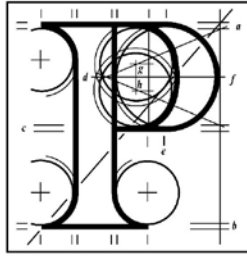


An Bord Pleanála



Inspector's Report

Development: To construct dwelling house and associated services at Glennafosha, Co. Galway.

Application

Planning authority: Galway County Council
Planning application reg. no. 15/613
Applicant: Brendan O'Dea
Type of application: Permission
Planning authority's decision: Refusal

Appeal

Appellant: Brendan O'Dea
Type of appeal: First party -v- Decision
Observers: None
Date of site inspection: 29th April 2016

Inspector: Hugh D. Morrison

Site

The site is located off the N17, 16 km to the north of Claregalway and 6 km to the south west of Tuam. This site lies in an area of open undulating countryside, which is punctuated by small farmsteads and one-off dwelling houses and characterised by fields that are enclosed by means of dry stone walls. It is accessed via an existing driveway directly from the eastern side of the N17.

The site itself is of regular shape and it is subject to mild downward gradients in northerly and westerly directions. This site extends over an area of 0.2 hectares and it, along with existing buildings within its vicinity, are sited towards the brow of an area of raised land.

The site coincides with a paddock that is enclosed by means of dry stone walls to the north and to the west and a hedgerow to the south. The remaining easterly side is undefined at present. A freestanding stone building abuts the southern boundary of the site and access to the paddock is via a farm gate in this boundary. To the east lies a farm track that serves a new freestanding agricultural building beyond the applicant's family dwelling house. Another dwelling house lies to the south of the site and a further dwelling house lies beyond this one.

Proposal

The proposal would entail the construction of a three-bed dwelling house with a floorspace of 143 sq m. This dwelling house would have an asymmetric roof that would facilitate the inclusion of a first floor within the roofspace. It would be sited centrally within the site in a position that would be, variously, entirely forward of the western elevation of the freestanding stone building and partially forward of the western elevation of the nearest dwelling house to the south. This dwelling house would be accessed by a westerly spur from the existing farm track. It would be supplied with water by the Rusheen-Caherhugh GWSS and waste water would be treated by a Kingspan/Klargester bioefficient 8 PE pumped treatment plant that would discharge to a soil polishing filter with a surface area of 60 sq m, which would be sited towards the north western corner of the site.

Planning authority's decision

Following a time extension, during which further information was received, the planning authority refused permission on the following grounds:

- 1. It is considered that the proposed development, at a point along the national road where the maximum permitted speed limit applies, would endanger public safety by reason of traffic hazard and obstruction of road users because of the traffic turning movements the proposed development would generate across a national primary road onto a laneway, where sightlines are insufficient and the alignment of the public road is deficient, would restrict on-coming traffic and would interfere*

with the safety and free flow of traffic on the national road network. The proposed development therefore, if permitted, would be contrary to DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), DM Standard 18 & 20 of the County Development Plan 2015 – 2021 and to the proper planning and sustainable development of the area.

2. *The proposed development does not have direct vehicular access off a public road and the planning authority is not satisfied that the applicant has demonstrated sufficient legal interest to access the subject site as demonstrated. To permit the proposal, in the absence of the requisite legal documentation, would be considered contrary to the proper planning and sustainable development of the area.*

Technical reports

NRA: Objects on the basis of policy set out in the Spatial Planning and National Roads Guidelines and road safety.

Grounds of appeal

With respect to the first reason for refusal, the following points are made:

- The access in question has existed since the 1920s and it is used daily by the applicant who farms. Once the new motorway is opened, traffic on the N17 will be a lot less.
- Galway County Council re-profiled Glennafosha Hill in the 1970s and they gave assurances that resulting sightlines would facilitate future planning permissions. Not only the applicant uses the access in question, but other family members do too, who reside in the family home and in an adjacent dwelling house.
- The planning authority established a precedent for the current proposal by permitting application reg. no. 01/1640 for a new dwelling house for Paul O’Dea, which is accessed directly from the N17 at a point 80m to the south of the access in question.
- While the sightlines required today are the same as those that pertained in connection with the aforementioned application, in Paul O’Dea’s case the planning authority accepted the provision of a pull-in space 3m wide and 15 long.
- The planning authority established a further precedent by permitting application reg. no. 98/3727 for a new access to farmland that the applicant merely leased for a short period of time.

With respect to the second reason for refusal, the following points are made:

- The applicant is the registered legal owner of the access lane to the site.
- He holds various farming qualifications.
- He demonstrably satisfies the need to live on the family holding.

Concluding points:

- The applicant is a full-time farmer and he is the fourth generation of his family to reside at Glennafosha. He presently resides in the original family home with other family members and he has an urgent housing need.
- For the applicant to inherit the family farm, he needs to look after his father, who resides in the original family home and is in failing health.
- The applicant, like Paul O’Dea, proposes to provide a pull-in (3m wide and 26m long) and so he is simply requesting parity of treatment.

Response

The planning authority has not responded to the above cited grounds of appeal.

Planning history

Site

- 15/236: Brendan O’Dea: Construction of dwelling house with associated services: Refused on the grounds of road safety, housing need to build on site off N17 not fully substantiated, legal right of access along lane not substantiated, and deficient sightlines at the access from the N17.

Adjacent sites

- 01/1640: Paul O’Dea: Construction of a dwelling house: Permitted.
- 01/3855: Jimmy O’Dea: Construction of a septic tank: Permitted.

Development Plan

The Galway County Development Plan 2015 – 2021 (CDP) shows the site as lying within a rural area under strong urban pressure (GTPS). Rural Housing Objective (RHO 1) is therefore of relevance, as are RHO 9 and 12, which relate to design guidelines and waste water treatment associated with development in un-serviced areas. Likewise, DM standards 18 and 20 are of relevance, as they relate to access to national roads for residential development and sight distances required for access onto national roads.

This Plan also shows the site as lying within the North East Galway (Tuam Environs) Landscape Character Area, wherein Landscape Sensitivity is deemed to be Class 1 and the Landscape Value Rating is low, and possibly within the focal point/view of Tuam High Cross.

National planning guidelines

- Sustainable Rural Housing (SRH)
- Spatial Planning and National Roads (SPNR)

Assessment

I have reviewed the proposal in the light of national planning guidelines, the CDP, relevant planning history, and the submissions of the parties. Accordingly, I consider that this appeal should be assessed under the following headings:

- (i) Rural housing policy,
- (ii) Access,
- (iii) Amenity,
- (iv) Drainage, and
- (v) AA.

(i) Rural housing policy

1.1 The site is located in a rural area, which, under the CDP, is shown as being under strong urban pressure. This site is and would continue to be accessed off the N17, a national primary road, which is subject to a 100 kmph speed limit within the vicinity of the site. Accordingly, the proposal to construct a dwelling house for the applicant falls to be assessed under the Plan's Objective RHO 1 and DM Standard 18.

1.2 The applicant has submitted a completed rural housing need application form dated 18th November 2015. Within this form he states that he is self-employed in full time farming and that his entire income arises from such farming. He also states that he farms lands at Glennafosha, which he inherited in 2007, and that no other lands are available to him. These lands do not abut any road besides that of the N17.

1.3 The applicant outlines in the aforementioned form his family links to Glennafosha and the fact that he was born in Tuam and attended national school there. His father and two brothers reside in the existing family home that adjoins the appeal site. He resides there at present, too. The applicant also outlines his

third level qualifications and his on-going involvement in various agricultural programmes/initiatives.

- 1.4 Objective RHO 1 sets out a number of headings under which applicants for dwelling houses in rural areas under strong urban pressure can apply. DM Standard 18 addresses housing need eligibility. It states the following:
“Consideration shall be given to the need of farm families to live on the family holding on a limited basis and a functional need to live at this location must be demonstrated.”
- 1.5 In the light of the foregoing, I consider that the applicant’s rural housing need should be assessed under 1(c), which applies to “Those applicants who can satisfy the planning authority that they are functionally dependent on the immediate rural areas in which they are seeking to develop a single house as their principal family residence.”
- 1.6 I am satisfied from the evidence submitted by the applicant that he is functionally dependent on the farm that adjoins the appeal site and so I consider that he meets the test set out under 1(c).
- 1.7 Turning to DM Standard 18, which sets out a twofold test, which in addition to the aforementioned functional dependency test, refers to the need of farm families to live on the farm holding on a limited basis. In this respect, the applicant has stated that he needs to reside on the farm as if he did not he would have to commute to and from it several times daily and, when absent, he would have no peace of mind leaving his stock unattended.
- 1.8 The applicant has submitted Land Registry Folio No. 91749F which states that he is the owner of the farm highlighted on accompanying maps by means of a blue edge. This farm includes the appeal site. He has also submitted Land Registry Folio Nos. 91609F and 20408 which state that his two brothers, variously, own the family home that adjoins the appeal site and a 2.4310 hectare plot of land in the townland of Glennafosha. The first Folio is subject to their father’s right to reside in the dwelling house and all three Folios are subject to his right to be supported and maintained during his life.
- 1.9 As already stated above, the applicant has outlined how he presently resides in the family home with his father and two brothers. (At the appeal stage he states that his sister with her baby resides in this home, too). He also refers to Paul O’Dea, his cousin, who resides in the more southerly of the two dwelling houses within the vicinity of the appeal site. The resident of the nearer of these dwelling houses, objected at the application stage, and he, too, has the surname O’Dea.
- 1.10 In the light of the foregoing paragraphs, I consider that the phrase “on a limited basis” invites further investigation of both the applicant’s farming practise and

the planning histories of the adjacent dwelling houses. In these circumstances, I conclude that it would be premature to conclude that the applicant has an eligible housing need under DM Standard 18.

(ii) Access

- 2.1 The applicant proposes to access the appeal site via the existing driveway from the N17. This driveway serves his family home and the nearest dwelling house to the south. It also connects with a farm track that serves the new agricultural building further to the east and which would serve the proposed dwelling house to the west. Submitted Land Registry Folio 91749 shows the driveway and the farm track as lying within the applicant's ownership. A right of way/way leave coincides with the driveway and the farm track.
- 2.2 Clearly, under the proposal, an additional access point off the N17 is not being envisaged. The applicant considers that, as he already resides in the family home, in practise intensification in the use of the existing access point from the N17 would not arise. While I acknowledge his point in this respect, the addition of a dwelling house would facilitate the formation of a new household on the farm, which would be likely in time to lead to additional traffic movements over those that occur at present and hence intensification would ensue.
- 2.3 The portion of the N17 that passes the appeal site is subject to a 100 kmph speed limit. This portion is of straight alignment and it comprises two lanes, each of which is accompanied by a hard shoulder. A junction with a local road occurs a short distance to the north and the road rises in a southerly direction to a brow that lies to the south of the site. A continuous white centre line restricts overtaking by south bound traffic in advance of this brow.
- 2.4 Under the CDP's DM Standard 20, new access points should be comply with the provisions of the DMRB Volume 6, Section 2, Part 6 of NRA TD 41-42/11, issued on November 2011 and entitled "Geometric Design of Major/Minor Priority Junctions and Vehicular Access to National Roads." Consequently, they should be designed to have x and y distances of 3m and 215m, respectfully.
- 2.5 In view of the likely intensification of use of the existing access point, I consider that the aforementioned x and y distances are applicable. The applicant has submitted a plan at the appeal stage which shows northern and southern y distances of 110m and 119m, respectfully, from an x distance of 3m. The former distance reflects the presence of a proposed set back from the nearside edge of the road to a depth of 3m for the full length of the site's western boundary, i.e. 26m to the north of the existing access point. The applicant cites a similar set back that accompanied the more southerly of the two house plots within the immediate vicinity of the appeal site.

- 2.6 The applicant draws attention to the new motorway that is under construction between the M4 and Tuam. Once this motorway opens, traffic on the N17 will be far less than at present. He, therefore, contends that this scenario should inform any assessment of his current proposal.
- 2.7 While I accept the likelihood of the applicant's aforementioned prediction, I do not consider that the requirements of DM Standard 20 can be relaxed in advance of any re-classification of the road, which may be warranted by the opening of the said motorway and a reduction in traffic on the N17.
- 2.8 The applicant also draws attention to historic precedents for the reliance of his proposal upon access from the N17. However, I do not accept that these can be used to justify an exception to DM Standard 20, which reflects country wide national roads policy.
- 2.9 I, therefore, conclude that, as the existing access to the appeal site has sub-standard sightlines, the intensification of its use that would ensue from the current proposal would be contrary to the CDP's DM Standard 20.

(iii) Amenity

- 3.1 The proposed dwelling house would be of rectangular form under a double pitched asymmetric roof. This dwelling house would be sited in a position whereby its gabled front and rear elevations would face west and east and its longer shallower pitched roof plane and its short steeper pitched roof plane would, variously face south and north. The southern roof plane would contain three rooflights.
- 3.2 The CDP's Objective RNO 9 advocates use of the planning authority's Design Guidelines for the Single Rural House in a bid to encourage "design that respects the character, pattern and tradition of existing places, materials and built forms that fit appropriately into the landscape." These Guidelines advise on, amongst other things, rural forms for dwelling houses. The examples cited therein do not include ones with asymmetric roofs. While traveling to the site, I did observe a number of existing dwelling houses along the N17 that have asymmetric roofs. However, if there is a local tradition that would justify any exception to the Guidelines, the onus would be upon the applicant to establish this, otherwise the said Guidelines should be followed.
- 3.3 The proposed dwelling house would be sited to the west of the applicant's existing family home and to the north of the nearest dwelling house to the south. An existing stone building to the south east and a hedgerow along the southern boundary would assist in screening this dwelling house from the existing ones and so I consider that its presence would be compatible with the maintenance of their amenities.

3.4 The proposed dwelling house itself would provide three-bed accommodation over a floorspace of 143 sq m and so I consider that it would provide a satisfactory standard of amenity to future occupiers.

3.5 I conclude that the form of the proposed dwelling house would not comply with the CDP's Objective RNO 9 insofar as its form is not recognised by the planning authority's Design Guidelines for the Single Rural House. This dwelling house would, however, be compatible with the residential amenities of adjacent dwelling houses and it would afford a satisfactory standard of amenity to future occupiers.

(iv) Drainage

4.1 The proposed dwelling house would be supplied with water from the Rusheens – Caherhaugh GWSS. Surface water would drain to soak pits within the site and foul water would be treated in an on-site WWTP, which would comprise a Kingspan/ Klargester bioficient 8 PE pumped treatment plant.

4.2 The application is accompanied by a completed site characterisation form. The applicant reports that bedrock/water table was found at a depth of 1.9m and that T and P results registered 9.89 minutes per 25 mm and 23.36 minutes per 25 mm, respectfully. Based on these results, he concludes that the site is suitable for the aforementioned WWTP, which would discharge to ground water.

4.3 While I concur with the aforementioned paragraph, I note that the specification of the proposed soil polishing filter may need to be revised upwards, insofar as the proposed three-bed dwelling house would be capable of accommodating six people and so the total length of trenches should be a minimum of 108m. If the Board is minded to grant permission, then this new specification could be conditioned.

4.4 I conclude that, subject to an enlargement of the proposed soil polishing filter, the proposed drainage arrangements for the site would be satisfactory.

(v) AA

5.1 The site is not located in a Natura 2000 site. The River Clare flows on a roughly north/south axis c. 2km to the east of the site. This River is part of the Lough Corrib SAC (000297). The applicant's completed site characterisation form indicates that ground water flow is in a north easterly direction. Thus, there is a potential source/pathway/receptor route between the site and this Natura 2000 site. Nevertheless, given the aforementioned separation distance and the findings of the completed site characterisation form, I do not consider that the proposal would have a significant effect upon the Conservation Objectives of the said Natura 2000 site.

5.2 Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

Conclusion

In the light of my assessment under headings (i) and (ii), I conclude that there are two in principle reasons for refusing the current proposal. Under heading (iii), I raise a new issue with respect to the design of the proposed dwelling house. I conclude that, whereas this issue could be expressed as a third reason for refusal, as it would be amenable to being resolved by way of a request for further information, it would not be appropriate to include it as a further reason for refusal.

Recommendation

In the light of my conclusion, I recommend that the proposal to construct a dwelling house and associated services at Glennafosha, Co. Galway, be refused.

Reasons and considerations

1. The site would be accessed off the N17, a national primary road, via an existing agricultural and residential access. The proposal would generate additional traffic movements at this access and so, under the Galway County Development Plan 2015 – 2021, the provisions of DM Standard 18 are applicable. Within the terms of this Standard, the applicant has supplied insufficient information to demonstrate that he has a functional need to reside on the site and so to accede to his proposal would be premature and thus risk the contravention of the said Standard. Accordingly, the proposal would be contrary to the proper planning and sustainable development of the area.
2. The site would be accessed off the N17, a national primary road, via an existing agricultural and residential access. The proposal would generate additional traffic movements at this access and so, under the Galway County Development Plan 2015 – 2021, the provisions of DM Standard 20 with respect to minimum sightline distances are applicable. The existing access fails to comply with this Standard and so the said additional traffic movements would endanger public safety by reason of traffic hazard and obstruction of road users. Thus, to accede to this proposal would contravene this Standard and, as such, it would be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison

Inspector

13th may 2016