



Development	Revised road access to site granted planning permission under P13/375. This access will be over right of way currently servicing this property, together with all ancillary site works and services.		
Location	Pollranny, Sweeny, Achill, Co. Mayo.		
Planning Authority Ref.	221038		
Applicant	Michael Joyce		
Type of Application	Permission	PA Decision	Refuse Permission
Type of Appeal	First Party v Refusal	Appellant	Michael Joyce
Observer(s)	None		
Date of Site Inspection	26 th July 2023	Inspector	Ian Campbell

1.0 Site Location/ and Description.

The appeal site is located on the northern side of the R319 at Achill Sound, c. 0.3 km east of Michael Davitt Bridge, which connects the mainland to Achill Island. The appeal site comprises a unpaved gated laneway/access which connects to an undeveloped site further north. The laneway also provides access to the rear of an adjoining property (Wildwood).

1.1 Proposed development.

The proposed development consists of an alternative access arrangement to serve a permitted dwelling (PA. Ref. 13/375 refers). The applicant is proposing to use the laneway, which he has a right of way over, in lieu of a laneway which is located c. 80 metres east of the proposed access.

1.2 PA's Decision.

FI request: Prior to the decision of the Planning Authority to refuse permission for the proposed development, the Planning Authority requested Further Information. The applicant was requested to submit a scaled drawing of the access road in the context of the proposed dwelling and also existing adjoining dwellings, and to confirm if any works are required to the access and to also confirm whether the applicant is entitled to carry out any required works to the access. The applicant subsequently submitted a site layout drawing to the PA on the 2nd February 2023 as requested and confirmed that no works are proposed to the access.

Decision: The Planning Authority issued a Notification of Decision to REFUSE permission on the 24th February 2023 for 1 no. reason. The proposed development was refused on the basis that it failed the meet siting and design considerations (i.e. sightline requirements) in accordance with the requirements of the Mayo County Development Plan 2022-2028, and that as a result the proposed development would result in a traffic hazard.

Report(s) of PA: The report of the Planning Officer notes that the sightline requirement at the proposed entrance is 70 metres from a set-back of 3 metres, as the road is a regional road, having regard to Section 7.6, Volume 2 of the Mayo County Development Plan 2022-2028. The report of the Planning Officer incorporates a report received from the Roads Design Section, which notes that the applicant has not demonstrated compliance with visibility requirements set out in Section 7.6 Volume 2 of the Mayo County Development Plan 2022-2028.

Observations to PA: One observation was received by the Planning Authority. The observers are the owners of the access road, over which the applicant has a right of way. Issues raised in the observation concern the impact on the access of the adjoining property 'Wildwood'; that there is no evidence of the extension to the life

of PA. Ref. 13/375; that the width of the entrance is inaccurately depicted, and in respect of the validity of the application.

1.3 Planning History.

The following pertains to the appeal site;

PA. Ref. 13/375 – Permission consequent to a grant of outline permission GRANTED for a house. This permission was extended under PA. Ref. 13/3750 until the 15th October 2023.

PA. Ref. 10/69 – Outline permission GRANTED for a house.

1.4 Planning Policy

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:

- Objective MTP29 Volume 1 (Chapter 6) – Non National Road Policies
- Table 6.6 Volume 1 (Chapter 6) – National and Strategically Important Regional Roads in County Mayo.
- Section 7.3 Volume 2 (Development Management Standards) – Access onto Strategically Important Regional Roads
- Section 7.6 Volume 2 (Development Management Standards) – Access Visibility Requirements

1.5 Natural Heritage Designations

The appeal site is not located within or close to any European Site.

1.6 The Appeal

1.6.1 First Party (Michael Joyce)

- Revised site layout/sightline drawing (*Drawing No. 2696-KE-GR-DR-A-0002-0001*¹) submitted.
- Copy of Michael Joyce’s right-of-way over laneway submitted.
- Correspondence submitted from Sweeney McHugh Solicitors noting that;

¹ The scale on this drawing is stated as being 1:250 however it appears to be 1:50.

- the proposed access is preferable as it is straighter and has better vision, whereas the access permitted under PA. Ref. 13/375 is on the cusp of a sweeping bend and is closer to Colaiste Pobail Acla, an issue not addressed by the Planning Authority.
- perusing access as permitted will prejudice the exercise of the appellant's registered right of way.
- During the assessment of PA. Ref. 10/69 the appellant's late mother provided a letter of consent to the appellant in respect of the use of the access to the east of the site. In this letter the appellant's late mother stated that she intended to grant him a right of way over this access however this was not formalised and the appellant's mother subsequently died. The appellant therefore does not have a legal entitlement to use the access to east (i.e. the permitted access under PA. Ref. 13/375). The only access which the appellant has a formal registered right of way over is the access which is currently proposed.
- Refusal of permission to use the proposed access, which the appellant has a right of way over, is tantamount to its extinguishment and constitutes an unjustifiable infringement of the appellant's right to use and exercise his right of way.
- Dr. Emmanuel Betoux and Mrs. Patricia Betoux purchased their property in 1991 and had full notice of the right of way in favour of the appellant.
- The proposed access road is sufficiently wide to accommodate most vehicles.
- The proposal will not result in excessive traffic.
- The proposal will not affect access to Dr. Emmanuel Betoux and Mrs. Patricia Betoux's property.
- The appellant is willing to contribute to the maintenance of the access road as required.

1.6.2 P.A. Response

None received.

1.7 EIA Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, (as amended), and therefore is not subject to EIA requirements.

1.8 AA Screening

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 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:

- Access
- Issues Arising

2.2. Access

2.2.1. By way of background, permission consequent to a grant of outline permission was granted to the appellant for a dwelling under PA. Ref. 13/375². Condition no. 3 of PA. Ref. 13/375 required compliance with the conditions of the outline permission, i.e. PA. Ref. 10/69. Condition no. 3 of PA. Ref. 10/69 stipulated that the development be served by a single vehicular entrance to the east of the site. This access was in the ownership/control of the appellant's mother, who had consented to its use by her son, however the appellant's mother died and a right of way over the access was not formalised. The appellant has a right of way over the proposed access/laneway, which is located some 80 metres west of the access which was permitted/conditioned to serve the dwelling. The appellant is now seeking to use this entrance/laneway to serve the dwelling permitted under PA. Ref. 13/375.

² PA. Ref. 13/375 was subsequently granted an extension of duration under PA. Ref.13/3750 until the 15th October 2023.

- 2.2.2. I consider access to be the primary issue in this appeal. The basis for the Planning Authorities decision to refuse permission for the proposed development is that the road onto which access is proposed is a regional road, and that in accordance with the Mayo County Development Plan 2022-2028, specifically Section 7.6, Volume 2 (Development Management Standards) – Access Visibility Requirements, the required sightline is 70 metres from a set-back measured 3 metres from the edge of the carriageway, whereas the applicant had only demonstrated sightlines of 50 metres from a set-back of 2.4 metres, which is the standard for an urban road with a prescribed speed limit of 50 kmph.
- 2.2.3. The appellant has submitted a revised site layout/sightline drawing (*Drawing No. 2696-KE-GR-DR-A-0002-0001*) to the Board. This drawing indicates sightlines of 70 metres to the east and west from a set-back of 3 metres from the road edge. From reviewing this drawing I note that the sightline to the west has not been measured to the near side road edge³. Based on the drawing submitted the available sightline to the west is c. 50 metres when measured to the nearside road edge.
- 2.2.4. As stated above at paragraph 2.2.2, the Mayo County Development Plan 2022-2028 stipulates that for regional and local roads the required sightline is 70 metres, measured from a set-back of 3 metres from the edge of the carriageway. I note that the appeal site is located within an urban area and that the R319 at this location has a posted speed limit of 50 kmph. On the basis of the advice contained in Circular PL17/2013⁴ I consider that DMURS is the applicable policy in respect of sightline standards in this instance. I further note Objective MTP29 (Volume 1, Chapter 6) of the Mayo County Development Plan 2022-2028 which states '*implement the recommendations of the Design Manual for Urban Roads and Streets (DMURS) in relation to urban streets and roads within the 50/60 kph zone*'. The corresponding sightline requirement for a 50 kmph road, as set out in Table 4.2 of DMURS, is 45 metres.

³ As required by the Design Manual for Urban Roads and Street (DMURS) for a road where there is no restriction on overtaking (see figure 4.6.3).

⁴ Circular PL17/2013 states that the Design Manual for Urban Roads and Street (DMURS) is now mandatory for all Local Authorities with effect from the date of this Circular for all urban roads and streets within the 60kmph urban speed limit zone.

2.2.5. Based on my site inspection I note that the edge of the carriageway of the R319, as depicted by the yellow hatched line, is c. 1 metre from proposed access and as such I consider that the set-back, from which sightlines should be measured, should be taken from this yellow line. In this regard the Mayo County Development Plan 2022-2028 requires a minimum set-back of 3 metres from the edge of the carriageway, but also makes provision in exceptional circumstances on urban roads for this set-back to be reduced to 2 metres. Assuming sightlines are measured from a 2 metre set-back from the yellow hatched line on the R319 I note that visibility would be significantly obscured in both directions by the piers of the entrance. *Drawing No. 2696-KE-GR-DR-A-0002-0001* has not taken account of the impact of the piers on sightlines and the I am therefore not satisfied that the entrance meets the sightline requirements set out in DMURS or the Mayo County Development Plan 2022-2028, and on this basis I consider that the proposed development would represent a traffic hazard. Whilst the lowering of the piers would facilitate sightlines at the entrance, based on the information submitted with the planning application and the appeal it appears that the appellant does not own the lands in question, only enjoying a right of way over the laneway, and as such would not have the ability to carry out works to facilitate sightlines. Additionally, I note that the appellant does not have control over the lands on either side of the entrance to maintain sightlines.

2.3. **Issues Arising**

2.3.1. Impact on Residential Amenity.

A am satisfied that the use of the laneway to serve the dwelling permitted under PA. 13/375 would not result in any significant negative impacts on the residential amenity of the property to the east, Wildwood.

2.3.2. Development Contributions

Condition no. 10 of PA. Ref. 10/69 required the payment of a development contribution. Having reviewed the adopted Mayo County Council Development Contribution Scheme 2023 and noting the nature of the proposed development I do not consider that development contributions apply to the proposed development. Should the Board be minded to grant permission for the proposed development a condition requiring the payment of a development contribution is not required.

2.3.3. Duration of permission

The proposal is intended to serve as access to a dwelling which was permitted under PA. Ref. 13/375, and subsequently extended under PA. Ref. 13/3750 until the 15th October 2023. Should the Board be minded to permit the proposed development, I recommend that the life of any permission is linked to the permission as extended, in other words that it also expires after the 15th October 2023, as it is intended to serve a permitted dwelling which will expire after that date. I recommend that a condition setting out same is attached to any grant of permission.

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. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a road at a point where sightlines are restricted in an easterly and westerly direction.

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

15th August 2023