



Planning and Development Acts 2000 to 2020

Planning Authority: Galway City Council

Planning Register Reference Number: 20/168

Appeal by Declan and Bernadette Ashe of “Stoneleigh”, Rosshill Road, Roscam, Galway and by Martin J. Fahy of Rosshill Road, Roscam, Galway and against the decision made on the 18th day of August, 2020 by Galway City Council to grant subject to conditions a permission to Tony and Laura Caulfield care of Laura Brennan Architects of 30 Dalysfort Road, Salthill, Galway in accordance with plans and particulars lodged with the said Council:

Proposed Development: Permission is sought for the development which will consist of demolition of existing single storey house, construction of new replacement house consisting of two storey and single storey elements, renovation of two existing sheds, upgrade of existing septic tank system to a tertiary wastewater treatment system, widening of existing site entrance, together with all associated landscaping and site works, all at Rosshill Road, Roscam, Galway.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars 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 provisions of the Galway City Development Plan 2017-2023, the established residential use on site, the pattern of development in the area and the nature of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed replacement house would not adversely affect the character of the area, would not impact negatively on any protected view, would not adversely affect the architectural heritage of the area and would not seriously injure the visual or residential amenities of the area or the amenities of properties in the vicinity, would not be prejudicial to public health and would constitute an acceptable development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Stage 1 Appropriate Assessment.

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted with the application and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that the proposed development has the potential to have a significant effect on the Galway Bay Complex Special Area of Conservation (Site Code: 000268), and Inner Galway Bay Special Protection Area (Site Code: 004031) in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment is, therefore, required.

Stage 2 Appropriate Assessment.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Galway Bay Complex Special Area of Conservation (Site Code: 000268), and Inner Galway Bay Special Protection Area (Site Code: 004031) are the European sites for which there is a likelihood of significant effects.

The Board considered the Natura impact statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European sites, Galway Bay Complex Special Area of Conservation (Site Code: 000268), and Inner Galway Bay Special Protection Area (Site Code: 004031), namely in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) the conservation objectives for the European sites.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European sites, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives and there is no reasonable scientific doubt as to the absence of such effects.

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. All mitigation measures in the Natura impact statement and Preliminary Construction and Demolition Waste Management Plan submitted to the planning authority on the 25th day of June 2020, shall be implemented in full and shall be supervised by a suitably qualified ecologist and bonded engineer.

Reason: In the interest of environmental protection, public health and orderly development.

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

Reason: In the interest of visual amenity.

4. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

5. No part of the sedum grass roof as shown on drawing number P-04 shall be used as a balcony/terrace/roof garden.

Reason: In the interest of residential and visual amenity.

6. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

7. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 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.

9. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

10. (a) The tertiary treatment system and peat polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 25th day of June, 2020, 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. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.

- (e) 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 and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

- 10. The landscaping scheme shown on drawing no. 1952-02, as submitted to the planning authority on the 25th day of June 2020 shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

- 11. 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.

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

Dated this day of 2021.