based on Map 10.1 the appeal site appears to be located within Policy Area 2 'Lowland Coastal Zone'. Additionally, Map 10.2 indicates the R335 as a Scenic Route and there are also Designated Views along the R335 in the vicinity of the appeal site. The appeal site is located c. 0.5 km north of, and on the seaward side of the R335. Due to the

topography of the area views of the appeal site are possible from the R335, however the landscape in the area is developed and there are a number of houses in the vicinity of the appeal site. A belt of trees to the east of the appeal site provides a degree of screening to the site, although I note that given the flat nature of the appeal site and the topography of the area relative to the R335 the appeal site and the proposal will be visible from the R335. However, in my opinion the design of the proposed house and garage takes account of the sensitivities of the area through their modest single storey design and will be perceived as part of a wider developed landscape. On the basis of the forgoing, I am satisfied that the proposed development would not result in a significant negative impact on the receiving landscape, and would not therefore be contrary to Objective NEP 14 of the Mayo County Development Plan 2022-2028.

- 2.3.4. Whilst not addressed in the report of the Planning Officer Objective NEO 26 of the Mayo County Development Plan 2022-2028 requires that 'rural housing applications along Coastal Areas and Lakeshores must comply with the requirements set out in Objective RHO 4 (Chapter 3)', which requires applicants to demonstrate a long-standing social link to the area concerned. As addressed at paragraph 2.2.2. the appellant has not submitted verifiable documentation to demonstrate that he has spent a period of his life living in the area, and consequently I am not satisfied that the appellant has demonstrated that he has a long standing social link to the area, as is required under Objective NEO 26 which in turn refers to Objective RHO4. I therefore consider that the proposal would be contrary to Objective NEO 26 of the Mayo County Development Plan 2022-2028. Regarding the other criteria referred to in Objective NEO26, I am satisfied that the proposal would not impinge on the character, integrity or distinctiveness of the area and that it meets high standards in terms of siting and design. The appellant has provided a justification for the proposal at this location, noting that it is the least obtrusive location within the landholding. Compliance with the 'other criteria' referred to in Objective NEO26, that being servicing, public safety and environmental considerations are addressed elsewhere in this report.

2.4. Access (New Issue)

- 2.4.1. A vehicular access is proposed along the eastern boundary of the appeal site. Having reviewed the Speed Limit Bye-Law maps on Mayo County Council's website it appears that the default speed limit of 80kmph applies to the road onto which access is proposed, however having regard to the narrow nature of the road, and to its alignment I consider that vehicles using the road would likely travel at a lower speed. I note that Section 7.6 of the Mayo County Development Plan 2022 – 2028 requires sightlines of 70 metres for local roads with a design speed of 50 kmph and I consider this to be a more appropriate sightline requirement. Based on my site inspection, I consider sightlines to be acceptable.
- 2.4.2. I consider the local road onto which access is proposed to be seriously substandard at this location due to its narrowness and alignment, which poses a danger for pedestrians using the road, particularly given the absence of footpaths and public lighting. The width of the road for long sections makes it impossible for two cars to pass, requiring reverse manoeuvres. Having regard to the forgoing, I consider that the traffic generated by the proposed development would endanger public safety and would give rise to a potential traffic hazard. This a new issue. The Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

2.5. Waste Water

- 2.5.1. The Site Characterisation Report submitted with the application 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 R1 is noted. Accordingly, I note the suitability of the site for a treatment system subject to normal good practice. The applicant's Site Characterisation Report identifies that there is no Groundwater Protection Scheme in the area.
- 2.5.2. The trial hole depth referenced in the Site Characterisation Report was 2.5 metres. Neither bedrock nor the water table were encountered in the trial hole. The soil conditions found in the trial hole are described as comprising mineral topsoil, sandy silt with gravel and silt with gravel and cobble. Percolation test holes were dug and

pre-soaked. A T value/sub-surface value of 38.89 and P value/surface value of 22.89 were recorded. Based on the EPA CoP 2021 (Table 6.4) the site is suitable for a septic tank and percolation area. The trail hole was not open at the time of my site inspection.

- 2.5.3. 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. It is proposed to install a septic tank and a percolation area. Based on the information submitted, I consider that the site is suitable for the treatment system proposed.

2.6. **Issues Arising**

2.6.1. Vexation/frivolous Appeals

The appellant contends that the observations submitted in respect of the appeal are vexatious and frivolous in nature. Having reviewed the observations I am satisfied that the observations are neither vexatious nor frivolous in nature and raise concerns which relate to planning matters.

2.6.2. Ownership Issues

Reference is made in one of the observations submitted in respect of the appeal to a boundary/ownership issue however the observer notes that he is aware that such matters are generally considered to be outside the remit of An Bord Pleanála. I am satisfied that this issue does not require further examination. I note such matters are civil issues to be resolved between the parties concerned, having regard to the provisions of Section 34 (13) of the Planning and Development Act 2000, as amended.

2.6.3. Water Supply

An observer to the appeal notes the absence of a water supply to the site. I also note that the report of the Planning Officer has underlined the word 'services' in the context of compliance with Objective NEO26, however the report does not address this issue and the context for this is unclear. The appellant notes that they have access to a well to provide water to the proposal. Details of this well have not been provided, for example its location and yield have not been indicated. I note that permission has been

recently granted for a trunk main (see PA. Ref. 2360016) which passes the appeal site and which would facilitate a water connection to serve the proposal. The site layout drawing submitted indicates an existing water main in the road to the front/east of the appeal site however it appears that the appellant has indicated the location of the permitted trunk main. At the time of writing this report this project is currently at tender assessment stage. On balance I am satisfied that a water supply can be provided to the site.

2.6.4. Impact on Residential Amenity.

Having regard to the scale, design and relationship of the proposed dwelling and garage relative to adjoining property, I am satisfied that the proposed development would not result in any significant negative impacts on the residential amenity of property in the vicinity in terms of overlooking, overshadowing or overbearance.

3.0 **Recommendation**

3.1. Having regard to the above it is recommended that permission is refused based on the following reasons and considerations.

4.0 **Reasons & Considerations**

1. Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has demonstrated that he comes within the scope of the housing need criteria as set out in Objective RHO1 of the Mayo County Development Plan 2022-208. The proposed development would, therefore, be contrary to the Mayo County Development Plan 2022-2028. Furthermore, taken in conjunction with the existing development in the vicinity, which is characterised by a proliferation of single dwellings, the proposed development would give rise to an excessive density of development in a rural area lacking certain public services, would contribute to the encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would be contrary to the proper planning and sustainable development of the area.

2. Objective NEO 26 of the Mayo County Development Plan 2022-2028 requires that rural housing applications along Coastal Areas and Lakeshores must comply with the requirements set out in Objective RHO 4, which requires applicants to demonstrate a long-standing social link to the area concerned. The applicant has not submitted verifiable documentation to demonstrate that he has spent a period of his life living in the area, and consequently has not demonstrated that he has a long standing social link to the area, as is required under Objective NEO 26 which in turn refers to Objective RHO4. It is therefore considered that the proposed development would be contrary to Objective NEO 26 of the Mayo County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.

3. The site is located on a minor road which is seriously substandard in terms of width and alignment. The traffic generated by the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users.

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

5th September 2023