

An Bord Pleanála



Inspector's Report

PL. 07 246766

DEVELOPMENT: Dwelling house, garage and associated services.

LOCATION: Ballinamanna West, Clarinbridge, Co Galway.

PLANNING APPLICATION

Planning Authority: Galway County Council.

P. A. Reg. Ref: 15/1544

Applicant: Aidan Keane.

Decision: Refuse Permission.

PLANNING APPEAL

Appellant: Aidan Keane.

Type of Appeal: First Party Against Decision to Refuse Permission.

Date of Site Inspection: 22nd August, 2016.

Inspector: Jane Dennehy.

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The site which has a stated area of 4,771 square metres is located on the south side of the Sea Road approximately four kilometres from Clarinbridge village which is on the N18 route between Oranmore and Gort. It is located to the west side of a row of seven dwellings on single plots or relatively recent construction along the road frontage. Further to the east there is a farmhouse and farm buildings and opposite the site location there is the farm house, farm buildings of the applicant's family according to the application and a new dwelling under construction, (for a member of the family of the applicant) on the west side of the farmyard.
- 1.2 The site itself is on a roughly triangular shaped piece of land that wraps around to the rear of the site of the adjoining dwelling. Drystone walling with trees on the inner side are located along the road frontage and part of the western boundary. An agricultural entrance is at the eastern end of the site frontage and fencing is located along the eastern boundary with the adjoining property. The lands to the west and south and within the site were in use as grazing lands at the time of inspection. The ground level is slightly above the level of the road and is relatively flat.

2 PLANNING HISTORY.

- 2.1 **P. A. Reg. Ref. 15347:** This was an application for a dwelling house garage and works by the current application which was withdrawn prior to determination of a decision according to the planning officer report. There is no record of any planning history for the appeal site. The planning officer also notes some other applications dating from 2001 and 2002 in the name of third parties.
- 2.2 Permission was refused for reasoning related to a proliferation of private effluent treatment and disposal systems in the area following appeals in 2003 for single dwelling house developments on lands to the east of the appeal site where there is some existing road frontage development (PL 202823 (A Grealish) and 202841 (J Grealish) refer.)

3. THE PLANNING APPLICATION.

- 3.1 The application and further information lodged with the planning authority on 29th September, 2015 and on 26th April, 2016, (in response to a three item request issued by the planning authority) indicate proposals for construction of a two storey, five bay dwelling in a mock Georgian style design with a stated floor area of 212 square metres. The footprint is set back at about thirty eight metres from the road frontage a similar distance

to the adjoining houses. The application also shows proposals for construction of the detached garage at the rear of the main dwelling which has a stated floor area of sixty square metres. A septic tank and percolation area providing for foul effluent treatment and disposal is to be located to the rear of the dwelling. Storm water drainage is to soakaways within the site and water supply is to be provided by connection to the public main in the road.

- 3.2 A seventy metre sight line to the edge of the carriageway is to be achieved by setting back the existing stone wall to the west and the block wall to the east which (with the consent of the owner) which is also to be lowered in height. According to the application a three metre setback allows for parking at the entrance to the adjoin property. The existing trees are not shown on the site layout plan but on a landscaping plan tree, retention and supplementary planting mainly in laurel and other evergreen species along the boundaries and to the front of the dwelling are proposed. It would appear that it is essential for those along the frontage to be removed to facilitate the setback of the dry stone wall.
- 3.3 Included with the application submissions are details to demonstrate the housing need of the applicant, the area being a restricted area according to the development plan a landscape character assessment, a landscaping plan.
- 3.4 There is no record of third party submissions and there are no internal technical reports on the file.

4.0 **DECISION of the PLANNING AUTHORITY.**

- 4.1 By order dated, 26th January, 2016, the planning authority decided to refuse permission on the basis of the following reason:

“Having regard to the proposed extreme intervention, (reduced finished floor levels) on site, and the proposed house design, scale mass and bulk which is proposed to be located on a slightly elevated Class 3 landscape, it is considered that the proposed development may constitute a highly intrusive development that would detract from the rural character and amenities of this rural area and would contribute to the erosion and the visual and environmental amenity of the area. The proposed development would thus, seriously injure the amenities of the area, contravene Policy LCM 1 reservation of Landscape Character, “Objective LCM 1 – Landscape Sensitivity Classification”, Objective LCM 2 – “Landscape Sensitivity Ratings” and Objective RHO 9 – Design Guidelines” of the County Development Plan, 2015-2021 and

would be contrary to the proper planning and sustainable development of the area.”

5.0 THE APPEAL

5.1 An appeal was received from Tom Grealish on behalf of the applicant on 20th June, 2016 which includes photographs of houses developed on more highly elevated lands constructed. The contents of the appeal are outlined in brief below:

- Issues relating to housing need were dealt with and clarified in detail in the further information submission.

Revised plans submitted as further information to address the concerns of the planning authority showed proposals for revisions comprising: reduction to the overall height to 8 metres, lowering of the finished floor level by one metre, eaves detail and roof pitch revisions with the ridge being 0.50 metres lower than that of the adjoining house and a central position on the ridge for the chimneys.

- A massive precedent has been set for the proposed development:

The examples shown in the photographs are of houses developed on elevated open landscapes when the current rural housing guidelines were applicable. They contribute to erosion of the visual and environmental amenity of the area, set a precedent for the proposed development and are contrary to the guidelines.

Permission was granted to the applicant's brother for an 8.2 metre high house in the same open landscape with similar floor levels. (P.A. Reg. Ref. 14/9 refers) The dwelling is shown on Photo G included in the submission.

A very recent grant of permission under P.A. Reg. Ref. 16/58 is for a dwelling with scale mass and bulk much greater than the proposed development and with windows that do not comply with the design guidelines and are in a rural sensitive landscape.

To make all development compliant with the design guidelines is not in line with recently permitted and constructed development.

- The proposed development complies with the Council's requirement for a ratio to 10 square metres of site area for each square metres of floor area. (Total stated floor area 272 square metres. Total stated site area 4,771 square metres.)

- There are trees on the west and northern boundaries that enhance the setting into the landscape. The ground and road levels allow for assimilation into the landscape and compliance with the design guidelines.
- The site was given to the applicant by his parents is not part of the farm holding as the family does not wish to break it up. The applicant's brother is to inherit the farm.

6 OBSERVATIONS OF THE PLANNING AUTHORITY.

- 6.1 There is no submission from the planning authority on file.

7. DEVELOPMENT PLAN.

- 7.1 The operative development plan is the Galway County Development Plan, 2011-2017 according to which the site location is:

In a landscape that is within Sensitivity Class 3 according to the landscape character assessment for the county;

In an area over a regionally important conduit karst aquifer for which development potential is limited.

Circa 200 metres from a flood risk area (coastal), an area that is potentially a floodplain though liability to flooding is not confirmed.

In a "restricted area" GTPS – Class 3) for which there is a requirement for housing need to be demonstrated.

Policy LCM 1 provides for preservation of Landscape Character, "Objective LCM 1 Objective LCM 2 provide for Landscape Sensitivity Classification" and "Landscape Sensitivity Ratings".

Rural Development Design Guidance is provided for under Objective RHO 9 – Design Guidelines".

8 ASSESSMENT

- 8.1 The sole issue central to the decision of the planning authority to refuse permission is that of the adverse impact on the visual amenities, rural character and environmental qualities of the area's Class 3 landscape and precedent for further similar development. These matters are first

considered below followed by some brief comments on the other planning considerations, namely, rural housing need; drainage and water supply arrangements; flooding risk and traffic safety and convenience.

8.2 Visual amenities, rural character and environmental qualities of the landscape and precedent:

It is noted that the planning authority has referred to the development plan in the reason for the refusal of permission. (LCM 1 reservation of Landscape Character, “Objective LCM 1 – Landscape Sensitivity Classification”, Objective LCM 2 – “Landscape Sensitivity Ratings” and Objective RHO 9 – Design Guidelines.) As a result the basis for the case is on precedent with reference to examples of other recently permitted development in similarly designated landscapes which is submitted do not accord with the design guidance in the development plan and are seriously injurious to the amenities and rural character of the sensitive landscape and environmental quality. This is not contested but it would not be appropriate to comment on the merits or otherwise of the individual permitted developments which have been subject to a completed planning review process with successful outcomes for the applicants.

8.3 With regard to the argument as to precedent which is well made in the appeal, the significant change to the landscape character in the immediate environs of the appeal site is of note. In effect at this location the landscape has been transformed from that of a rural and open landscape with scattered farm houses and associated buildings and limited carrying capacity into an area of continuous road frontage development that is suburban in character by virtue of the dwelling designs, landscaping and boundary treatments. The proposed development is a similar development on an additional plot at the western end of the existing row of suburban style residential development. The site character will be altered notwithstanding the proposals for reconstruction of the stone wall and the landscaping proposals are quite urban in character, especially with regard to the tree and hedgerow species selected for boundary treatment.

8.4 As regards the dwelling itself, the amendments in the further information submission for the design provide for a little amelioration of the impact of the original design but it does not eliminate an overall visual impact. It also of note is that the detached garage is of considerable size for domestic use ancillary to the residential use of the proposed dwelling. The proposed development is an addition to the existing suburban type development and, inclusive of the landscaping proposals it extends the already established continuous road frontage development, exacerbating

the impact of existing suburban character in the rural landscape. A reduced size development, possibly a bungalow or dormer bungalow and use of a planting and landscaping scheme that is responsive and appropriate to the rural and sensitive landscape character as identified and designated in the development plan would be desirable should the development be favourably considered.

- 8.5 It is not accepted that it can be assumed that precedent cases should be taken as justification for the setting aside of the design guidance incorporated in the current development plan and other statutory policies and objectives that provide for the protection and enhancement of the environment. However, in this instance it is considered that the appellant's agent has made a reasonable case with regard to previously recently permitted development in the immediate vicinity and wider environs with similar landscape character designations. More effective amelioration of the impact on the visual amenities and landscape character can be achieved by substitution of a landscaping and planting scheme that is more compatible and appropriate to rural areas. This matter could be addressed by condition should permission be granted.
- 8.6 **Rural Housing Need:** Comprehensive details and documentation to demonstrate that the applicant, who is a carpenter are included in the further information which demonstrate sufficient housing need to accord with development plan policy for Class 3 landscapes to the satisfaction of the planning authorities.
- 8.7 **Drainage and Water Supply:** Foul and storm water drainage arrangements are satisfactory notwithstanding the proliferation of private effluent treatment and disposal systems in the vicinity it being noted that water supply is to be sourced from a public main. It may be advisable for clarity and the interests of public health to insert a condition to the effect that a private means of water supply in substitution for or in replacement of mains supply is not permitted.
- 8.8 **Flooding Risk:** Having reviewed the assessment carried out by the planning officer with regard to flooding history and the floodplain it is satisfactorily concluded the site itself is not at flooding risk and that the proposed development would not contribute to flooding risk.
- 8.9 **Traffic Safety and Convenience:** There is no objection to the proposed alterations to the roadside frontage in terms of traffic safety and convenience although this element of the development is not positive in impact in terms of the preservation of rural characteristics.

9. **APPROPRIATE ASSESSMENT SCREENING.**

- 9.1 The Galway Bay Complex SAC, (0268) is circa one kilometre to the south east of the site location. *The conservation objectives provide for the maintenance and / or restoration of favourable conservation conditions of several habitats and species defined by listed attributes and targets. The conservations objectives are:*

*Mudflats and sandflats not covered by seawater at low tide (1140),
Coastal lagoons (1150)
Large shallow inlets and bays (1160),
Reefs (1170)
Perennial vegetation of stony banks (1220),
Salicornia and other annuals colonising mud and sand (1310),
Atlantic salt meadows (*Glauco Puccinellietalia maritima*) (1330),
Mediterranean salt meadows (*Juncetalia maritima*) (1410)
Turloughs (3180),
Juniperus communis formations on heaths or calcareous grasslands (5130),
Semi natural dry grasslands and scrubland facies on calcareous substrates (*Festuco Brometalia*)(important orchid sites) (6210)
Calcareous fens with *Cladium mariscus* and species of the *Caricion davallianae* (7210).
Alkaline fens (7230)
Otter (*Lutra Lutra*) (1355)
Harbour Seal *Phoca vitulina* (1365)
Several habitats and species including mammal and ornithological species which are listed as being evident in the bay area.*

- 9.2 The Habitats and species of the Galway Bay complex are under pressure from the effect of urban development and from recreational activities.
- 9.3 The Ballynamanagh River which flows from the north west passing circa three hundred metres to the east of the site into Dunbulcaun Bay to the south east, within the Galway Bay Complex is a potential source pathway receptor linkage.
- 9.4 The development is confined to that of a single residential unit. Effluent and polluted storm water from the site could potentially contaminate ground water which flows towards the river. Effluent is to be treated in a septic tank system and disposed of via a percolation area to the ground which according to the application can function at a satisfactory standard. Due to the limited size of the proposed development considered or alone or in conjunction with existing plans and projects, it is considered that the proposed development would have an imperceptible individual or cumulative impact on the Galway Bay Complex SAC or any European site.

9.5 The proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the Galway Bay Complex Candidate Special Area of Conservation (Site code 00268), or the other European sites in view of their conservation objectives. An appropriate assessment would therefore not be required.

10. CONCLUSION AND RECOMMENDATION.

10.1 In view of the foregoing, it is recommended that the appeal be upheld on the basis that, subject to conditions to include a planting and landscaping scheme incorporating indigenous species appropriate and compatible with the landscape character of the area.

10.2 A draft order for a grant of permission subject to conditions is considerations set out overleaf.

DECISION

Grant Permission on the Basis of the Reasons and Considerations and subject to the Conditions set out below:

REASONS AND CONSIDERATIONS

Having regard to the planning history and pattern and character of existing development in the area it is considered that subject to compliance with the conditions set out below, the proposed development would not be seriously to the visual amenities of the area or the landscape character and would be in accordance with 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, as amended by the further plans and particulars submitted on 26th April, 2016 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 site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
 - (a) a survey of all existing trees and hedging plants on the site, their variety, size, age and condition, together with proposals for their conservation or removal;

- (b) A planting scheme for indigenous trees and hedgerow in species (e.g. holly, hawthorn, beech or field maple) on the south, north and west boundaries and in informal clusters and groups.
- (c) Details of soft and hard landscaping inclusive the driveway and on-site parking areas which shall incorporate permeable materials and,
- (d) A schedule for implementation of the landscaping and planting scheme the implementation of which shall be completed prior to the occupation of the dwelling.

Reason: In the interest of the visual amenities of the area.

3. The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority 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.

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 and the protection of the environment from pollution.

4. All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

Reason: In the interest of traffic safety and the protection of the environment from pollution.

5. The external walls shall be finished in neutral colours such as grey or off-white and the roof materials, including the ridge shall be in black, blue grey, dark grey or dark brown.

Reason: In the interest of visual amenity

6. The detached garage shall be used for purposes ancillary to the residential use of the main dwelling and shall not be used for the carrying out of a trade or profession, sublet or sold separately.

Reason: In the interest of clarity and the amenities of the area.

7. 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. 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act is applied to the permission.

JANE DENNEHY.
Senior Planning Inspector
29th August, 2016.