



Planning and Development Acts 2000 to 2020

Planning Authority: Galway County Council

Planning Register Reference Number: 20/1210

Appeal by Thomas Neylan care of Planning Consultancy Services of Suite 3, Third Floor, Ross House, Victoria Place, Eyre Square, Galway against the decision made on the 20th day of October, 2020 by Galway County Council to refuse permission for the proposed development.

Proposed Development: Revisions to previously permitted residential and agricultural development granted under planning register reference numbers 19/1380 and 19/763 respectively, on revised site boundaries. The development will consist of (1) demolition of existing dwellinghouse and construction of replacement dwellinghouse with associated domestic garage/store further to the north, in lieu of the permitted extension to the existing dwellinghouse and permitted garage granted under planning register reference number 19/1380, (2) decommissioning of existing septic tank and construction of replacement proprietary treatment system and percolation area, (3) relocation of previously permitted slatted shed/slurry tank further to the north, and (4) revised access arrangements including closure of site access via existing right of way and construction of new access road further to the west, together with all associated site works and services, all at Rahaneena, The Weir, Kilcolgan, County 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 location of the proposed development within a Class 3 Landscape with a medium sensitivity rating as identified in the Galway County Development Plan 2015–2021,
- the photomontages within the Planning Statement for the proposed development submitted to the planning authority on the 27th day of August 2020,
- the design and modest scale of the proposed single storey dwellinghouse and the agricultural nature of the slatted shed structure,

- the reduction in the overall height of the previously approved slatted shed (planning register reference number 19/763), as detailed on the plans and particulars submitted to An Bord Pleanála as part of the appeal on the 13th day of November 2020, and
- the location and siting of the proposed development on a mid-slope beyond the crest of the hill as illustrated on drawing number T Neylan 2020_9 submitted to the planning authority at application stage,

the Board was satisfied that the replacement dwelling, and the relocated slatted shed, would not seriously injure the visual amenities of the area and would not contravene materially Objective RH09 and Objective LCM 2 of the Galway County Development Plan 2015–2021, would not endanger public safety by reason of traffic hazard, and would not give risk to an increased risk of flooding of the site or of property in the vicinity. 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 had regard to the design and modest scale of the proposed single storey dwellinghouse, to the photomontages submitted with the application which demonstrated that there would be no unacceptable visual impact, and to the reduction in the overall height of the previously approved slatted shed, and was satisfied that the proposed development would not have an unacceptable visual impact at this location. The Board noted the Inspector's particular concerns regarding the potential visual impacts associated with the upslope siting of the proposed development and the provision of a new access road 240 metres in length but were satisfied that the visual impacts from these elements of the development could be satisfactorily mitigated by the landscaping proposals detailed on the Site Layout Plan (drawing number T Neylan 2020_3 submitted to the planning authority at application stage). The Board concluded that the proposed

development was in accordance with the proper planning and sustainable development of the area.

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 the Inner Galway Bay Special Protection Area (Site Code: 004031) are the European sites for which there is a possibility of significant effects and must therefore be subject to Appropriate Assessment.

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 in view of the sites' Conservation Objectives (Galway Bay Complex Special Area of Conservation (Site Code: 000268) and Inner Galway Bay Special Protection Area (Site Code: 004031)). The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' conservation objectives using the best available scientific knowledge in the field.

In completing the assessment the Board considered, in particular, the Site Specific Conservation Objectives for these European Sites, the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, specifically the permission to construct a slatted shed on the site and the mitigation measures which are included in the submitted Natura Impact Statement and in the Construction Environmental Management Plan, including the commitment that no works will take place during Spring tides and that the storage of stock-piled materials will take place outside flood risk zones.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the implications of the proposed development on the integrity of the aforementioned European Sites, having regard to the sites' Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of 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, as amended by the further plans and particulars received by An Bord Pleanála on the 13th day of November, 2020, 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. Mitigation measures detailed in the plans and particulars and within the Natura impact statement and Construction and Environmental Management Plan shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

3. 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.

4. 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.

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

Reason: In the interest of traffic safety.

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

Reason: In the interest of visual amenity.

7. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

8. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 27th day of August, 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. 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.

9. The proposed new slatted shed shall be used only in strict accordance with a management schedule which shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The management schedule shall be in accordance with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2006, and shall provide at least for the following:

- (1) Details of the number and types of animals to be housed.
- (2) The arrangements for the collection, storage and disposal of slurry.
- (3) Arrangements for the cleansing of the buildings and structures.

Reason: In order to avoid pollution and to protect residential amenity.

10. Slurry generated by the proposed slatted shed development shall be disposed of by spreading on land, or by other means acceptable in writing to the planning authority. The location, rate and time of spreading (including prohibited times for spreading) and the buffer zones to be applied shall be in accordance with the requirements of the European Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2006.

Reason: To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and to prevent pollution of water courses.

11. Water supply and drainage arrangements for the slatted shed site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services. In this regard-

(a) uncontaminated surface water run-off shall be disposed of directly in a sealed system, and

(b) all soiled waters shall be directed to the proposed new slatted storage tank.

Drainage details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

Reason: In the interest of environmental protection, public health and to ensure a proper standard of development.

12. All foul effluent and slurry generated by the proposed development and in the farmyard shall be conveyed through properly constructed channels to the proposed storage facilities and no effluent or slurry shall discharge or be allowed to discharge to any stream, river or watercourse, or to the public road.

Reason: In the interest of public health.

13. 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. This scheme shall incorporate the landscaping proposals set out on the Site Layout Plan submitted with the application

(drawing number T Neylan 2020_3 submitted to the planning authority at application stage).

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

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

Dated this day of 2021.