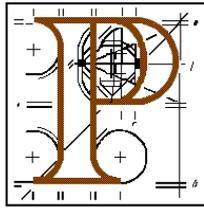


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2017

Galway County Council

Planning Register Reference Number: 17/717

An Bord Pleanála Reference Number: ABP-300066-17

APPEAL by Dave Brocklebank care of Brendan McGrath and Associates of Riverstown Cottage, Corrofin, County Clare against the decision made on the 10th day of October, 2017 by Galway County Council to refuse permission for the proposed development.

PROPOSED DEVELOPMENT: The provision of a proprietor's family two storey residential house to be incorporated into the proposed Yoga Centre development previously granted planning permission planning register reference numbers 16/396 and 17/158, to include all associated works at Normangrove, Kinvara, County Galway.

Decision

GRANT permission for the above proposed development in accordance with the plans and particulars lodged with the said council, based on the reasons and considerations under and subject to the conditions set out below.

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

Having regard to:

- the economic and social need demonstrated for the proposed dwelling, which is integral to the long established rural tourism business at this location,
- the pattern of existing and permitted development in the area,
- the landscape character including screening available to the site, and
- the general acceptability of the site in relation to access and services,

it is considered that the proposed development, subject to compliance with the conditions set out below, would not materially contravene the Development Plan for the area, would be acceptable in terms of compliance with policies for the control of rural housing, would not have unacceptable impacts on the character of the landscape, would not be prejudicial to public health, and would not have significant effects on any European Site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that there was a genuine need demonstrated for this dwelling, in compliance with Development Plan policies, having considered the planning history of the site, the bona-fide nature of the established eco-tourism business on the site, and the planning permissions granted (under planning authority references 16/396 and 17/158) which envisage an overall improvement in the operation of the facilities and an expansion of the business operations. The permission for the dwelling can be tied to the business use on the site by means of planning condition. The Board did not consider that a material contravention of the Development Plan arose in this case. In relation to landscape protection, having considered the landscape character assessment for the area and the submissions on file, the Board was satisfied that the proposed dwelling would not be unduly obtrusive or detrimental to the landscape character of the area, taking into account the well screened nature of the site. The Board also noted that the principle of two-storey development on the site has already been permitted (under planning authority references 16/396 and 17/158) and in that context, considered that the design of the proposed dwelling was acceptable. Again, the Board was satisfied that no material contravention of the Development Plan arose.

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 the 25th day of September, 2017, 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 permitted dwelling shall only be used as a permanent dwelling associated with the established tourism facility on the site and shall not be sold, leased or let separately from that business.

Reason: In the interests of orderly development, clarity and to support the rural housing policies of the Development Plan.

3. The existing mobile home on site, currently used by the applicant and his family, shall be removed from site within four weeks of the occupation of the permitted dwelling.

Reason: In the interests of orderly development.

4. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority 19th day of May, 2017 and the 25th day of September, 2017, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

- (b) Within three months of the first occupation of the dwelling, 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 in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

- 5. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

- 6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

- 7. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

8. 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 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.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2018.