



An
Bord
Pleanála

Inspector's Report

ABP-319526-24

Details of Referral

Point of detail in dispute regarding condition number 2 of grant of planning permission 23/42

Location

Corraree and Ballygatta,
Taughmaconnell, Ballinasloe, Co.
Roscommon

Planning Authority

Roscommon County Council

Applicant(s)

Ronan Kildea

Type of Referral

First Party regarding condition number 2 (point of detail)

Date of Site Inspection

17/12/2024.

Inspector

Darragh Ryan

1.0 Introduction

- 1.1. ABP-319526 is a referral which was received by the Board from Dolan and Associates on behalf of the applicant. It concerns a point of detail in dispute between the referrer / developer and the planning authority regarding Condition number 2 attached to a grant of permission under Planning Authority reg ref 23/42.
- 1.2. Condition number 2 requires the applicant to submit a revised site layout showing the proposed dwelling to be situated on the 65.5m contour of the site. The applicant is seeking a clarification on a point of detail under Section 34(5) of the Planning and Development Act as no agreement was reached with the planning authority.

2.0 Site Location and Description

- 2.1. The application site is located on local cul de sac road in the townland of Taughmaconnell, Ballinalsoe, Co. Roscommon. The site is a greenfield agricultural site with low stone wall front boundary. There is a low wall and scrub boundary on the western boundary. There is a small agricultural passage outside the western boundary of the site that accesses farm building/ old dwelling to the west of the site.
- 2.2. To the south of the site there is a domestic dwelling with agricultural buildings to the rear. The lands in this area are agricultural with low density residential development. The site area is stated at .665ha

3.0 Background to Referral

- 3.1. **The planning authority issued a Decision to Grant permission for the construction of a dwelling on a greenfield site at the above address under planning reg ref 23/42 subject to 15 conditions. The condition relevant to this particular appeal is as follows:**

C2 – Within three months of the date of the final grant of permission or prior to the commencement of development, whichever is the sooner, a revised site layout plan shall be submitted for the written agreement of the planning authority showing the dwelling relocated to the 65.5m contour line on site. The finished floor level of the

dwelling and the contours of the site shall be indicated thereon. The development shall thereafter be undertaken in accordance with the agreed details.

Reason: In the interest of visual amenity, proper planning and development.

3.1.1. Planning reports

There are three planning reports on file, all of which address the issue relating to the condition under review. The original house design proposed a finished floor level (FFL) of 66.8m and a height of 8.9m. However, the council requested amendments to this proposal during the initial request for further information, as the proposed suburban-style dwelling, with a height of 9m, was deemed visually obtrusive in the landscape.

Following the submission of further information, a revised design with a reduced ridge level was submitted and welcomed. Nonetheless, it was recommended that the dwelling be relocated to a lower contour on the site to better integrate with the landscape.

In response to the request for clarification of further information, the applicant revised the proposal to include a relocation of the dwelling 20m forward, resulting in a finished floor level of 65.9m. Subsequently, the planning authority issued a decision to grant permission, subject to condition 2, which stipulated that the house be located on the 65m contour.

4.0 **The Referral**

4.1. **The referrer is seeking a determination as to whether the location specified by the referrer in this instance complies with condition 2 of grant of permission 23/42.**

- The planning condition as specified by the Planning Authority requested that the dwelling be located on the 65.5m contour. There are two 65.5m contours on site. In compliance with the condition the applicant submitted a revised site layout with the house located on the 65.5m contour to the rear of the site or

southwest. The planning authority considers the 65.5m contour to the front to be more appropriate.

- The lands in question are not located in a sensitive area or near any scenic views or prospects. The Landscape Character Assessment designates the landscape of “moderate value” which is the lowest designation as set out in the development plan.
- There is no justification in the Development Plan policies or rural design guidelines not to permit the development at the applicants favoured location. The rural design guidelines under “Sitting and Integration” pg 21 encourages design that maximises solar gain. The location of the dwelling to the southwest of the site satisfies this preference.
- The applicant seeks that the garage also be moved adjacent to the location of the proposed dwelling.

4.2. Planning Authority Response

- None

5.0 Planning History

- None

6.0 Legislative Context

6.1. Planning and Development Act 2000, as amended.

Section 34(5) of the Planning and Development Act, 2000, as amended. The relevant section of the Act states:

The conditions under subsection (1) may provide that points of detail relating to a grant of permission may be agreed between the planning authority and the person carrying out the development; if the planning authority and that person cannot agree on the matter the matter may be referred to the Board for determination.

6.2. Roscommon County Development Plan 2022 to 2028

Chapter 10; Landscape Character 10.13 – NH10.25

Minimise visual impacts on areas categorised within the County Roscommon Landscape Character Assessment including “moderate value”, “high value”, “very high value” and with special emphasis on areas classified as “exceptional value” and where deemed necessary, require the use of Visual Impact Assessment where proposed development may have significant effect on such designated areas

Chapter 12; Development management 12.7 Rural House Design Considerations -

Rural dwellings are required to be designed to a high standard, to complement the character of the landscape, and to contribute in a positive manner to the built heritage of the county. Proposals for rural houses shall demonstrate adherence to the principles outlined in the County Roscommon Rural Housing Design Guidelines, and should follow the design process as outlined in the guidelines.

Roscommon County Development Plan Landscape Character Assessment

Site located in an area Designated as moderate value. LCA 35 Bridewell Esker Belt

7.0 Assessment

7.1. Scope of the Referral/Role of Board

- 7.1.1. This referral on a ‘point of detail’ is made under Section 34(5) of the Planning and Development Act, 2000, as amended. It is noted that Section 34(5) states: ‘The conditions under subsection (1) may provide that points of detail relating to any grant of permission may be agreed between the planning authority and the person to whom the permission is granted and that in default of agreement the matter is to be referred to the Board for determination’.
- 7.1.2. The point of detail request in this case relates to Condition number 2 of Planning Authority Reg ref 23/42. This permission was granted by Roscommon County Council on the 20th of October 2023.

7.2. Consideration of condition number 2

- 7.2.1. *“Within three months of the date of the final grant of permission or prior to the commencement of development, whichever is the sooner, a revised site layout plan shall be submitted for the written agreement of the planning authority showing the dwelling relocated to the 65.5m contour line on sit. The finished floor level of the dwelling and the contours of the site shall be indicated thereon. The development shall thereafter be undertaken in accordance with the agreed details.*

Reason: In the interest of visual amenity, proper planning and development.”

- 7.2.2. The planning authority's condition stipulates that the dwelling be located on the 65.5m contour within the site. Two such contours exist: one to the northeast, closer to the public road, and another to the southwest, set further back within the site. In response to this condition, the applicant submitted a revised site layout positioning the dwelling on the 65.5m contour to the southwest. However, the planning authority considers the northeastern contour to be a more appropriate location.
- 7.2.3. The referrer asserts that Condition No. 2 does not specify a preferred contour location and, as such, the applicant's submission aligns with the condition's requirements. It is evident that the condition lacks specificity in identifying a precise contour location within the site. Given this ambiguity, the applicant's decision to position the dwelling on the southwestern 65.5m contour constitutes a reasonable and justified interpretation of the condition. Accordingly, I conclude that the applicant has complied with the requirements of Condition No. 2 through their submission to the planning authority, which places the dwelling at the 65.5m contour to the rear of the site.

7.2.4. Assessment of Proposed Dwelling Location

The applicant's revised site layout places the dwelling approximately 95m from the public road on the southwestern contour. Alternatively, positioning the dwelling on the northeastern contour would reduce this setback to 40m.

The landscape is not subject to scenic protection, and there is no established building line along the public road. Consequently, the placement of the dwelling on either contour would have a comparable visual impact. There is no other structures in the vicinity of the site or elevated viewing points, from the perspective of visual impact I consider either location to have the same visual impact.

The surrounding area lacks a consistent building line, and there is no potential for backland development at this location. As such, the siting of the dwelling at either contour does not conflict with existing development patterns.

The applicant's revised layout for the southwestern contour indicates a slightly reduced percolation area. Nonetheless, the proposed design accommodates the requirement for seven trenches, each 18m in length with required separation distances, ensuring compliance with the EPA Code of Practice for Domestic Wastewater Treatment Systems. Adequate separation distances are achievable on site.

- 7.2.5. There are no specific policies within the Roscommon County Development Plan governing the setback of dwellings in this context. While the general principle of maintaining a building line is noted, the absence of an established building line along this cul-de-sac road negates its applicability in this instance. Accordingly, the proposed location of the dwelling on the southwestern contour is consistent with Condition 2 of the decision to grant permission. Furthermore it is noted there are no archaeological features or points of interest in regard to archaeological heritage that warrants further investigation or that would prohibit development at this location.
- 7.2.6. Having regard to the site context, landscape character, and compliance with wastewater treatment standards, I consider the applicant's proposed location of the dwelling on the southwestern 65.5m contour to be acceptable. The absence of a building line or scenic designations supports the view that the proposed siting aligns with both planning policy and the specific conditions of the planning authority's decision. Therefore, it is recommended that the proposed location be accepted as compliant with Condition 2 of the planning permission.

7.3. Other Matters.

The referrer also seeks clarification with regard to the location of the proposed garage. The location of the garage was not specified within condition 2 of the planning permission, however, I do consider it appropriate that the location of the garage also changes to reflect revised location of the dwelling. Having regard to the compliance submission of the referrer to the planning authority and as per the site layout drawing submitted to the Board, I consider the revised location of the garage

structure forward of the dwelling building line on the 67m contour to be acceptable in principle.

8.0 Draft Board Order

I recommend that the Board should decide this referral in accordance with the following draft order:

WHEREAS by Order dated the 20th day of October 2023, Roscommon County Council, under planning register reference number 23/42, granted subject to conditions a permission to Ronan Kildea care of Dolan & Associates Ltd., Teach Mhuire, Church Street, Creagh, Ballinasloe, Co. Galway Permission to erect a dwelling house, a domestic garage, to install a septic tank with a percolation area and to construct all ancillary site works to facilitate same at Corraree and Ballygatta, Taughmaconnell, Ballinasloe, Co. Roscommon.

AND WHEREAS condition number 2 attached to this permission requires the applicant to submit a revised site layout showing the proposed dwelling to be situated on the 65.5m contour of the site.

AND WHEREAS the developer and the planning authority failed to agree on the location of the dwelling on site and the matter was referred by the developer to An Bord Pleanála on the 15th day of April 2024 for determination:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 34(5) of the Planning and Development Act, 2000, as amended, and based on the Reasons and Considerations set out below, hereby determines that the location of the proposed dwelling on the southwestern 65.5m contour as submitted by the referrer to the planning authority as part of compliance submission on the 6th of February 2024 to be in compliance with condition 2 of Planning reference 23/42 . Consequently, the location of the dwelling and garage as submitted to the planning authority on the 6th of February 2024 and An Bord Pleanala on the 15th day of April 2024 complies with

Condition 2 of Planning Reference 23/42 by Order dated 20/10/2023 by Roscommon County Council.

9.0 REASONS AND CONSIDERATIONS

Having regard to:

- (a) sections 34(5) of the Planning and Development Act, 2000, as amended,
- (b) the Rural House Design Considerations as set out in Chapter 12 Development Management Standards of the Roscommon County Development Plan 2023 to 2029,
- (c) the lack of precision and clarity in the wording of the condition as issued by Roscommon County Council with respect to the location of the dwelling.
- (d) the submissions on file, the Board considers that the applicant has demonstrated adequate compliance with condition 2 of grant of permission and the location of the proposed dwelling complies with the condition as issued by Roscommon County Council

10.0 MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

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 September 2025

