



An
Bord
Pleanála

Inspector's Report

ABP-317862-23

Development	Construction of a dwelling house, domestic garage with proprietary effluent treatment system and all associated site works.
Location	Rathkip, Shanaghy, Ballina, Co. Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	221151
Applicant(s)	Maeve Boyles and Johnathan Melia
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Natasha, Sean & Richard Noone Enda Feely & Kathleen Feely
Observer(s)	None
Date of Site Inspection	17/01/2024
Inspector	Darragh Ryan

1.0 Site Location and Description

- 1.1. The existing site is located in the townland of Shanaghy with an address at Rathkip, Ballina. The site is 2.8km east of Ballina town centre and within the Ballina Local Area Plan administrative area.
- 1.2. The site is a greenfield site elevated over the public road. There is mature hedging to the west (front) and south of the site. The site is accessed via a private road where the applicant has indicated a private right of way.
- 1.3. The site is a standalone rectangular .366Ha west facing site. The area is characterised by extensive one -off type rural development.

2.0 Proposed Development

- 2.1. Permission is sought for the following:

- Construction of a single storey 4 bedroom dwelling of 219m².
- Construction of a domestic garage
- Install a secondary on site wastewater treatment system

The applicant has submitted the following in support of their application:

- An Appropriate Assessment Screening Document
- AA Specific Ecology Survey

3.0 Planning Authority Decision

3.1. Decision

The Planning authority issued a decision to grant permission subject to 15 conditions, including the following:

Condition 2 – The dwelling when completed shall be first used as a place of residence by the applicant and remain so for a period of 5 years. The applicant to enter into Section 47 agreement providing for the terms of the occupancy requirement.

Condition 3 – relates to finishes

Condition 5 – relates to finished floor levels

Condition 7 – The applicant shall setback and remove boundary at the access road in line with site layout plan submitted to Mayo County Council of 20/07/23.

Condition 15 – Development contribution of €4660 in line with Mayo Development contribution scheme

3.2. Planning Authority Reports

3.2.1. Planning Reports

There are two planning reports on file. The first planning report sought further information for the following:

- The site is located in a rural area under Urban Influence, the applicant is therefore requested to demonstrate compliance with Rural Housing Objective RHO 1.
- Provide details of pre connection enquiry with Irish Water
- Revised details to indicate levels for the finished floor level, driveway and public road. A section to be provided to indicate same.
- The vehicular entrance traverses lands not in the ownership of the applicant. The applicant to submit a legal right of way agreement.
- Details of landscaping to be provided.
- Revised house design from two storey down to single storey to be provided.

The Second planning report:

- The second planning report states that the items requested within the further information request was adequate. The revised house design is also acceptable.

3.2.2. Other Technical Reports

- Water Services recommends conditions.

- Area Engineer recommends conditions with respect to vehicular entrance and wastewater treatment system.

3.3. **Prescribed Bodies**

Irish Water – Confirmation of feasibility for connection to water supply provided

3.4. **Third Party Observations**

There are two number third party observations on file, the issues raised are largely raised in the appeal documentation. Other points of note include:

- Light Pollution and light trespass,
- Elevated site and property
- Applicants from a local farm and other sites are available.

4.0 **Planning History**

None recent

5.0 **Policy Context**

5.1. **Development Plan**

National Planning Framework

- 5.1.1. National Policy Objective 15 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.
- 5.1.2. National Policy Objective 19 makes a distinction between areas under urban influence and elsewhere. It seeks to ensure that the provision of single housing in rural areas under urban influence on the basis of demonstrable economic and social

housing need to live at the location, and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.1.3. Sustainable Rural Housing Guidelines for Planning Authorities

These guidelines differentiate between Urban Generated Housing and Rural Generated Housing and directs urban generated housing to towns and cities and lands zoned for such development. Urban generated housing has been identified as development which is haphazard and piecemeal and gives rise to much greater public infrastructure costs. Rural generated housing includes sons and daughters of families living in rural areas and having grown up in the area and perhaps seeking to build their first home near the family place of residence.

Mayo County Development Plan 2022 – 2028

RHO 1 – Rural Housing Objective

To facilitate single houses in the countryside. However, in Rural Areas under Urban Influence applicants will be required to demonstrate a social or economic link to the area in which they wish to build. An economic need would include applicants having a genuine housing need and whose future or current employment is in close proximity to the primary residence they propose to build. Local rural area includes, but is not limited to Parish, District Electoral Division and Townlands. A genuine housing need includes, but is not limited to:

1. 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.
2. 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.
3. Returning immigrants who spent a period of their lives living in the rural area in which propose to build and now wish to return to reside close or convenient to family members or guardians to care for or support them or work locally or to retire.

4. 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.
5. Persons whose health circumstances require them to live in a particular environment or close to family support. Applicants qualifying under this category of housing need are required to demonstrate by way of medical decentration why this is preferable.
6. Where permission has been granted for a rural housing proposal in an area deemed to be under urban pressure an occupancy condition may be imposed under section 47 of the Planning and Development act 2000.

An occupancy clause shall not be applied to any successful application outside of areas deemed to be under urban pressure. The Residency Condition shall not affect the sale of the house or site by a mortgagee in possession or by any person deriving title from such a sale where force majeure applies, for example, death, illness, relationship break up, emigration, unemployment, relocation due to work issues which would necessitate a new primary place of residence.

The Site is located on the periphery of the Ballina Local Area Plan Zoning within the Agricultural Zoning. This zoning permits single rural housing in principle subject to compliance with Rural housing objectives.

Rural Housing Policy 2

To support a balanced approach to the development of rural areas to retain vibrancy, to accommodate within the rural area people who are functionally or socially part of the rural community, and to direct urban generated housing demand into established rural settlements.

Rural Housing Policy 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.

Section 7.6 Access Visibility Requirements

Vehicular entrances and exit points must be designed by the developer as part of a planning application with adequate provision for visibility so that drivers entering and emerging from the access can enjoy good visibility of oncoming vehicles, cyclists and pedestrians. Where a new entrance onto a public road is proposed, the Planning Authority must consider traffic conditions and available sight lines.

- For a local road with a speed limit of 80kph sightlines of 120m must be achievable from a distance 3m setback from the road edge.
- Diagram 1 Page 27 of Volume 2 of the Mayo County Development Plan 2022 – 2028 shows requirements with respect to measuring sightlines.

Biodiversity, Designated and Non- Designated Sites Objectives

NEO 4 - To protect and enhance biodiversity and ecological connectivity in County Mayo, including woodlands, trees, hedgerows, semi-natural grasslands, rivers, streams, natural springs, wetlands, stonewalls, geological and geo-morphological systems, other landscape features and associated wildlife, where these form part of the ecological network.

Domestic Waste Water

Draft Ballina Local Area Plan

Site Zoned Agriculture - This zoning permits single rural housing in principle subject to compliance with Rural housing objectives.

5.2. Natural Heritage Designations

River Moy Estuary Special Area of Conservation (site code SAC: 000458) – 269m to the south

5.3. EIA Screening

See completed form 2 on file. 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 & Development Regulations there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental

impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

There are two appellants on file. There is a third party appeal against the decision of Mayo County Council to grant permission:

- The site entrance as proposed is located on a private road and not a public road. The site entrance is on a blind corner with sightlines significantly restricted.
- The proposed front boundary wall is on a drain that is draining neighbouring lands. This drain carries excess surface water and flood waters.
- The proposal if permitted would result in the beginning of another form of ribbon development.
- The proposed house is visible and extremely close to all main windows of neighbouring house. The development will have a significant negative impact on privacy. Amenity of neighbouring properties will be negatively affected with excessive light pollution and overlooking possible.
- The proposal if permitted could have negative impact on biodiversity with the removal of local hedgerow to facilitate the development.
- The water supply pressure is already working at a deficit, this will only increase as result of the proposed new dwelling.
- There are details on the planning application form which are inaccurate.
- There are other sites available to the applicant on the landholding which are more suitable.

6.2. Applicant Response

- None

6.3. Planning Authority Response

- None

6.4. Observations

- None

7.0 Assessment

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

- Ribbon Development/ Proliferation of Development
- Traffic Impact
- Site Suitability Assessment
- Other Matters
- Appropriate Assessment

7.2. Ribbon Development/ Proliferation of Development

- 7.2.1. The appellant contends that the neighbouring area already demonstrates significant ribbon development, expressing concerns that the introduction of a new dwelling could stimulate further development along this section of the road. The site is located 2km immediately east from the centre of Ballina and 1.5km east from the nearest residential zoning. The road in question is a narrow cul de sac road with the “Rathkip” area notably under significant pressure in the provision of providing one - off rural type dwellings.
- 7.2.2. Along the northern stretch of the road preceding the proposed site lies a series of 13 houses forming a ribbon spanning over 370 meters. The road then takes a right angle turn at the proposed site, directly opposite the ribbon of houses. On the

eastern side of the road, approximately 60m to the south stands a dwelling house, with another dwelling and farm buildings approximately 142m to the north. Ribbon development, as defined in the Sustainable Rural Housing Guidelines for Planning Authorities (2005), is characterized by the presence of 5 or more houses along a given 250 meters of road frontage. Although the proposal falls short of meeting the specific criteria for ribbon development, it does contribute to the expansion of urban-generated housing, potentially aggravating existing pressures in the area.

The evolving development pattern along the road serving the site aligns with the characteristics of ribbon development. As per Section 3.4.8 of the Mayo County Development Plan, the proposed site falls within the Rural Areas under Strong Urban Influence category, as depicted in Map 3.1. This delineates areas influenced by a strong urban presence for Tier I and Tier II settlements, with Ballina identified as a Tier I settlement. These areas facing urban pressures were identified through a comprehensive analysis considering factors such as commuter zones, travel times, existing pressure areas, density per square kilometre, and rural settlement patterns. Density per square kilometre and existing rural settlement patterns were considered the most relevant indicators for establishing 'Rural Areas under Strong Urban Influence' and 'Remaining Rural Areas'. Category 1 - Rural Areas under Strong Urban Influence: These encompass the open rural landscapes surrounding Tier I (Strategic Growth Towns), designated to support the sustainable expansion of urban areas, accommodate the immediate local rural community with genuine housing needs, and direct urban-generated housing demand into established settlements to sustain their vitality and viability.

- 7.2.3. After examining a 1.3square kilometre area of the site which was entirely within the rural area under urban influence, it is observed that there are a total of 45 dwellings within this radius of the site. Whereby the area is extended to 2 square kilometres, this figure increases to 84. Given the prevalence of one-off rural dwellings in the area, the proposed addition of another dwelling contributes to existing pressures on rural housing at this location. While the proposal does not strictly meet the criteria for ribbon development, it does represent an increase in urban-generated housing, potentially exacerbating existing pressures in the area. Consequently, I find the development to be at variance with policy RHP 2, where Mayo County Council aims

to support a balanced approach to rural development, retaining vibrancy, accommodating individuals functionally or socially part of the rural community, and directing urban-generated housing demand into established rural settlements

- 7.2.4. It is imperative to protect areas under strong urban influence as outlined in the Mayo County Development Plan. I do not consider the approach taken by Mayo County Council in this instance to be a balanced approach to rural development as necessitated by the above policy. Having regard to the above I recommend planning permission be refused.

7.3. Traffic Impact

The proposed development is located on a local cul de sac road where there is significant number of rural dwellings and farm buildings.

A central concern raised in the appeal pertains to the sightlines from the proposed new access point and the potential implications for traffic safety. It is observed that the applicant intends to establish a new opening through a right of way leading to a private road. Notably, no detailed sightline information has been provided with the application. A report from the Mayo County Council Area Office indicates no objection to the proposal based on sightlines. However, the appeal argues that the private road, serving as a right of way to access a farm and dwelling house, is utilized daily, and insufficient sightlines pose a significant concern.

- 7.3.1. During the site inspection, it was found that sightlines from the point where the public road intersects with the private road are acceptable. However, issues arise when examining the proposed entrance's northward view, as mature hedging obstructs visibility in this area. Consequently, vehicles traveling southbound and intending to turn onto private road may encounter difficulty in observing traffic exiting the proposed dwelling entrance. It's worth noting that while traffic on this private road is limited, potential conflicts may arise.
- 7.3.2. The existing private road and junction are established and cater to a relatively low level of traffic, serving the needs of local residents and workers. While the inadequacy of the road network underscores the challenges of accommodating individuals to construct a dwelling in the local rural area, a refusal of permission solely on traffic grounds would not be justified.

7.4. Site Suitability Assessment

- 7.4.1. The Site Characterisation Report submitted with the application identifies that the subject site is located in an area with a Regionally Important Aquifer where the bedrock vulnerability is High. A ground protection response to R2 is noted.

Accordingly, I note the suitability of the site for a treatment system (subject to normal good practice, i.e. system selection, construction, operation and maintenance). The applicant's Site Characterisation Report identifies that there is no Groundwater Protection Scheme in the area.

- 7.4.2. The trial hole depth referenced in the Site Characterisation Report was 2.5 metres. Bedrock was not encountered, the water table was not encountered in the trial hole. The soil conditions found in the trial hole are described as comprising topsoil with gravelly silty sand. Percolation test holes were dug and pre-soaked. A T value/sub-surface value of 7.5 was recorded. (No P test provided – soil characteristics are consistent from the surface to bottom of trial hole)

The applicant proposes to install a secondary treatment system and a soil polishing filter as the site is located in the catchment of a water dependent SAC. Table 6.3 of the EPA CoP 2021 requires a minimum depth of unsaturated permeable subsoil of 0.9 metres below the base of the polishing filter for secondary treatment systems.

- 7.4.3. The Site Characterisation Report accompanying the application asserts the suitability of the site for wastewater treatment. While the report references the EPA Code of Practice 2009, I believe this to be a clerical error, and I assess the site's capability based on compliance with the 2021 EPA Code of Practice. However, certain crucial elements are absent from the site suitability assessment, warranting a more comprehensive evaluation and a cautious approach. Notably, there is no provision of a surface percolation test. According to the EPA code of practice, these results should be included as the applicant proposes installation of a proprietary wastewater treatment system. No details of specific type of system to be installed has been provided within the site suitability assessment. While I generally consider the site suitable for effluent treatment, the absence of detailed information necessitates further submission for a comprehensive assessment.

- 7.4.4. There is no foul sewer network located in this area and all of the adjacent dwellings would appear to be served by septic tanks or wastewater treatment systems. Whilst it is likely that separation distances comply the EPA Code of Practice 2021 for individual wastewater treatment systems given the generous plot sizes in the area, the issue of proliferation of individual treatment systems is of concern. Given the existence of approximately 13 dwellings on individual treatment systems/septic tanks within 370 metre distance of the appeal site, and noting the fast draining nature of the soil on the site, as indicated by the subsurface percolation test results, the proposed development would in my opinion be prejudicial to public health.
- 7.4.5. In summation, notwithstanding that the proposal complies with the EPA CoP 2021, noting the marginal percolation values on the site, which are indicative of fast draining soil, and the proliferation of septic tanks and waste water treatment systems in the immediate vicinity, I am not satisfied that the treatment of effluent on the site can be catered for without a risk to groundwater.
- 7.4.6. The issue of waste water, whilst addressed by the Planning Authority, was not the subject of the third party appeal and as such is a **new issue**. The Board may wish to seek the views of the parties. However, having regard to the other substantive reason for refusal set out below, it may not be considered necessary to pursue the matter.

7.5. Other Matters

- 7.5.1. The appellant has raised concerns regarding the development's design and its proximity to site boundaries, anticipating issues such as overlooking, light pollution, and obstruction of countryside views. The proposed development entails a single-storey dwelling situated approximately 60 meters from the nearest house to the south and 48 meters from the nearest house to the west, with plans to preserve existing hedgerows surrounding the site. The design philosophy emphasizes a single-room depth house, facilitating natural light penetration throughout the dwelling. In my opinion, the design principles demonstrate robustness, and a limited opportunity for overlooking, with no significant adverse impacts expected.

7.6. Appropriate Assessment

The proposed development is 269m north of Killa Bay/ Moy Estuary Special Area of Conservation (site code: 000458). The proposed development comprises the construction of a dwelling. Surface water runoff from the property shall be collected and discharged to soak pits on site. Wastewater shall be discharged to onsite wastewater treatment system.

7.1.3 A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in Table 7.1. I have only included those sites with any possible ecological connection or pathway in this screening determination.

Table 7.1 - Summary Table of European Sites within a possible zone of influence of the proposed development.

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening Y/N
Killa Bay/ Moy Estuary (Site Code 000458)	<ul style="list-style-type: none"> Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with 	c. 269m south of appeal site	The site is completely outside of the SAC., Surface water shall be managed on site and wastewater shall be managed through wastewater treatment system. There will be no direct effects as the project footprint is located entirely outside of the designated site.	N

	herbaceous vegetation (grey dunes) [2130] <ul style="list-style-type: none"> • Humid dune slacks [2190] • Vertigo angustior (Narrow-mouthed Whorl Snail) [1014] • Petromyzon marinus (Sea Lamprey) [1095] • Phoca vitulina (Harbour Seal) [1365] 			
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7.1.4 The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act, 2000, as amended. Having regard to the nature and scale of the proposed development, indirect effects are naturally negated by virtue of separation distance and intervening land uses 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.

8.0 Recommendation

I recommend planning permission be refused for the following reason:

8.0 Reasons and Considerations

1. The proposed development, when taken in conjunction with existing development in the vicinity of the site, would consolidate and contribute to the build-up of one-off type rural dwellings and ribbon development in a rural area identified as under Strong Urban Influence within the Mayo County Development Plan 2022 – 2028. This would militate against the preservation of the rural environment and lead to demands for the provision of further public services and community facilities. The proposed development would be contrary to policy RHP 2, where Mayo County Council aims to support a

balanced approach to rural development, retaining vibrancy, accommodating individuals functionally or socially part of the rural community, and directing urban-generated housing demand into established rural settlements. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. Taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of development served by septic tanks and/or individual wastewater treatment systems in the area, and having regard to the subsurface test results which are indicative of a fast draining soils, 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.

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.

Darragh Ryan
Planning Inspector

23rd of February 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	317862 -23		
Proposed Development Summary	Construction of a dwelling house, installation of on site waste water treatment system		
Development Address	Rathkip, Shanaghy, Ballina, Co. Mayo		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No	X	N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	317862-23	
Proposed Development Summary	Construction of a dwelling house and onsite waste water treatment system	
Development Address	Rathkip, Shanaghy, Ballina, Co. Mayo	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The site is located in a predominately rural location with significant levels of one -off type rural dwellings. The proposed development is not exceptional in the context of existing environment.</p> <p>No not exceptional in the context of constructing a single dwelling</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>No the red line boundary of the site remains the same. There is no extension to boundary as a result of proposed development. The site area is .373ha.</p> <p>There are no other developments under construction in proximity to the site. All other development are established uses.</p>	No
Location of the Development	The proposed development is located 269m north	No

<p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>River Moy/ Killa SAC. The proposal includes standard best practices methodologies for the control and management of surface water and waste water on site.</p> <p>There are no other locally sensitive environmental sensitivities in the vicinity of relevance.</p>	
<p style="text-align: center;">Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)