An Bord Pleanála

Board Direction
BD-012333-23
ABP-312976-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 31/05/2023.

The Board decided to grant permission, for the following reasons and considerations, and subject to the following conditions.

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.

REASONS AND CONSIDERATIONS

Appropriate Assessment Screening

In undertaking a screening exercise in relation to the proposed development, the Board had regard to the nature, scale and location of the proposed development, the distances to and potential for connectivity with European Sites and the report of the Inspector. The Board accepted the assessment of the Inspector that the proposed development, either individually or in combination with other plans and projects, would not be likely to have a significant effect on any European site in view of those sites' conservations objectives and shared her conclusions that a Stage 2 Appropriate Assessment is not required.

Conclusions on Proper Planning and Sustainable Development

Having regard to the scale, extent and layout of the proposed development, to the pattern of existing and permitted development and to the policies and objectives of the Galway County Development Plan 2022-2023, particularly with respect to Objective RH 3: Rural Housing Zone 3 (Structurally Weak Areas), and to the infill nature of the proposal, it is considered that, subject to compliance with the conditions set out below, the proposed dwelling house would not seriously injure the visual and residential amenities of the area, would not endanger human health or the environment and would be acceptable in terms of landscape impacts and of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the first reason for refusal in the Inspector's recommendation, the Board considered that the scale and the infill nature of the proposed development combined with the pattern of existing and permitted development in the immediate area and the provisions of the current county development plan, particularly with respect to Objective RH 3: Rural Housing Zone 3 (Structurally Weak Areas), would not result in unacceptable injury to the visual amenities of the area or the depreciation of property in the vicinity and, therefore, would not be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the second reason for refusal in the Inspector's recommendation, and in noting the submission of the Development Applications Unit of the Department of Housing, Local Government and Heritage, the Board determined however, given the scale of the development and the information on file including the archaeological report submitted with the application, that a detailed condition relating to the conservation of the archaeological heritage of the area and the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site would be warranted instead, and that, subject to the inclusion of such condition, the proposed development, therefore, would not be contrary to the proper planning and sustainable 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, 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 developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:
(i) the nature and location of archaeological material on the site, and
(ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.
Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

3. A parking space, not less than 15 metres long and 3 metres wide shall be provided immediately adjoining the edge of the margin of the roadway. This space shall be cleared, graded, levelled and surfaced to a standard suitable for use as off-road parking to the satisfaction of the planning authority.
Reason: In the interest of road safety.

4. (a) All surface water generated by the development shall be disposed of within the site and shall not be discharged onto the road or the adjoining property.
(b) A storm water drainage system shall be installed along the perimeter of the site. The type design and construction of this drainage system shall be agreed with the planning authority prior to commencement of development.
(c) Only clean uncontaminated storm water shall be discharged to soakaway system or surface waters.
(d) The development shall not impair existing land or road drainage.
Reason: In the interest of proper planning and sustainable development.

5. (a) Sight distance triangles shall be maintained and kept free from vegetation or other obstructions that would that reduce the minimum visibility required.
(b) Any overhead lines and poles shall be set back in line with the new fence at the developer's expense before work commences on the development. No pole(s) shall be left in the lay-by or in the sight lines of the proposed development or any existing development where these poles might obstruct the view of the road of any existing road users and/or persons accessing the site.
Reason: In the interest of road safety.

6. Any new front boundary wall shall be of local unplastered natural stone and shall not exceed 1 metre in height or be of native hedgerow.
Reason: In the interest of visual amenity.

7. (a) The proposed effluent treatment plant and percolation area shall be designed, installed and operated in strict accordance with manufacturer details submitted and shall be in accordance with the Environmental Protection Agency's 2021 publication "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)".

(b) Any polishing filter shall be a minimum separation distance of 10 metres from any house, existing or proposed land drain or watercourse.

(c) The percolation system installation shall be supervised and certified by a suitably qualified, bonded and indemnified Engineer.

(d) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of 3 years from its installation and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be made available on request to the Planning Authority.

Reason: In. the interest of public health.

8. All public service cables associated with the proposed development (such as electrical, television, telephone and broadband cables) shall be located underground within the site.

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

9. (a) Site perimeter planting consisting of tree and shrub species native to the area shall be carried out in the first planting season following commencement of development on site.

(b) Landscaping shall include thorough screen planting on the lateral boundaries and rear boundary of the site through the planting of mixed trees and plant species indigenous to the area concerned, and densely planted hedging of native species.

(c) Any in-situ stonewalls, hedgerow and/or trees bounding the site shall be retained, except for the provision of the site entrance works.

Reason: in the interest of visual amenity.

10. (a) The proposed windows shall be of powder coated aluminium or timber framed or non-white uPVC, unless otherwise agreed in writing with the Planning Authority.

(b) The external door shall be of timber construction.

(c) The proposed dwelling house shall have a nap plaster and/or natural local stone finish only, unless otherwise agreed in writing with the Planning Authority.

(d) The colour of the roof slates shall be blue/black.

(e) The colour of the soffit/fascia and rainwater goods shall be dark in colour.

Reason: In the interest of visual amenity.

11. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0700 to 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.

Reason: In order to safeguard the residential amenities of property in the vicinity.

12. The developer shall pay to the planning authority a financial contribution 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 the 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. Details of the application of the terms of the Scheme 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 the proper application of the terms of the Scheme.

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.

NOTE:

As the planning application was lodged with the planning authority on 10 December 2021, the Board determined that the Environmental Protection Agency's 2021 publication "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)" is the relevant code of practice for the purpose of this appeal.

Board Member Eamonn Patrick Kelly **Date:** 07/06/2023

Eamonn Patrick Kelly