



An
Bord
Pleanála

Inspector's Report

ABP-320237-24

Development	Construction of a part two storey/part one storey detached domestic dwelling house and all associated site works.
Location	Colmcille Drive, Rosses Point, Co. Sligo.
Planning Authority	Sligo County Council
Planning Authority Reg. Ref.	24/60149
Applicant(s)	Simon O'Dowd and Mijiti Tuolunayi
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Fintan and Margaret Ryan
Observer(s)	None
Date of Site Inspection	1 st October 2024
Inspector	Kathy Tuck

1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of 0.122ha, is located at Colmcille Drive, Rosses Point, Co. Sligo. Rosses Point is a seaside village which is located c.8.5km to the north-west of Sligo Town.
- 1.2. The site which is rectangular in form is a backland site which is access from Colmcille drive and shares its western boundary with dwellings located along Old Laneway, which is a narrow road that runs parallel to Colmcille Drive.
- 1.3. I note that works are ongoing on the site to the north which is not subject to this application (works permitted under Planning Authority ref: 23/60193). The site rises in a northerly direction by approximately 400mm from the southern boundary.
- 1.4. The dwellings located to the south and west sit lower than the subject site. From undertaken a site inspection it is noted that the boundary shared with the adjoining residential estate to the east (Ceol Na Mara) is open and is currently only treated with a mesh fence typical of a building site.

2.0 Proposed Development

- 2.1. The applicant is seeking permission for the provision of a part single part two storey 4-bedroom dwelling which has a stated area of 233sq.m and all associated site works. The proposed dwelling is provided with a northern orientation allowing for the southern (rear) elevation to maximise the southern light and views over Rosses Point. Vehicular access to the site is provided from Colmcille Drive.
- 2.2. The dwelling has been set c.6m from the northern boundary of the site which is shared with an undeveloped parcel of land; set c.3m from the eastern boundary which is shared with a cul-de-sac of Ceol Na Mara Residential Estate; set c.14m to the southern boundary of the site which is shared with private amenity space serving a dormer dwelling addressing Old Laneway; and set c.6m from eastern boundary which is shared with a bungalow dwelling addressing Old Laneway.
- 2.3. The proposed dwelling is rectangular in form having a maximum length of c.18.86m along the east west axis and a depth of c.8.49m along the north-south axis. The dwelling is finished with a pitched roof profile which has a maximum ridge level of c.7.91m. Material finishes are indicated as being white render with the use of

hardwood timber to clad the pitched roof window feature on the southern and northern elevation.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted permission subject to 7 no. conditions which are typical of a permission for an infill dwelling. The most notable conditions are as follows:

- Condition 2 - The finished floor level of the proposed dwelling house shall not exceed 12.19m OD in accordance with the site layout plan submitted to the Planning Authority on 3rd May 2024.
- Condition 7 – S. 48 Development Contributions of €5,825.00.

3.2. Planning Authority Report

The Planners Report dated the 24th June 2024, notes the site description, description of the proposed development, planning history, policy context and reports and submissions received.

The assessment considered that the proposed development was acceptable in terms of the land use zoning pertaining to the subject site. The assessment considers the impact the proposed development would have upon the residential amenities of the surrounding area in terms of overbearance/overshadowing and overlooking. It further considers the overall design idiom.

The report concluded that the proposed development would not be injurious to the amenities of property in the vicinity, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience, does not have an adverse impact on the Natura 2000 network and would be in accordance with the proper planning and sustainable development of the area and a recommendation in line with the decision issued was made.

3.3. Other Technical Reports

None received.

3.4. Prescribed Bodies

A report was received from Uisce Eireann which noted no objection subject to condition.

3.5. Third Party Observations

The Planning Authority received 3 no. submissions. Concerns raised can be summarised as follows:

- adversely affect the residential amenity due to bulk, scale and height.
- Two-storey dwelling is not in keeping with other neighbouring residences – most of which are dormer and bungalow dwellings.
- Inappropriate for backland development.
- Loss of privacy.
- Overbearing/Overshadowing/Overlooking.
- Applicant felled existing mature trees in March which is not in keeping with Wildlife Act 1976.
- Tree removal has meant loss of privacy to private amenity space.
- Artistic impressions and bird eye view images are misleading.
- Additional information is required -cross section through the proposed site and adjacent property/Accurate ridge levels of all adjacent dwellings/accurate existing ground levels for each adjoining properties/minimum distances to properties/details of all boundary treatments.
- Single-site notice to Colmcille Drive is inadequate and does not suffice notice to occupiers of dwellings to the old village road.

4.0 Planning History

Subject site

PA Ref 09/271 Permission GRANTED for the construction of a detached bungalow dwelling house with all associated site development works and services.

Lands immediately to the north.

PA Ref 23/60193 Permission GRANTED for the construction of a part single storey, part storey and a half, part two storey detached domestic dwelling and all associated site works.

PA Ref 23/60048 Permission REFUSED for the construction of a two storey detached domestic dwelling and all associated site works.
Reason for refusal was as follows:

“Provisions of the Sligo County Development Plan 2017-2023 (as varied and extended to 2024) seek to protect amenities for adjoining residents. It is considered that the proposed development given its scale, height and massing and proximity to adjoining boundaries would result in excessively overbearing appearance and which would therefore have a significant detrimental impact on amenities of adjoining residents. The proposed development would therefore conflict with the provisions of the Development Plan and accordingly would be contrary to the proper planning and sustainable development of the area.”

PA Ref 13/204 Permission GRANTED for the construction of a detached dormer dwelling house with all associated site development works and services.

5.0 Policy Context

The Planning Authority Consider the application under the Sligo County Development 2018-2024 (as extended). I note that the new County Plan was adopted on the 11th of November 2024.

5.1. Sligo Development Plan 2024-2030

The subject site is zoned under objective eRES- Existing Residential Area which seeks to Promote the development of greenfield/infill/backland for high-quality residential uses such as apartments, houses, sheltered housing and live-work units, retirement homes etc., in tandem with the provision of the required physical infrastructure. Residential development is permitted under the zoning matrix associate with the eRES objective.

Other relevant Sections

Chapter 5 – Settlement Strategy

Chapter 10 - Urban development principles

Chapter 22 – Rosses Point Village Plan

Chapter 26 – Residential Development

Chapter 33 – Development Management Standards

- Section 33.2.2 Impact of development on its surroundings.

The following factors will be considered in assessing the impact of a proposed development in both urban and rural areas:

- a) The degree of overshadowing and loss of light to surrounding properties and amenity spaces (e.g. areas of open space, gardens and patios). A daylight, sunlight and overshadowing assessment may be required. If a technical assessment of daylight performance is considered necessary, regard should be had to the provisions outlined in guides like A New European Standard for Daylighting in Buildings (IS EN17037:2018), UK National Annex BS EN17037:2019 and the associated BRE Guide 209

2022 Edition (June 2022), or any relevant future standards specific to the Irish context. [PA-165]

- b) degree of overlooking and consequent loss of privacy for adjoining properties;
 - c) the extent to which the development impacts on structures, streets or spaces of architectural, archaeological or historic importance;
 - d) the extent to which the development impacts on important landmarks, on a skyline or on attractive public views from significant vantage points;
 - e) the quality of the overall design;
 - f) the effect of the development on the microclimate in the immediate vicinity. The list of criteria given above is not exhaustive.
- Section 33.3 Residential development in urban areas.
 - Section 33.3.5 Distance between dwellings.

In general, there should be a separation of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces. Lower separation distances may also be considered in order to bring new uses to protected structures and other non-designated historic assets and to maximise the potential of inner core brownfield sites

5.2. Natural Heritage Designations

The subject site is not located within any or adjacent to any Natura 2000 sites. The subject site is located c.32m to the north of the Cummeen Strand/Drumcliff Bay (Sligo Bay) SAC (site code 000627) and c.68m to the north of the Cummeen Strand SPA (site code 004035) and is located 2km to the south of the Drumcliff Bay SPA (site code 004013).

5.3. EIA Screening

The scale of the proposed development does not exceed the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part 2(10), and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Appendix 1 and Appendix 2 of my report refers.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was received from the occupiers of the dwelling which adjoins the site to the south-west (Sur Mer). The grounds of the appeal are considered to be as follows:

1. Incorrect levels

- The levels used on plans submitted are incorrect and the Planning Authority failed to request that the applicant clarify this.
- Investigation is required to determine if the ridge level of the proposed dwelling corresponds/matches the level of that of the neighbouring dwelling to the east and west (indicated as 2 and 5 on the site plan submitted).
- There are a large number of discrepancies on plans submitted – concerns over the accuracy of the scale and misrepresentations.
- A number of clarifications are required and include:
 - Detailed cross section – through subject site and adjacent properties with accurate ridge/ground/finished floor levels versus respective levels of proposed dwelling including top soil finished levels;
 - Accurate ridge levels for all adjacent properties as opposed to top levels of roof barrages;
 - Minimum distances between properties identified as opposed to average or maximum.

- Question the accuracy of overlooking/overshadowing and daylight studies.
- Note ridge/floor/patio/garden levels are clearly misrepresented on plans submitted.
- The height indicated for dwelling location to the west along Colmcille Drive (Dwelling no. 2) does not accord with what was indicated on plans submitted as part of the relevant planning application documentation for an extension to that property.
- Applicant indicates that the ridge level will align with appellants barge level – the overall height of dwelling to the east (dwelling no.5), indicate on the site layout plan, scales at 6 to 6.5m. Appears that the FFL of proposal will need to be lowered if its to achieve the same ridge/barge height of dwelling to the east (no. 5).
- Question the value of the many photo montages – do not provide for a true or accurate portrayal of the proposal.

2. Design and Height

- Height/Scale/Design inappropriate for backland site.
- General guidance for backland developments provided by other planning authorities clearly states – *‘generally be single storey in height to avoid overlooking and of an appropriate scale relative to existing dwellings and of a high-quality design.’*
- The excessive height, proximity and the positioning of large windows will result in significant overlooking and loss of privacy to neighbouring property.
- Majority of existing dwellings surrounding the subject site are bungalow or dormer dwellings, semi-detached and one-half storey dwelling.
- Proposal is excessively overbearing – will have a dominating effect and will detrimentally overshadow properties to the east especially from October to March.
- The previous proposal for a dormer bungalow was more appropriate.
- Proposal does not maintain ridge levels permitted under 23/60193 on site to the north.

- Proposal is out of character with and scale with surrounding area.
- Letters of support accompanying application are from members of family.

3. Landscaping

- The applicant felled existing mature trees on the 13th of March 2024 – not in keeping with the requirements of the Wildlife Act 1976. Removal of trees resulted in loss of privacy of rear garden and patio area – now completely overlooked by dwellings to the north.
- Gives a better understanding of how the proposed development will detrimentally impact the residential and visual impact of property.
- Incorrect levels provided make it hard to evaluate the overlooking impact.
- 4m high vegetation screen will merely mitigate overlooking from ground floor levels – unconvinced it will mitigate first floor overlooking. It will take years to develop and grow and will not provide sufficient leaf cover all year round.
- No landscape plan was sought by Planning Authority – the degree of landscaping differs between drawings. Planning Authority ignored this concern.
- Planting will not mitigate overlooking from first floor so first floor window should be omitted and replaced with a roof light 1.65m above first floor finished floor levels.

4. Impact on Residential Amenities - Overlooking

- First floor window will detrimentally affect privacy and residential amenity of private amenity space.
- The first-floor southern windows to bedroom 1 and bedroom 2 and the stairs and landing are very large – the open on northern elevation are a fraction of the size. Design is appealing relative to all other boundaries.
- The first-floor level of 15.29m which is 4.5m – 5.5m above the appellants patio and garden level - considered to be very intrusive.
- Overlooking study only shows straight lines of vision however first floor window opens will provide 180-degree points of vision.

- Overlooking will also occur to rear windows and into first floor roof lights of existing dwelling to the south-west (appeals property).
- Agent for this application also prepared plans for adjoining site where the finished floor level was reduced.
- Permission granted for appellants house omitted a window on the northern elevation as it was set 14m from neighbouring dwelling which provided a level of privacy for the adjoining property – the same level of respect should be provided in this instance.

5. Boundary Treatment

- Proposal seeks to upgrade existing boarded timber fence – 15 years old and unsuitable for upgrade to the proposed levels required.
- Since site clearance works the fence has to have been supported on appellants side to uphold higher grounds on the subject site.
- Clarity is required on what this boundary treatment will be.
- While condition 3 requires details to be submitted for agreement it does not provide any clarity
- Contradictory notes on application – one plan indicates an increase to 1.8m above FFL of all adjacent houses and the second states upgrade to 1.8m above highest House FFL.
- Finished floor level of appellants house lower than the applicant ground floor level – garden level could be at least 1.6m below the FFL of proposed house as such overall height of boundary wall would be at least 3.6m or more.
- Want to ensure run-off from subject site does not give rise to waterlogging of lawn and as such details of retaining wall are required.

6. Future potential exempted development

- Future extensions to the dwelling would be situated closer to shared boundary.
- Give rise to further issues of overlooking.

6.2. Applicant Response

A response was received from the applicant on the 12th August 2024. The response can be summarised as follows:

1. Survey

- CAD survey concluded by MPG Survey enclosed with appeal response.

2. Response to Incorrect Levels

- There is no claim within the application that the ridge level of the proposal would match that of the dwelling located to the west (dwelling no. 2) or the east (dwelling no. 5).
- Ridge along western side of proposed reduced to single storey to protect dwelling 2.
- Plan demonstrate that the ridge would match neighbour 4 located to the north-east.
- Section drawing – PL2-300 show how ground and first floor ceilings would work with the proposed ridge level.

3. Concerns about misrepresentations

- Great lengths taken to model the detail as much as possible.
- Substantial level of detail provided – no requirement for further details.
- No comments on details on different permissions submitted – drawings submitted are all based on a Topographical Survey rather than previously submitted planning drawings.

4. Height/Bulk/Scale

- Proposal is same typology as that permitted to the north under PA Ref 23/60193.
- Proposal is almost 1m lower than the closest dwelling – 11 Ceol Na Mara (to the east).
- Height/Bulking/Scale sensitive to this context.
- Shadow analysis shows proposal does not unduly impact neighbours.

5. Landscaping

- Site was enclosed with some vegetation being removed around March time – no mature trees were felled.

6. Overlooking

- The appellant's dwelling is the furthest from the proposed dwelling- 14m from southern boundary. First floor windows do not overlook appellants property – demonstrated on overlooking Study.
- The closest 1st floor window is directed at the boundary fence at a distance of 14m.
- Proposal is designed as a passive house – according large opens are located on southern elevation to minimise energy loss.

7. Boundary Treatment

- Propose to construct a blockwork wall of 2m above the proposed house FFL along the southern, eastern and western boundaries. This could be achieved through a condition of planning.
- The proposed vegetation screen will be planted at earliest stage possible.

Finished floor level differs on planning drawings due to the use of different finishes in different rooms – i.e. tiles and wood flooring.

6.3. Planning Authority Response

A response was received from the Planning Authority on the 1st August 2024. The response refers the Board to the Planners report and all other reports on file. It is considered that the appellant has not submitted any additional information as part of the appeal that would alter the decision of the Planning Authority. It concludes that the proposal would be suitable at this location and is consistent with the Sligo County Development Plan 2017-2023 (as extended).

6.4. Further Responses

6.4.1. 3rd Party Appellant Response

A response was received from the 3rd party appellant on the 23rd September 2024. The response can be summarised as follows:

- Topographical survey submitted to the Board at A3 is Illegible.
- Appear to be an old survey that has been marked up with additional levels.
- It is difficult to read/decipher especially newer levels which are smaller in font.
- Topographical survey differs from applicant site layout plan and other drawings submitted to the Planning Authority. Some discrepancies include:
 - Size/outline/orientation of existing buildings vary;
 - Cover level of manholes in Ceol Na Mara differ;
 - Property to the west of site (dwelling 2) FFL not provided.
 - Measurement discrepancies between planning drawings and topographical survey – when drawings are scaled the measurements vary by a meter.
- Remain unconvinced given the inaccuracies discovered that the planning drawings are correct.
- Concerned about the inclusion of condition no. 2 which stipulates a finished floor level.
- A cross section is required to evaluate the impact proposal will have.
- No FFL of dwelling located to the west so very hard to verify height of that dwelling.
- Section drawing – relying on very limited information when reviewed. Sections indicate that the 1st floor will be under the eaves level of dwelling to the west (dwelling 2) and ceiling height will be below the ridge level of same (dwelling 2).
- Difficult to comprehend how a two-storey dwelling with 2 number 2.7m floor to ceiling heights can be achieved within the height of a bungalow unless the GFL substantially lower than the FFL of the bungalow. Again, query accuracy.

- Applicant states the ridge level will match ridge of existing dwelling location to the east (dwelling no. 4) – Topographic survey indicated house 4 having a ridge level of 19.65 the barge level is 19.99.
- Enclosed comments from the Area Planner with regard to pre-planning on subject site – a 7.91m overall height not in keeping with comments received.
- Concerns relating to Overlooking remain – eastern boundary line of appellants rear amenity space incorrectly referenced and omitted on site layout plan.
- Passive surveillance design should not trump impact on residential amenity.
- Cannot comment on vegetation wall without details of levels.

6.4.2. Planning Authority Response

A further response was received from the Planning Authority on the 13th September 2024. The response makes reference to the suggestion of the applicant to amend the shared boundary to provide for a 2m high rendered brick wall and considers this to be acceptable. The response concludes by stating that they maintain their assessment that the proposal would be acceptable at this location.

7.0 Assessment

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:

- Accuracy of Documentation Submitted
- Design
- Residential Amenity
- Other matters

7.1. Accuracy of Documentation Submitted

- 7.1.1. The appellant raises a number of concerns over inaccuracies on the planning drawings submitted with specific reference to the levels. It was considered by the appellant that there are discrepancies between the topographical survey submitted to the Board as

part of the response received from the 1st Party (the applicant) and the Planning Drawings submitted as part of the application.

- 7.1.2. It is contended by the 3rd party appellant that on foot of the discrepancies and a lack of cross section drawing requested, it was unclear to them what the exact height of the proposed dwelling would be. It was further contended that the Planning Authority had the same issue on foot of the inclusion of Condition no. 2 which stated that that the finished floor level of the dwelling shall not exceed 12.19m OD.
- 7.1.3. Concerns are also raised by the appellant with regard to the scale of the drawings submitted. The 3rd party states that from scaling the drawing submitted there are a number of discrepancies where the stated distance is more than 1m incorrect.
- 7.1.4. The applicant in their response has submitted a copy of the topographic survey which was undertaken by MPG Survey and it was stated that great lengths taken to model the detail as much as possible. It is states that a substantial level of detail provided and that there is no requirement for any further details. The applicant further states that they have no comment on the reference to the levels being different to planning drawings submitted for surrounding applications. It is stated that drawings submitted are all based on a Topographical Survey rather than previously submitted planning drawings.
- 7.1.5. I have undertaken a comparison of the site layout plan (drawing no. PL2.006) submitted as part of the application documentation and the Topographical Survey submitted to the Board by the applicant and note that the spot levels indicated on the southern boundary and northern boundary of the site correspond correctly. In addition, other spot levels, most notably along Colmcille Drive also correspond correctly. While I note that the location of the shed structure associated with the dwelling located to the south of the subject site (addressing Village Road) on the site plan differs somewhat from that on the topographic survey, the surrounding dwellings remain unchanged. I therefore consider that the correct levels have been indicated on the site plan and all drawings which align with the topographical survey which was undertaken. I consider that it is clear from plans submitted that the ridge level of the highest point the of the proposed dwelling is indicated as being 19.990m reducing to 19.970m, which, when calculated against the ground level will provide for a maximum height of 7.8m. I do not consider that any additional cross sections or drawings are required and that the

Planning Authority had sufficient detail and plans to undertake a full assessment of the proposed dwelling. Furthermore, I do not consider that the scale of the plans submitted are incorrect.

7.2. Design

- 7.2.1. The appellants raised significant concern over the proposed scale and design of the development which they consider to be at odds with surrounding character of the area. It is contented that the prevailing character of the surrounding area comprises of dormer and bungalow dwellings and that the proposal is excessively overbearing and dominating and will detrimentally overshadow properties to the east especially from October to March. It is submitted that the previous proposal for a dormer bungalow was more appropriate for the subject site.
- 7.2.2. The applicant (1st Party) in their response state the proposed dwelling is the same typology as that permitted on the site to the north under PA Ref 23/60193. It is further stated that the proposal is almost 1m lower than the dwelling located to the east (11 Ceol Na Mara). The applicant contents that the proposal is sensitive to its context and that the shadow analysis submitted shows that the proposal does not unduly impact neighbours.
- 7.2.3. There is a mix of dwelling types located within the vicinity of the subject site which include bungalow and dormer bungalows to the west along Colmcille Drive, dormer bungalows to the east within Ceol Na Mara and two storey dwellings to the south which address Old Village Road.
- 7.2.4. The proposed dwelling has been orientated on the east-west axis of the site following on from the precedent established on the site to the north under PA Ref 23/60193. The dwelling is part single storey part two storey in height with the single storey element being proximate to the western boundary and the closest existing dwelling.
- 7.2.5. The proposed dwelling is of a modern design idiom which maximises the orientation of the site. The proposal has provided for a comprehensive development of the site when considered with the permitted development to the immediate north given the similarity in design idiom and material finishes. I do not consider that the proposed dwelling would be out of character with the surrounding area given the mix of dwelling types within the immediate vicinity of the site and would accord with 'Section 33.2.2 - Impact of development on its surroundings' of the Sligo County Development Plan

2024-2030. Therefore the proposal is in keeping with the proper planning and sustainable development of the area.

7.3. Residential Amenity

- 7.3.1. The appellant state that the proposed development would give rise to a significant negative impact upon the current level of residential amenities currently enjoyed by virtue of overlooking, overbearance and overshadowing.
- 7.3.2. With regard to overlooking, concern specifically related to the location of the large window opes located along the rear southern elevation of the dwelling relative to the private open space serving the appellants dwelling. It is contended that the first-floor level of the proposed dwelling is indicated as being 15.29m OD which is 4.5m – 5.5m above the patio and garden level of the appellants property and as such it is considered that the proposed dwelling would be very intrusive in terms of overlooking.
- 7.3.3. The appellant contends that the overlooking study only shows straight lines of vision. However, the first-floor window opes will provide for a 180-degree point of vision. In addition, concerns are raised that overlooking will also occur to rear windows and into dwelling and first floor roof lights. The appellant makes reference to the permission granted for their dwelling in which a window was omitted by way of condition on the northern elevation as it was set 14m from neighbouring dwelling in order to provide for a level of privacy for the adjoining property and considers that the same level of respect should be provided in this instance.
- 7.3.4. The applicant in their response has stated that the appellant's dwelling is the furthest from the proposed dwelling. The proposed first floor windows do not overlook the appellants property and this has been demonstrated on the overlooking Study submitted. The closest 1st floor window is directed at the boundary fence at a distance of 14m.
- 7.3.5. Section 33.3.5 of the Sligo County Development Plan 2024-2030 states that in general, there should be a separation of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level. This is also articulated within SPPR 1 of the Sustainable and Compact Settlement Guidelines for Planning Authorities 92024). The reference made by the appellant to the omission of a window was made within a prior Development Plan period where different standards applied.

- 7.3.6. The rear elevation of the proposed dwelling has been set c.14m from the southern boundary of the site which is shared with the boundary wall of the private amenity space serving the appellants dwelling. I note that the nearest window at first floor level has been set c.24.57m from the nearest roof light on the appellants dwelling. Having regard to the separation distances provided, which are in excess of that set out within the County Development Plan 2024-2030 and the Section 28 Compact Settlement Guidelines, I do not anticipate that the proposed dwelling will give rise to undue levels of overlooking, to such an extent to warrant a refusal of permission on these grounds.
- 7.3.7. The appellant has raised concerns over the overshadowing of dwellings within the vicinity with particular reference to the period of the year from March to October. The applicant has submitted as part of the application documentation a shadow analysis which examines the proposed development at March 21st from 10am to 4pm. The assessment indicates that the proposed development will impact lands to the north which will serve as the parking area to serve the proposed dwelling. Overall, having regard to the orientation of the subject site relative to the path of the sun, I do not anticipate any undue issues of overshadowing will occur.
- 7.3.8. The appellant further contends that the proposal would be excessively overbearing. The dwelling has been designed in a manner where the single storey aspect has been located along the western elevation where it addresses the closest existing dwelling with the main body of the dwelling being located centrally on the site and set 14m from the southern boundary. In addition, the layout of the dwelling on the site has meant that the eastern elevation addresses the cul de sac road of Ceol Na Mara.
- 7.3.9. Having regard to the siting and layout of the dwelling together with the separation distances provided with particular reference to the southern boundary of the site I do not anticipate that the proposal will give rise to any undue issues of overbearance.
- 7.3.10. On balance, I do not consider that the proposed development would be out of character with the surrounding area, would impact negatively upon the current level of residential amenities enjoyed by the current residents and will not give rise to any undue issues of overlooking, overshadowing or overbearance and therefore the grounds of appeal on these issues should be dismissed accordingly. .

7.4. Boundary Treatment

- 7.4.1. The appellant also raises issue with the lack of clarity with regard to the proposed boundary treatment. The use of a condition to provide clarity was not considered acceptable. It is further contended that notes on application drawings are contradictory – one plan indicates an increase to 1.8m above FFL of all adjacent houses and the second states upgrade to 1.8m above highest House FFL.
- 7.4.2. Having regard to the finished floor level of appellants house being significantly lower than the ground floor level of the proposed dwelling the appellant considers that the garden level could be at least 1.6m below the FFL of proposed house as such overall height of boundary wall would be at least 3.6m or more.
- 7.4.3. The applicant, within their response documentation states that with regard to the boundary treatment they are willing to construct a blockwork wall which would be 2m above the proposed finished ground floor level of dwelling and located along the eastern, western and southern boundary. The Planning Authority in their response has found this proposal acceptable. I consider that the proposal put forward by the applicant within their response documentation for the inclusion of a block wall which would be 2m in height to be acceptable and provides clarity on the issue. I therefore recommend that in the event condition should be included that reflects this.

7.5. Other Issues

- 7.5.1. The 3rd party appellant makes reference to guidance for infill backland development, which is presented in other Development Plans, this is not specifically included in the current Sligo County Development Plan and as such is not relevant in this instance.
- 7.5.2. Condition no. 2 of the Grant of Permission stated that the height of the finished floor level of the proposed dwelling house shall not exceed 12.19m OD in accordance with the site layout plan submitted to the Planning Authority on 3rd May 2024. The reason was stated as being in the interest of proper and sustainable development for the area. The Planning Officer makes no reference to the inclusion of the condition or rationale for such. I do not consider its inclusion warranted given the requirements of condition no. 1 of any grant of permission.

8.0 AA Screening

- 8.1. I have considered the proposed development in light of the requirements of S.177U the Planning and Development Act 2000 as amended. The subject site is not located within or adjacent to any European Site. The subject site is located c.32m to the north of the Cummeen Strand/Drumcliff Bay (Sligo Bay) SAC (site code 000627) and c.68m to the north of the Cummeen Strand SPA (site code 004035). In addition, the site is located 2km to the south of the Drumcliff Bay SPA (site code 004013).
- 8.2. The proposed development is seeking permission for an infill dwelling which is part single storey part two storey, a vehicular access and all associated site works. Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:
- The proposed works are limited in scale.
 - Due to the distance of the site and intervening land uses from any SAC and SPA, no impacts/ effects are predicted in this regard.
 - There are no identifiable hydrological/ecological connector pathways between the application and the SAC or SPA.
- 8.3. 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) is not required.

9.0 Recommendation

Having regard to the above it is recommended that permission is granted based on the following reasons and considerations and subject to the attached conditions.

10.0 Reasons and Considerations

The proposed development which is seeking permission for the provision of a infill dwelling complies with the provision of the Sligo County Development Plan 2024-2030.

It is considered that subject to compliance with the conditions set out below, the development would not be out of character with the surrounding area, would not give rise to undue negative impacts upon the residential amenity of the surrounding area.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 3rd May 2024, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.</p>
3.	<p>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.</p> <p>Reason: In the interest of public health</p>
4.	<p>The developer shall enter into wastewater and water connection agreements with Irish Water.</p> <p>Reason: In the interest of public health.</p>
5.	<p>A blockwork boundary wall which shall be capped and rendered and shall be 2m above the finished ground floor level of the proposed dwelling and</p>

	<p>located along the eastern, western and southern boundary. Details shall be submitted for the written agreement of the Planning Authority prior to the commencement of development.</p> <p>Reason: In the interest of residential and visual amenity.</p>
6.	<p>A landscaping scheme shall be submitted for the written agreement of the planning authority prior to the commencement of work.</p> <p>Reason: In the interest of residential and visual amenity.</p>
7.	<p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
8.	<p>The developer shall pay to the planning authority a financial contribution of in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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.

Kathy Tuck

Planning Inspector

26th November 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-320327-24		
Proposed Development Summary	Construction of a part two storey/part storey and a half/part one storey detached domestic dwelling house and all associated site works.		
Development Address	Colmcille Drive, Rosses Point, Co. Sligo.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>		Yes	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	S. 5 P.2 10(b)(ii) construction of more than 500 dwelling units.	Proceed to Q3.
No			Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	S. 5 P.2 10(b)(ii) construction of more than 500 dwelling units.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?

No	X	Screening determination remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Form 2
EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP-320237-24
Proposed Development Summary	The proposed development comprises of the construction of a dwelling, vehicular access and site works.
Development Address	Colmcille Drive, Rosses Point, Co. Sligo
<p>The Board carried 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> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
Characteristics of proposed development	<p>This is an application for an infill part single part two storey dwelling on zoned lands which are serviced.</p> <p>The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
Location of development	<p>The subject site is located within the development boundary of Rosses Point. The site constitutes a backland site with access being provide from Colmcille Drive.</p> <p>The subject site is located c.32m to the north of the Cummeen Strand/Drumcliff Bay (Sligo Bay) SAC (site code 000627), c.68m to the north of the Cummeen Strand SPA (site code 004035) and 2km to the south of the Drumcliff Bay SPA (site code 004013).</p> <p>There are no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors). The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other rural developments.</p>
Types and characteristics of potential impacts	There would be no significant cumulative considerations.

(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).		
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	NO
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	NO
There is a real likelihood of significant effects on the environment.	EIAR required.	NO

Inspector: _____ Date: _____

Appendix 2
Appropriate Assessment Screening

I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located c.32m to the north of the Cummeen Strand/Drumcliff Bay (Sligo Bay) SAC (site code 000627) and c.68m to the north of the Cummeen Strand SPA (site code 004035). In addition the site is located 2km to the south of the Drumcliff Bay SPA (site code 004013).

The proposed development comprises of the provision of 1 no. dwelling with Vehicular access and all associated site works.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:

- The proposed works are limited in scale and located with Residential zoned lands within the town boundary of Rosses Point. There are existing connections into the public sewer available to serve the subject site. There are no impacts/effects predicted in this regard.
- Due to the distance of the site and intervening land uses from any SAC and SPA, no impacts/ effects are predicted in this regard.
- There are no identifiable hydrological/ecological connector pathways between the application and the SAC or SPA.

I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

Inspector: _____ **Date:** _____

