



Development	Construction of a serviced dwelling with an effluent treatment system and a garage/shed.		
Location	Cregnanagh Td., Kilmaine, Co. Mayo		
Planning Authority Ref.	22862.		
Applicant(s)	Mary Jane Craddock.		
Type of Application	Permission.	PA Decision	Grant Permission.
Type of Appeal	Third Party	Appellant	Peter Bayne.
Observer(s)	Eoin Ennis.		
Date of Site Inspection	3 November 2023.	Inspector	Stephen Rhys Thomas.

1.0 Introduction

1. Site Location/ and Description.

The appeal site is located on agricultural farmland north of the Village of Shrule and south of Kilmaine, both classified as Tier 4 Rural Settlements in the County Mayo Development Plan. The site is connected to the N84 by a narrow laneway flanked by low stone walls. Development in the vicinity comprises a number of relatively recently constructed detached dwellings on large garden sites, and another dwelling under construction. A large working farmyard with an agricultural

contracting business is located along the laneway. The surrounding countryside comprises agricultural land, mostly in grass.

The site is relatively flat and slopes slightly upwards from the level of the laneway. Two static homes occupy the site, there is an electricity connection and the units are connected to an effluent tank exposed to the elements. The hole in which the effluent tank is located, contained an amount of water. The field boundaries are made up of low drystone walls with mature hedgerows in places and a non-native hedgerow to the western boundary with a detached dwelling. The field adjacent to the site was waterlogged and a large amount of standing water was present. The access laneway is narrow and poorly surfaced, the junction with the N84 has been widened. The N84 is relatively straight at this point and a single white line runs down the centre, a speed limit of 100 kph applies at this location.

Two local villages are located to the north and south of the site. The village of Shrute is located 3.6 kilometres to the south and provides a number of facilities including housing, a national school, commercial and retail functions. The village of Kilmaine is located 4.4 kilometres to the north and provides a similar array of services and facilities.

2. Proposed development.

A bungalow style dwelling house, garage and waste water treatment system and percolation area, on a site of 0.562 ha.

The design of the dwelling and finished floor levels changed marginally after requests for further information and clarification of further information.

3. PA's Decision:

The planning authority issued a notification to grant permission subject to 14 conditions, all of a standard and technical nature.

Planning report 1 states that the site is within a pluvial flood risk area, FFL should be raised to match adjacent dwelling. Vehicular entrance conditions recommended. Wastewater treatment acceptable. House design requires amendment.

The site is outside the zone of Rural Areas under Strong Urban Influence, demonstration of local need not required, but house design requires adjustment.

Further information requested.

Report 2 – FFL raised to matched neighbouring dwelling. House design remains a concern.

Clarification of Further Information requested.

Report 3 – House design acceptable, grant permission.

Observations – a letter supports the application and is signed by a number of individuals. Other observations oppose the development based upon flood risk.

Internal Reports

Area Engineer – no objections subject to conditions.

Flood Risk Section – no objections subject to matching finished floor levels of adjacent house.

4. Planning History.

Subject site

PA ref 211357 – permission for house, withdrawn. As noted by an observer.

5.1. Local Planning Policy

Mayo County Development Plan 2022-2028

The Mayo County Development Plan 2022-2028 was adopted at a Special Planning Meeting on the 29th of June 2022. The Plan is now in effect as and from 10th of August 2022.

Section 1.3.1 The National Planning Framework (NPF)

The NPF is a high-level strategy that provides the sustainable framework to guide where development and investment occurs in Ireland up until 2040. The NPF is centred around ten national policy objectives called National Strategic Outcomes (NSOs) (see Figure 1.1 below). Regional and local plans must align with these NSOs, which are underpinned by 75 national policy objectives (NPOs). The preparation of the County Development Plan has been informed by these NSOs and related NPOs.

Section 1.10 Statement Outlining Compliance with Section 28 Guidelines

Sustainable Rural Housing Guidelines (2005) Chapter 3 (Housing) sets out the rural housing policies and objectives for County Mayo. These policies and objectives incorporate the recommendations of the guidelines.

Core Strategy Objectives - CSO 1 To secure the implementation of the population and housing growth household allocation set out in the Core Strategy and Settlement Strategy, in so far as practicable, by facilitating rural housing, while allowing for the accommodation of further residential growth in our designated settlements, subject to the availability of infrastructure and services.

Chapter 3: Housing Section 3.4.8 Rural Single Housing.

Rural Housing Policies RHP 4 To ensure that future housing in rural areas have regard to the Sustainable Rural Housing Guidelines for Planning Authorities 2005 (DOEHLG) or any amended or superseding guidelines

RHP 5 To ensure that rural housing applications employ site specific design solutions to provide for proposals that integrate into and reflect and enhance local landscape character, in terms of siting, design, materials, finishes and landscaping.

RHP 8 To require that new houses in the rural areas ensure the protection of water quality in the arrangements for on-site wastewater disposal, ensure provision of a safe means of access in relation to road and public safety, avoid flood risk and ensure the conservation of sensitive areas such as natural habitats, ecological connectivity, the enjoyment of protected structures and other aspects of heritage.

RHO 2 In rural areas not classified as in Rural Areas under Strong Urban Influence, there is a presumption in favour of facilitating the provision of single housing in the countryside, based on siting and design criteria for rural housing in statutory guidelines and plans, except in the case of single houses seeking to locate along Mayo's Scenic Routes/ Scenic Routes with Scenic Views or Coastal Areas/Lakeshores (See RHO 3 below).

Category 2 - Remaining Rural Areas: These areas comprise of all other rural areas outside of the identified pressure areas under strong urban influence. It is recognised that sustaining smaller community areas is important and as such, it is considered appropriate to encourage rural housing in accordance with the principles of proper planning and sustainable development. In these areas, the Council recognises the importance of increasing population and supporting the rural economy, while seeking to consolidate the existing rural town and village network. The sensitive reuse, refurbishment and replacement of existing rural dwellings is also recognised as a vital element in maintaining the vibrancy of the countryside. The Council also recognises the need to continue to cater for local rural housing needs in areas that are visually and/or environmentally sensitive, such as Scenic Routes; Scenic Routes with Scenic Views and Coastal Areas/Lakeshores (see Map 10.2 in Chapter 10), to ensure a balance between maintaining vibrant, all year round, rural communities, while safeguarding the physical beauty and natural environment of the county.

INO 3 - To ensure that any new development connects to a public water supply or Group Water Scheme, where available. Connections to wells for individual housing units in unserved rural areas will only be considered where there is no public water main or Group Water Scheme serving the site and where it can be demonstrated that connection to the proposed well will not have significant adverse effects on water quality or water quantity in the area and can provide a potable water supply in accordance with EU Drinking Water standards.

Volume 2

Chapter 2 Residential (Rural)

Volume 4

Mayo Rural Housing Design Guidelines

5.2 Natural Heritage Designations

The closest designated European Site is the Shrule Turlough SAC (site code 000525), located 700 metres south of the site.

6. The Appeal

6.1 Third Party Appeal.

- The site is at risk of pluvial flooding. Maps and photographs illustrate that the flooding issue is more than a minor encroachment (as stated by the PA). The majority of the site floods. The County Strategic Flood Risk Assessment Report date August 2022 at paragraph 3.7 The Sequential Approach and the Justification Test, and states where possible, development in areas identified as being at flood risk should be avoided. The report of PJ Newell Engineer, states no evidence of flooding.
- The increase in FFL to match neighbouring dwelling will only result in conveyance or reduced flood storage and increase flood risk elsewhere.
- In addition to the site, the road floods too, climate change will increase the incidence of flooding, when combined with the development if permitted.
- The applicant for permission has already sold two other sites with dwellings, PA ref 56632 refers. A previous application on this site was withdrawn PA ref 211357. If permitted the absence of an enurement clause will mean the site will be sold on.

The grounds of appeal are supported by photographs of flooding.

6.2 P.A. Response

None.

6.3 Applicant Response

None.

6.3 Observers

The observations made are similar to the grounds of appeal, in addition, concern is expressed about flooding of the public road, the installation of a wastewater treatment system on a site serving one or two static homes and without a percolation area there is a danger of private well contamination. Photographs are included.

6.4 Statutory Consultees

None.

7. EIA - 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 PDR's, 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.

8. AA Screening - The closest designated European Site is the Shrute Turlough SAC (site code 000525), located 700 metres south of the site. Having regard to the scale and nature of the proposed rural house development and to the location removed from any European Sites no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

2.0 Assessment

2.1. Introduction

2.1.1. The main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The issues can be dealt with under the following heading:

- Flooding
- Public Health
- Rural Housing Policy
- Other Matters

2.2. Flooding

2.2.1. According to the appellant the area is subject to flooding and the road is frequently submerged. Photographs that illustrate amounts of surface water along the road edge have been submitted during the planning application process, together with images of fields in flood. An observer's photographs also show adjacent fields under water including the appeal site. On the day of my site visit, a dry and bright day, the adjacent field to the east had a large quantity of standing water present at its centre. I also noted that a recently excavated hole on the site contains an effluent tank

partially submerged under water. I note the contents of the Planner's Report that records pluvial flood risk at the site and adjacent field and notes that no further flood risk assessment required. Subsequent to further information and clarification of further information, the house design was modified in accordance with the Design Guide for Rural Housing. However, there is no reference in the notification to grant permission to take into account the recommendation of the Flood Section of the Council to match finished floor levels with the adjacent dwelling to overcome any issues of pluvial flooding. The appellant notes this too and does not accept that this is an appropriate solution.

- 2.2.2. I am not satisfied that the matter of flood risk and specifically pluvial flood risk has been adequately addressed by either the applicant or the planning authority. In the first instance the applicant has prepared a report entitled 'Assessment of Minor Proposals in Areas of Flood Risk', as part of the planning application documentation. The report is dated October 2022 and states that the site is not located in any flood zone, no evidence of flooding on site and that the risk of flooding is minimal. The report concludes that there is no need to progress to a stage 2 Initial Flood Risk Assessment. The applicant has also prepared a Site Characterisation Form, for the purpose of examining the suitability of the site to accommodate a domestic wastewater treatment system. The Site Characterisation Form does not identify any ponding of water on the site, or anything else unusual, other than the need to address minimum requirements of groundwater protection response R2.
- 2.2.3. The planning authority note the occurrence of pluvial flooding on the appeal site and adjacent field and conclude that raising finished floor levels to match an adjacent house is a suitable response. The appellant disagrees and reckons that this would push flood risk elsewhere and this has not been addressed by the applicant or planning authority.
- 2.2.4. The applicant's 'Assessment of Minor Proposals in Areas of Flood Risk', is a sparse document that fails to identify the existence and potential for pluvial flood risk on this field and the adjacent field. Supporting information such as the Site Characterisation Form also fails to identify any flooding features. Yet, observers have witnessed and photographed evidence of the site under water, images on file refer. I also observed that the adjacent field was heavily waterlogged and a large hole on the site containing an effluent storage tank held a significant quantity of water within it. I also

note a submission dated 8 February 2023 on the planning application from a previous applicant on this same site (PA reference 211357 refers), apparently withdrawn because of flood risk issues after observing the site under water in March 2022.

2.2.5. There is conclusive evidence on file, such as the Planner's Report (GIS mapping) showing a pluvial flood risk, there are photographs of the site and my own observations to conclude that the appeal site and adjacent area is at risk from pluvial flooding and has experienced flooding in the past. This information appears absent from the applicant's own documentation and reports, and I am not satisfied that the matter of flood risk has been given the consideration it should have. Rural housing policy RHP08 seeks to avoid flood risk and in this context I note the comments of the planning authority to raise finished floor levels on site, but this has not been carried through to a clear direction to the applicant to do so, such as an explicitly worded condition. In addition, though raised finished floor levels might solve flood risk for the proposed dwelling, there is no discussion around consequences off site, the potential for flood risk elsewhere and consequences for on and off site domestic wastewater treatment systems (DWWTS). I assess the matter of wastewater treatment under the public health section of my report, but I am concerned about the lack of information on file to adequately address flood risk and for that reason permission should be refused.

2.3. **Public Health**

2.3.1. An observer is concerned about the installation of a wastewater treatment system on the appeal site serving one or two static homes without a percolation area and that there is a danger of private well contamination. The observation is supported by photographs and I can confirm that on the day of my site visit, two static homes occupied the site and both were connected to a single holding tank within a recently excavated hole, open to the elements and partially flooded. The matter of whether development as defined by the Planning and Development Act has occurred to date is a matter for the planning authority to consider and does not form the basis of this appeal against a permission for a dwelling and effluent treatment system. However, the observations on file and specifically those concerns raised about flood risk in the grounds of appeal do relate to the wider issue of public health. I am satisfied that this is not a new issue and the matter of public health should be examined in detail.

- 2.3.2. Wastewater disposal – I have already stated that the applicant prepared a Site Characterisation Form, for the purpose of examining the suitability of the site to accommodate a domestic wastewater treatment system (DWWTS). The Site Characterisation Form does not identify any ponding of water on the site, or any other flooding related issues. The report identifies a need to address the minimum requirements of groundwater protection response R2 and concludes that a packaged secondary treatment system and polishing filter with discharge to groundwater via trench percolation (72 metres) is acceptable.
- 2.3.3. I note that within the trial hole excavated to 1.75m no ground water was encountered but limestone bedrock was encountered at this depth. The soil profile as described includes a Light Clay (brown to grey), medium soil structure, loose to compact to depths at 0.8m, no preferential flow paths but with medium stones below 0.5m. An average T value of 58.33 and a subsurface percolation value of 25.89 were recorded. Based on the submitted information, the applicant demonstrates that the proposed layout, complies with EPA Code of Practice guidance in terms of ground conditions and separation distances. However, I am concerned that the observations of the site do not identify the possibility of pluvial flood events despite evidence to the contrary. For instance, my observations of an on site deep excavation that accommodates an effluent tank, held a significant quantity of water. The planning authority note that the site is prone to pluvial flood risk and observers note the same issue. In this regard and even though the findings of the Site Characterisation Report seem to demonstrate the appropriateness of the site, I am not convinced that the applicant's report is either robust or can be relied upon and permission should be refused on public health grounds.
- 2.3.4. Water Supply – According to the applicant a water supply is to be gained from public water mains. However, there is no connection agreement from either a Group Water Scheme or from Uisce Éireann. The applicant's Site Characterisation Report states that water supply will be from a mains water supply and the design of the proposed DWWTS is based on that premise. The plans and particulars submitted with the application do not show a bored well on the site and so I cannot confirm that the location of the proposed DWWTS is compliant with separation distances set out by, Table 6.2: *Minimum separation distances from the entire DWWTS* of the Code of Practice. It is not evident from the information on file that connection to a public

water supply is either permitted or possible. In this respect I note the Drinking Water Objectives of the development plan and specifically INO 3 that seeks to ensure that any new development connects to a public water supply or Group Water Scheme, and this has not been made clear in this application.

- 2.3.5. I am not satisfied that the proposed development will be served by a safe drinking water supply given the information on file. The issue of a safe drinking water supply for the proposed development is therefore problematic. In the absence of definitive information to either support a connection to a public water supply or the acceptability of positioning a well on the site, permission should be refused because the development would be prejudicial to public health.

2.4. Rural Housing Policy

- 2.4.1. The grounds of appeal reference rural housing need and the attachment of an enurement clause if permitted. The appellant refers to the sale of two other sites with permission for dwellings, PA ref 56632 refers. There is no detail on file with respect to these two other house sites. Irrespective, the applicant outlined in their application that they already reside in the area, express a wish to remain and downsize to a smaller dwelling. I note that the area has not been identified in the development plan as Rural Areas under Strong Urban Influence and so Rural Housing Objective 2 refers. RHO 2 states that in rural areas not classified as in Rural Areas under Strong Urban Influence, there is a presumption in favour of facilitating the provision of single housing in the countryside, based on siting and design criteria for rural housing in statutory guidelines and plans, except in the case of single houses seeking to locate along Mayo's Scenic Routes/ Scenic Routes with Scenic Views or Coastal Areas/Lakeshores. The site is not within or along a scenic route, view, coastal or lakeshore area. On this basis the planning authority do not require a demonstration by the applicant to show a rural housing need to live at this location and permission was granted.
- 2.4.2. In terms of the appropriateness of rural housing with reference to the siting and design criteria contained in the development plan for areas not defined as Rural Areas under Strong Urban Influence, the applicant was requested to submit further information and clarification of further information with respect to house design. The amended plans illustrate the siting, layout and design of a dwelling that is compliant

with the Council's design guide, according to the planning authority. I have looked at the design of the proposed dwelling and the Mayo Rural Housing Design Guidelines as contained in Volume 4 of the current development plan and agree that the revised proposals advanced by the applicant are broadly in accordance with design guidelines set out in the statutory plan. This is not a rural location with any scenic designation in the development plan, but it is productive agricultural land for which there are no development plan policies or objectives to protect.

- 2.4.3. Having regard to the foregoing, I am satisfied that the applicant has had due regard to the Mayo Rural Housing Design Guidelines and in that context the proposed dwelling responds adequately to its agricultural location and the detailed guidance provided to ensure that rural housing is assimilated into the landscape. A demonstration of rural housing need is not demanded by the statutory plan and the designation of this part of the county accords with national policy for areas other than those under urban influence.

2.5. **Roads**

- 2.5.1. The appellant has raised concerns about flooding occurrences to the public road and that this may cause a traffic hazard. The appellant goes on to explain that due to the flood risk associated with the site, draining excess water to onsite soakaways will not work. The planning authority have identified the potential for roadside flooding and has recommended technical conditions to ensure the provision of gullies draining to onsite soakaways. I have concerns about the drainage regime of the area in general and specific concerns about the flood risk associated with the site at present. I am not satisfied that simply providing new gullies and soakaways on site to route flood water away from the road will actually be effective. This has consequences for road safety and permission should be refused.
- 2.5.2. In addition, I have more broader concerns about increasing the volume of traffic on this substandard and narrow laneway that opens onto the N84 where the posted speed limit is 100kph with a central unbroken white line. The existing laneway is narrow and poorly serviced. There are existing dwellings along this laneway and another is currently under construction. A large farmyard complex with machinery sheds and which accommodates a large number of heavy farm machinery and equipment is also situated along this laneway and I anticipate traffic conflicts.

Together with the possibility of road flooding, I have serious concerns about traffic safety and the hazard posed by increasing housing density along this laneway, permission should be refused.

2.6. Other Matters

- 2.6.1. Climate Change - The appellant has referenced the effects of climate change and the potential for more frequent rainfall events in the future and is generally concerned that the proposal fails to address climate resilient development. I have already addressed the issues around flood risk and I recommend that permission should be refused on that basis. However, I note the issues around climate change in general, the Climate Change 2023 Synthesis Report (A Report of the Intergovernmental Panel on Climate Change) and specifically Ireland's Climate Change Action Plan 2023. I am satisfied that permission should be refused on the basis of flood risk rather than incorporate broader climate change issues as a separate reason for refusal.

3.0 Recommendation

- 3.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

4.0 Reasons & Considerations

1. Having regard to the location of the site in an area which is prone to pluvial flooding and on the basis of the submissions made in connection with the planning application and appeal, the Board is not satisfied that the proposed development would not give rise to an increased risk of flooding of the site or of property and public road in the vicinity. It is also considered that the site is not suitable for the disposal of septic tank effluent due to the incidence of pluvial flood risk identified on the appeal lands and the lack of any reasoned assessment of flood risk in the design and siting of the proposed Domestic Waste Water Treatment System. The proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

2. Having regard to the provisions of the Code of Practice Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) issued by the Environmental Protection Agency March 2021, the Board is not satisfied that wastewater generated by the proposed development could be satisfactorily accommodated on site when combined with a well, Table 6.2: *Minimum separation distances from the entire DWWTS* of the Code of Practice refers. It is considered that the proposal, given the absence of confirmation of a public water supply to service the site and notwithstanding the use of a proprietary wastewater treatment system, there is no information to show that a well can be accommodated on site should a public piped water supply be unavailable. The proposed development would, therefore, conflict with the provisions of the Code of Practice of the Environmental Protection Agency, would be prejudicial to public health and 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, surface treatment and prone to flooding. The traffic generated by the proposed development would endanger public safety by reason of traffic hazard and obstruction of road other road users. Furthermore, the proposed development would result in the intensification of the use of an existing access onto the N84 National Secondary Road at a location where the maximum speed limit of 100kph applies. The proposed development would be at variance with national policy in relation to the control of development on national roads as set out in the Spatial Planning and National Roads Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in January, 2012, which seeks to secure the efficiency, capacity and safety of the national road network. The proposed development, by itself, or by the precedent which the grant of permission for it would set for other relevant development, would adversely affect the use of a national road by traffic 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.

Stephen Rhys Thomas
Senior Planning Inspector
20 November 2023