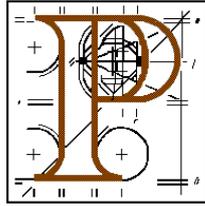


An Bord Pleanála



Inspector's Report

PL. 07 246175

DEVELOPMENT: Construction of a rear extension and alterations to dwelling house. (Gross floor area; 60 square metres.)

LOCATION: Meenleana, Dunmore, Co Galway.

PLANNING APPLICATION

Planning Authority: Galway County Council.
P. A. Reg. Ref: 15/1176
Applicant: Siobhain O'Dowd.
Decision: Grant Permission.

PLANNING APPEAL

Appellant: Michael Finnegan
Type of Appeal: Third Party Against Decision to Grant Permission.

Date of Site Inspection: 13th April, 2016.

Inspector: Jane Dennehy.

1.0 **SITE LOCATION AND DESCRIPTION**

- 1.1 The site which has a stated area of 1,200 square metres is that of a semi detached cottage which a rear single storey extension the total stated floor area of which is sixty seven square metres. There are storage structures to the west side and a septic tank (which was uncovered at the time of inspection) and percolation area where the ground is part covered in rough scrubland and grass. The house was unoccupied at the time of inspection.
- 1.2 The site is elevated with the front curtilage and vehicular entrance sloped downwards, in a southern direction towards and onto the Ballymoe Road (R360) approximately two kilometres to the north east of Dunmore. The road slopes downwards towards the Dunmore to the east and centre line of the carriageway has an unbroken white line. There area is characterised by road frontage development within a rural landscape primarily in agricultural use. Lough Corrib is approximately three hundred metres to the south of the site location.

2 **PLANNING HISTORY.**

- 2.1 There is no record of any planning history for the appeal site.

3. **THE PLANNING APPLICATION.**

- 3.1 The application lodged with the planning authority on 29th September, 2015 indicates proposals for:
- Demolition of the existing rear extension, (seventeen square metres.)
 - Construction of a new single storey extension with a stated floor area of sixty square metres,
 - Use of the existing septic tank and percolation area. (A report by the applicant's architect is included.)
- 3.2 A request for four items of additional information was issued to the applicant on 19th November, 2015 to which a response was received on 22nd December, 2015. It contains:
- Confirmation with regard to a request about the planning status of the existing dwelling that the applicant's family originally were tenants of the property which was constructed in the

1930s and that a tenant purchase arrangement was completed in the 1960s.

- Confirmation with regard to the entrance arrangements and sightlines that no alterations are proposed to alter the existing entrance and it is stated that “DM standards” do not apply.
- A statement that the report submitted with the application (by the applicant’s architect) confirms adequate capacity in the existing septic tank at 2,602 litres and that this is in accordance with EPA Code Practice standards. It is stated that the number of bedrooms, (on which population is calculated) is two in the existing and proposed development and therefore will remain unchanged.
- Confirmation of connection to the group water scheme,

3.4 An objection was received from the occupant of the adjoining property, the appellant in which it is stated that the applicant has the benefit of a grant of permission under P. A. Reg. Ref. 10/992 for a dwelling at Flaskagh, Dunmore. The planning authority decision to refuse permission was overturned on appeal.

4.0 **DECISION of the PLANNING AUTHORITY.**

4.1 By order dated, 26th January, 2016, the planning authority decided to grant permission for retention subject to seven conditions of a standard nature including the following requirements.

Condition No 5: The septic is to be maintained and good working order by a licensed operator on a bi-annual basis.

Condition No 6: A sight distance triangle is to be maintained and kept free of vegetation or other obstructions that reduce minimum visibility.

4.2 The planning officer in his report indicated satisfaction that the proposed development would not adversely impact on the amenity of the adjoining property by way of overshadowing, obstruction of daylight and overlooking. There are no internal technical reports on file.

5.0 THE APPEAL

5.1 An appeal was received from John Finnegan on his own behalf on 18th February, 2016. The attachments include photographs, a statement by a consulting engineer and photocopies of Land Registry Map. Mr. Finnegan is the occupant of the adjoining property to the east side.

5.2 According to the appeal there is an inaccuracy with regard to the delineation of the boundaries between the two properties on the application documentation. Part of the site is within the area of Folio GY70908F according to a statement by James Roche (Consulting Engineer). Mr. Finnegan confirms that he will not consent to any alteration to the registered boundaries or development on lands in his ownership.

5.3 The planning issues can be outlined as follows:

- The proposed development would interfere with the amenity of Mr. Finnegan's property.
- At a minimum, a sewage treatment plant is required. The drainage system is inadequate to cater for the increased size of the dwelling involving occupancy by five people in replacement of the prior, occupation by one person. The enclosed photographs illustrate the condition of the septic tank when no water was being discharged from the house.
- The increase in the intensity of the development gives rise to traffic issues as the sightlines at the entrance are substandard.

5.4 Response to the Appeal by the Applicant.

A submission was received from the applicant's agent on 15th March, 2016. Attached are copies of elevation drawings with details of loss of light tests, and the report on the septic tank and percolation area that was submitted with the application. An outline follows:

- The applicant's solicitor advises that there are no ownership issues with regard to the site boundaries. Rectification of the mapping is required and will be carried out. The existing boundaries are in place since 1937.
- Existing privacy, daylight and sunlight and outlook at the appellant property will be unaltered. The height of the boundary wall at 1.8

metres and the 4.4 metres distance the proposed extension which is single storey would be from the appellant's extension is the same as the existing extension. One obscure glazed window for a toilet faces the boundary wall.

- A 25 degree and 45 degree test (BRE Digest 209) conducted demonstrates that the interior of the appellant's property will not be affected by poor daylight conditions.
- The report on the septic tank and percolation area demonstrates that the existing two bedroom house and proposed reconfigured two bedroom house will have no extra loading and that the capacity of the septic tank at 2,600 litres is sufficient, in accordance with the EPA code of practice and therefore sufficient.
- There no proposals for additional bedrooms so no additional traffic movements will occur.

5.5 Observations of the Planning Authority.

There is no submission from the planning authority on file.

6. DEVELOPMENT PLAN.

- 6.1 The operative development plan is the Galway County Development Plan, 2011-2017 according to which the site location is outside which is classified as "Other Village" in the settlement hierarchy. The location is within a landscape designated as sensitivity class 1: (Least sensitive) and over a regionally important conduit karst aquifer.

Development Management guidance and standards are set out in chapter 13.

7.0 ASSESSMENT

- 7.1 The between the parties over property boundaries and about the housing needs of the applicant are addressed first. The planning issues considered central to the determination of a decision subsequently considered below are:

Adequacy of drainage arrangements.

Impact on traffic safety.

Impact on the residential amenities of the adjoining property.

7.2 **Legal Title.**

The dispute between the parties over land ownership can be resolved through the legal process should it not be possible for any mapping inaccuracies to be clarified and resolved directly between the parties. Resolution of the dispute as to legal entitlement is outside the scope of the planning remit including that of An Bord Pleanála. It is recommended that the parties be advised of the provisions of section 34 (13) of the Planning and Development Act, 2000 as amended regarding entitlement to carry out a permitted development.

7.3 **Housing Need.**

References to an existing permitted dwelling on the applicant's father's lands made in the objection have been noted. However consideration of the housing needs of the applicant would have been open to consideration in connection with that application do not arise in respect of a replacement or upgrade and extension to an existing dwelling.

7.4 **Adequacy of drainage arrangements.**

Although the number of bedrooms in the existing and proposed development is to remain unchanged the replacement dwelling will be significantly larger, the total floor being increased from 67 square metres to 110 square metres. It is to remain a single, two bedroom dwelling unit and does not to increased density of development when it is measured by the number of bedrooms. Density is also, density being measured by the number of bed spaces. There is no doubt that there is a difference in the loading on the septic tank system if five residents are substituted for an existing or former arrangement whereby the dwelling was occupied by one person.

7.5 At the time of inspection, no adverse conditions on the site and environs to suggest that the drainage system is malfunctioning were observed but it should be noted that the dwelling has been unoccupied for some time. The inspection was confined to a visual/walkover inspection only. The details provided with the application to support the claim as to the suitability of the existing facilities are limited.

7.6 The application is for an extension and upgrade to an existing two bedroom habitable but unoccupied dwelling. It is not an application for additional dwelling or for additional bedrooms. It is also of note that a statutory system for registration and inspection of on site wastewater treatment systems serving single houses in Ireland under the management of the local authorities as provided under The Water Services (Amendment) Act 2012. The satisfactory design and operation of the existing system that the applicant seeks to retain in use is subject to these legislative requirements having regard to the standards set out in the Wastewater Treatment Disposal Systems serving single houses,

EPA 2009. It is recommended that a standard condition be attached in which the standards of the EPA guidance are required. This accommodates any necessary review of the waste water treatment and disposal arrangements at a future date.

7.7 Impact on Traffic Safety

The road onto which there is an existing vehicular access is a regional route. (R360) There is some obstruction by the gate pier of sight to the left on exiting the site where there is a relatively steep incline in the road. As a result oncoming traffic cannot be seen beyond a distance of circa eighty metres. There is a single unbroken white line along this section of the road which continues to the west of the site towards Dunmore and a maximum permissible operational speed of 80kph. Improvement at the entrance to enhance sight to the east would be desirable, but the vertical alignment of the road is hazardous and (as is indicative in the road markings) cannot be overcome. However the application is not for an additional dwelling notwithstanding the observation in the appeal as to likelihood that traffic and turning on and off this section of the R 360 at the entrance will increase following the proposed upgrade and extension works.

7.8 Impact on the residential amenities of the adjoining property.

Having reviewed the configuration of the existing footprint and proposed footprint and that of the adjoining dwelling and associated structures, it is considered that no diminution of residential amenity would occur by reason of overlooking, overshadowing and obstruction of daylight. The proposed development does not give rise to a significant adverse impact on access to light or privacy. The proposed footprint extends further to the rear than that of the existing dwelling and the rear elevation windows are larger. There may be marginal obstruction of views toward the west from the adjoining property and obstruction of a view from private property is not a material planning consideration.

8. APPROPRIATE ASSESSMENT SCREENING.

- 8.1 The nearest European site is the Lough Corrib SAC (000297) which is approximately three hundred metres to the south of the site of the proposed development. Having regard to the small scale nature and scale of the development which comprises a replacement extension and alterations to an existing dwelling it is considered that no issues arise and that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on the Lough Corrib SAC or any European site.

9.0 **CONCLUSION AND RECOMMENDATION.**

In view of the foregoing, it is recommended that permission be granted on the basis of the reasons and considerations and subject to the conditions set out in the draft order overleaf.

DECISION

**Grant Permission on the Basis of the Reasons and Considerations
and Subject to the Conditions set out below.**

REASONS AND CONSIDERATIONS

Having regard to and the nature, scale and design of the proposed extension and alterations to the existing habitable dwelling, it is considered that the proposed development, subject to compliance with the conditions set out below would not be seriously injurious to residential amenities or depreciate the value of adjoining property, would be acceptable in terms of traffic safety and convenience, would not be seriously injurious to public health and would be in accordance with the proper planning and development of the area.

CONDITIONS.

1. 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 submitted on 22nd December, 2015 except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

In default of agreement, the matter shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The septic tank drainage system shall be in accordance with the standards set out in Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses published by the Environmental Protection Agency in 2009.

Reason: In the interests of public health.

3. Surface water from the site shall not be permitted to drain onto the adjoining public road.

Reason: In the interest of traffic safety.

4. The external finishes of the proposed extension including the roof tiles/slates shall match those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

5. The existing front boundary shall be retained free of vegetation and other obstructions shall be retained except to the extent that its removal is necessary to provide for the entrance to the site.

Reason: In the interest of visual amenity.

JANE DENNEHY.
Senior Planning Inspector
3rd May, 2016.

Note. *The applicant is advised that according to section 34 (13) of the Planning and Development Act, 2000 as amended a grant of planning permission does not entitle a developer to carry out a development.*