



An
Bord
Pleanála

Inspector's Report

ABP-317864-23

Development	Permission for changes to plans and elevations of approved extension and for alterations to approved extension to comprise provision of additional lower ground floor level to the approved extension to the rear of the existing dwelling.
Location	Kilsallagh Lower, Westport, Co. Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	23/60233
Applicant(s)	Charles Cannon.
Type of Application	Permission.
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Charles Cannon.
Observer(s)	None
Date of Site Inspection	5 th day June 2024
Inspector	Fergal Ó Bric

1.0 Site Location and Description

- 1.1. This appeal relates to a rural site located within the townland of Kilsallagh Lower approximately six kilometres northeast of Louisburgh and twelve kilometres southwest of Westport in west County Mayo. The site is accessed via a local road L5880 which runs southwest of the Regional Road R335, a road that connects Westport with Louisburgh.
- 1.2. The appeal site has a stated area of 0.52 hectares and comprises a dwelling stated to comprise 209 square metres (sq. m.). The site levels gradually fall from the adjoining road level (c. 31.5m at the south-western corner of the site frontage) to lowest point at the northern eastern corner of the site (c. 23.0m). The roadside boundary is defined by a natural stone wall with a post and wire fence and dense vegetation along the north-eastern side boundary with a post and rail fence along the rear boundary and a block wall along the southern side boundary. There are a number of detached dwellings fronting onto the local road to the southwest of the site.
- 1.3. The surrounding area is characterised by an undulating topography of agricultural fields and a significant concentration of rural one-off housing. The wider landscape to the north of the site gradually falls towards the coastline of Clew Bay while lands rise to upland areas to the south and southeast of the site facing towards Croagh Patrick.

2.0 Proposed Development

- 2.1. The application seeks permission for alterations to the approved two storey extension and house previously permitted under (Reg ref 20/555) and for the provision of an additional lower ground floor level to the approved extension to the rear of the dwelling.

3.0 Planning Authority Decision

Decision

By order dated 3rd day of August 2023, Mayo County Council issued notification of the decision to refuse planning permission for the following reason:

“Having regard to the size and scale of the proposed development and its location to the rear of an existing storey and half dwellinghouse in a rural area, it is considered that the proposed development would give rise to overdevelopment of the site and, if permitted, would be visually obtrusive in this rural area and would interfere with the character of the landscape which it is necessary to preserve. The proposed development would therefore be contrary to the proper planning and sustainable development of the site and would set an undesirable precedent for similar type developments in the area.”

4.1 Planning Authority Reports

4.1.1 Planning Report

The Planner' report considered the scale of the proposal to be inappropriate and would represent overdevelopment of the site would be visually obtrusive and out of character within the surrounding landscape. A refusal of planning permission was recommended as per the subsequent decision.

4.1.2 Other Technical Reports

None received.

4.2 Prescribed Bodies

None received.

4.3 Third Party Observations

No observations received.

4.4 Planning History

Planning reference 21/999 Application refused permission by Mayo County Council in 2021 and decision upheld by the Board under 312134-21 in 2022. Permission was sought for alterations to the approved two storey extension (Ref 20/555) to accommodate construction of basement level thermal suite /home gym to be located below the ground floor of the approved two storey extension with a subterranean passage link to the two storey guest accommodation building located to the side north east comprising of a bedroom and ancillary rooms at the lower level and a games room and cinema room at the upper level and a proposed single storey detached summer house located to the rear (west) and minor alterations to ground and first floor of the approved two storey extension elevations to provide corner windows to north east elevation in lieu of standard windows and the provision for a two storey conservatory to the gable (north east) of the existing dwelling together with all associated ancillary site works. The reason for refusal set out by the Board related to an increase in occupancy within the appeal site and that the applicant had failed to demonstrate that the existing on-site wastewater treatment system had adequate capacity to cater for the existing and proposed development.

Planning reference 20/555, planning permission granted in 2021 to construct a two-storey extension in 2021 to existing dwelling, a domestic garage, and the upgrade to tertiary level effluent system together with associated site works in December 2020. Permission was subject to 6 conditions. No development contributions were included. I note that during the course of the application the area planner expressed significant concerns regarding the scale and design of the proposed extension. Following a request for additional information requesting design changes and response which did not include any such modifications a refusal of planning permission was recommended by the Planning Officer. However, the head of Westport/Belmullet Municipal District directed that a grant of permission issue *“my reason is having regard to the design submitted of the extension to an existing house and the response to the FI which included computer generated views of how the finished development will sit in the landscape I do not believe it will adversely impact on the character of the existing landscape”*

Planning reference 01/1934 Permission granted for dwellinghouse and proprietary effluent treatment system in November 2001. I note a number of conditions related to the matter of effluent treatment including condition 7 requiring that “the effluent from the house shall be treated in a proprietary effluent treatment unit capable of producing effluent of a 20/30 standard which shall be discharged to an elevated percolation area constructed of material having a T value specified by the manufacturer of the treatment unit and in accordance with SR6 of 1991. The condition also specified that there shall be at least 1m of material between the percolation pipes and the winter water table.”

5.0 **Policy Context**

5.1 **Development Plan**

The Mayo County Development Plan 2022-2028 refers. The site is located within a rural area under strong urban influence and is a highly scenic area.

The Regional Road to the north includes designated scenic route and scenic views. R335 from west of Kilsallagh to Westport (looking towards both Croagh Patrick and Clew Bay).

The Site is within Landscape Unit O - Croagh Patrick Association and Policy Area 3 Uplands Moors heath or bogs in terms of landscape character designations.

Landscape Policy NEP 14 is: To protect, enhance and contribute to the physical, visual and scenic character of County Mayo and to preserve its unique landscape character.

Development Management Standards are set out in Volume 2 and include the following provisions:

Section 2.7 Rural Housing Extensions

Rural Housing Extensions shall:

- In general, be subordinate to the existing dwelling in its size, unless in exceptional cases, a larger extension compliments the existing dwelling in its design and massing.

- Reflect the window proportions, detailing and finishes, texture, materials and colour of the existing dwelling, unless a high quality contemporary and innovatively designed extension is proposed.
- Not have an adverse impact on the amenities of adjoining properties through undue overlooking, undue overshadowing and/or an over dominant visual impact.
- Carefully consider site coverage to avoid unacceptable loss of private open space. Where an extension increases the potential occupancy of the dwelling, the adequacy of the on-site sewage treatment (in unsewered areas) should be demonstrated by the applicant.

5.2 Natural Heritage Designations

The site is not located within a designated area. The nearest designated Natura 2000 sites are the Clew Bay Complex SAC (site code 001482) located approximately 3.2 kilometres to the northeast of the appeal site. The Old Head Wood SAC (site code 00532) and the West Connacht Coast SAC (site code 002998) are located circa 4 kilometres west of the appeal site and the Mweelrea/Sheeffry/Erriff Complex SAC (site code 001932), is located approximately 4 kilometres south of the appeal site.

5.3 EIA Screening

- 5.3.1 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.

6.0 The Appeal

6.1 Grounds of Appeal

The appeal statement is submitted by a Town Planner on behalf of the first party Mr Charles Cannon. The grounds of appeal are summarised as follows:

Principle of Development:

- The Planning Authority in its decision has failed to properly consider the decision of the Board under reference number 312134-21, relating to a previous Board refusal on the site, made in 2022.

Design and Layout:

- The development proposals are similar to those refused by the Board under 312134-21, however the two-storey guest block and the underground connecting corridor have been omitted, thus reducing the scale of the proposals and overcoming the issue of adverse visual impact.
- The proposals reduce the scale of the development, providing for the same number of bedrooms and bathrooms as permitted by the Planning Authority under reference number 20/55.
- An L-shaped retaining wall is now proposed to the rear of the extension to reduce the visual impact from the north-east of the appeal site within the local landscape.
- The development provides for a beneficial use for the under-build basement area that is necessary for the construction of the permitted two storey rear extension. The basement structure is necessary having regard to the varying site levels which fall towards the north-east of the appeal site.
- No changes are proposed to the domestic garage element nor the upgrade of the wastewater treatment system.

Effluent Disposal

- The appeal addresses the concerns set out within the Planning Inspector report/Board direction (ABP reference 312134 (in relation in relation to a potential increase in occupancy of the dwelling, in the form of an updated Site Suitability Report.
- This is notwithstanding the omission of the two-storey guest block element, which would reduce the overall occupancy (population equivalent) on site.

- The proposals adhere to Section 2.7 of Volume 2 of the Mayo County Development Plan 2022-2028 (MCDP) regarding adequacy on on-site sewage treatment.
- The current proposal provides for the same number of bedrooms and bathrooms as those already permitted within the domestic extension permitted under 20/555. Therefore, the revised/reduced scale proposal directly addresses the concerns expressed by the Board under 312134 by reducing the level of occupancy (PE) on site to a level of PE that was previously deemed acceptable under 20/555
- A revised Site Characterisation Report (SCR) has been submitted, whereby the percolation area would be increased in size from the proposals previously submitted.
- The updated SCR specifically references the EPA guidance in relation to percolation trench length. The percolation area is to be doubled in size from 90 square metres to 180 square metres and to a standard that exceeds that required for ten-person occupancy.
- The revised proposals provide for a chambered aeration unit with discharge to a media filter and final discharge to ground via a 180 square metre gravel bed over imported sand silt soils. The maximum number of residents has been increased from six persons to ten persons, based on the provision of five double bedrooms.

Planning History on site:

- This Planning Authority should have made reference to, and had regard to the Board direction under 312324-21 which set out that the development was considered to be sensitively designed. This is notwithstanding the omission of the two-storey guest block element, which would reduce the overall occupancy on site within the current proposals.
- The conclusion by the Planning Officer that the development would be visually obtrusive in this rural area and out of character with existing dwellings in the surrounding landscape contrasts with the Boards determination in relation to the previous proposal (for a larger extension) whereby the Board set out was

sensitively designed and in consideration of the site location and characteristics.

6.2 **Planning Authority Response**

The Planning Authority did not respond to the grounds appeal.

6.3 **Observations**

None received.

7.0 **Assessment**

7.1 I consider that the principal planning issues that arise in this instance relate to the reason for refusal as set out by the Planning Authority in relation to the current proposals, and the reason for refusal as set out by the Board under Board reference 312134-21. Appropriate Assessment will also be considered. It is not considered that there are any other issues at stake. The pertinent issues are considered to relate to the following:

- Principle of Development.
- Design and Layout
- Wastewater Treatment
- Appropriate Assessment

7.2 **Principle of Development**

7.2.1 Having regard to the previous permission granted on the site the principle of the development of a residential extension to the property has been established. The

question arising therefore, is, whether the further extension of the dwelling and modifications to the permitted extension are acceptable.

7.2.2 The proposed development involves the provision of a lower ground floor spa and basement level accommodation under the previously permitted two storey extension and an additional two storey block to the north which incorporates a concealed underground lower level. I note that in terms floor area the current proposals would provide an additional 473 sq. where the existing dwelling is c. 209 sq. m. and the previously permitted extension was c. 309 sq. m. The additional 164 sqm. would be located at lower ground floor level and, therefore, would not be visible from the public domain nor increase the height of the proposals.

7.2.3 The requirements of the Mayo County Development Plan 2022-2028 relating to extensions to existing dwellings are set out in Volume 2, Development Plan Standards and include the requirement that "In general extensions shall be subordinate to the existing dwelling in its size, unless an exceptional cases, a larger extension compliments the existing development in its design and massing. The proposed extension, by reasons of its reduced scale, mass and height (from that previously proposed under 312134-21) would be considered to be subordinate to the existing dwelling in its size and is considered to complement the existing development in its design and massing. The proposal would in my view be consistent with the Section 2.7 development management standards in terms of scale, massing and integration.

7.2.4 I have noted the concerns set out by the Planning Authority within their planning report in relation to overdevelopment within the site and the issue of visual intrusion. And would be out of character with existing dwellings within the surrounding landscape. However, it is considered that the planning assessment is very similar to that conducted under the assessment of the previous proposals submitted by the applicant under planning reference 21/999. Each proposal should be considered on their individual merits. This current proposal is significantly smaller in scale with the floor area being reduced by 192 square metres. I would concur with the Planning Authority that the previous proposals represented an overdevelopment of the site especially in the light of the absence of the wastewater treatment upgrade. However,

the current proposals could not be described as being visually prominent given they would be located at lower ground floor level and beneath the two storey extension permitted by the Planning Authority under under planning reference 20/555. I also note that the Board order under reference 312134-21 stated: The Board considered the proposed development to be sensitively designed in consideration of the site location and characteristics. These comments related to the previously proposed larger scale rear extension proposals. The applicants have submitted a number of montages of the proposal, and I am satisfied that they demonstrate that the proposals will integrate appropriately with the existing dwelling on site and within the local landscape. Therefore, on balance, I am satisfied that the current proposals in terms of their scale, design and layout are sensitively designed and would accord with the provisions of Section 2.7 of the Development Management standards in relation to rural extensions.

7.2.6 I consider that the character and form of the existing house would be respected in the design of the domestic extension and would provide for a practical and functional use of a lower ground floor area which would otherwise go to waste and represent a lost opportunity. I am satisfied that the proposed development would not represent an overdevelopment of this rural site and by virtue of the low level of the revisions and alterations to the permitted rear extension would not be visually obtrusive and detrimental to the scenic and rural amenities of the area. I have noted that the Regional Road to the north includes designated scenic route and scenic views. R335 from west of Kilsallagh to Westport (looking towards both Croagh Patrick and Clew Bay). The coastline is also designated as a vulnerable area. The proposed development by reason of its scale, sensitive design and low-level height, whereby the ridge height of the existing dwelling on site would not be breached, when viewed from areas to the northwest would not result in a visually obtrusive development. it would not result in obstruction and degradation of views towards Croagh Patrick and, therefore, would not be contrary to landscape policies of the Development Plan including NEP-14 to protect, enhance and contribute to the physical visual and

scenic character of County Mayo and to preserve its unique landscape character and would be contrary to the proper planning and sustainable development of the area.

7.2.7 In conclusion, I consider that the revised design of the extension as set out within the current proposals, which have been reduced considerably in scale, mass height and bulk provides for a more appropriate design solution than was previously considered by the previous Planning Inspector under 312134-21. The rear extension which has been reduced by in excess of 190 square metres provides for a more integrated design approach and is considered to adhere to the provisions of Section 2.7, Volume 2 of the Mayo Development Plan regarding Rural extensions appropriately assimilating with the existing dwelling on site and within the local landscape. On balance, I am satisfied that the proposals accord with the provisions of the Mayo County Development Plan and would therefore, accord with the proper planning and sustainable development of the area.

7.3 Effluent treatment

7.3.1 The reason for refusal as set out by the Board for the previous proposals on site under Board reference 312134-21 stated that the applicant had failed to demonstrate that the existing wastewater treatment system on site had adequate capacity to cater for the effluent generated by the existing and the proposed development on site.

7.3.2 I note in relation to wastewater treatment the previous proposals submitted under Board reference 312134 relied on the system permitted under planning reference 20/555. Within the site suitability assessment submitted with the previous application 20/555, the site assessor expressed concerns regarding ground and surface waters given the location of the site within an area of heavy gley soils with no permeability. It was outlined that in the trial hole excavated to 2 metres, the winter water table was identified at a depth of 0.3 metres. Topsoils were described as clay - not suitable for treatment and subsoils daub mottled to peat later. Percolation test holes all retained water or increased water from pre-soak indicating test failure. The report concluded that the site is not suitable for percolation. The application indicated an approach to improve the existing situation by way of provision of a chambered aeration unit with discharge to a media filter and final discharge to ground via a 180 sq. gravel bed

located over a 1 metre high soil filter constructed from imported sand silt soils. It is stated that the existing system on site would be decommissioned under the proposals.

7.3.3 The details of the existing wastewater treatment system on the site have not been provided. I note the previous inspector under Board reference 3312134 stated that she observed an area of surface water ponding in the vicinity of the existing wastewater treatment unit. I note from the details submitted that the extent of accommodation proposed to be provided within the dwelling and extension on the site would be the same as that permitted under planning reference 20/355, in terms of population equivalent, in the form of five bedrooms and 6 bathrooms/toilets. Therefore, there is no increase in potential occupancy proposed on the site in excess of that already permitted by the PA. The site assessor has submitted revised proposals and provided for a doubling of the size of the percolation area, comprising a total area of 180 square metres which is considered to be appropriate for the extended five bedroomed dwelling with a potential occupancy of up to ten persons.

7.3.4 The proposals would provide for the upgrade of effluent treatment on site from the existing situation which appears to be malfunctioning. A new system and upsized percolation area will allow for the effluent to be distributed over a larger percolation area. The new Tricel treatment aeration unit will pump the effluent to a new large percolation area comprising a media filter and final discharge to ground via a 180 sq. m pea gravel bed which will overlie a 1 metre high soil filter constructed from imported sand silt soils. In conclusion, I consider that the applicant has now demonstrated the adequacy of the on-site sewage treatment system and addressed the reason for refusal set out by the Board under 312134.

7.4 **Appropriate Assessment**

7.4.1 I have considered the development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The appeal site is located approximately 3,2 kilometres south-west of the Clew Bay Complex SAC (site code 001482). The Old Head Wood SAC (site code 00532) and the West Connacht Coast SAC (site code 002998) are located circa 4 kilometres west of the appeal site and

the Mweelrea/Sheeffry/Erriff Complex SAC (site code 001932), is located approximately 4 kilometres south of the appeal site. The development description was set out with Section 2 of the report above. No nature conservation concerns were raised in the planning appeal.

7.4.2 Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows [insert as relevant:

- The modest scale of the works proposed.
- The separation distance from the nearest European site and the lack of hydrological or ecological connectivity to any Natura 2000 site.
- Taking into account screening determination prepared by the Planning Authority.

7.4.3 I note that the Planning Inspector under board reference 312134-21 set out the following: On the basis of the small scale of the project no significant effects on the qualifying interests of the Clew Bay Complex SAC in view of the conservation objectives either alone or in combination with other plans or projects were identified.

7.4.4 I conclude, that on the basis of objective information, that the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects. Likely significant effects are excluded and, therefore, Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 (as amended) is not required.

8.0 Recommendation

8.1. I recommend that planning permission be granted subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the location of the site within a designated rural area and to the compliance with the policies and objectives of the Mayo County Development Plan 2022-2028, specifically Section 2.7, Vol 2 in relation to extensions to rural dwellings, to the acceptable scale mass, height and design of the revised extension proposals,

and to the pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the development would not seriously injure the residential or visual amenities of the area or property in the vicinity. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

- 1 The development shall be constructed in accordance with the plans and particulars lodged with the application on the 21st day of June 2023, and those received by the Board on the 23rd day of August 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

- 2 The materials, colours and textures of all the external finishes to the proposed extension shall be consistent with those of the existing dwelling on site or otherwise shall be submitted to and agreed in writing with the planning authority before the commencement of development.

Reason: In the interest of the visual and residential amenities of the area.

- 3 (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.
(b) Water supply and drainage arrangements, including attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of proper planning and sustainable development.

- 4 The mature trees, hedgerows, walled boundaries and fencing along the appeal site boundaries shall be maintained in situ.

Reason: In the interest of visual amenity.

- 5 (a) The proposed effluent treatment and disposal system and percolation area shall be located, installed and maintained in accordance with the details submitted to the Planning Authority on the 8th day of February 2023 and to the Board on the 23rd day of August 2023 and in accordance with the requirements of the document entitled: Code of Practice - Wastewater Treatment and Disposal Systems Serving Rural Dwellings (p.e .≤ 10) – Environmental Protection Agency, 2021. Arrangements in relation to the ongoing maintenance of the system shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of development.

(b) Within three months of the completion of the works, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the raised percolation area is constructed in accordance with the standards set out in the EPA document.

c) The existing wastewater treatment system and percolation area shall be removed off-site, and the area shall be chemically sterilised.

Reason: In the interest of public health.

- 6 The use of the domestic garage shall be for purposes incidental to the use of the main dwelling. The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the domestic garage and extensions in the interest of residential amenity.

- 7 Precise details of the maintenance of the jacuzzi and sauna areas shall be submitted for the written agreement of the Planning Authority prior to the commencement of development. Precise details of water supply and disposal shall be submitted.

Reason: In the interest of public health.

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.

Fergal Ó Bric
Planning Inspectorate

20th day of August 2024