



An
Bord
Pleanála

Inspector's Report PL 07.247726

Development	Retention of extension to rear and front of dwelling house, alterations to elevations, extension to existing garage and new entrance.
Location	Moyveela, Oranmore. Co Galway.
Planning Authority	Galway Co Council.
Planning Authority Reg. Ref.	16/251.
Applicant(s)	Matthew & Hillary Daniels.
Type of Application	Permission.
Planning Authority Decision	To Refuse Permission.
Type of Appeal	First Party
Appellant(s)	Matthew & Hillary Daniels
Date of Site Inspection	February 27 th , 2017.
Inspector	Breda Gannon.

1.0 Site Location and Description

- 1.1. The site is located in the townland of Moyvella c. 3.5 km north east of Clarinbridge, Co. Galway. It is access via the L - 8108 that connects into the M6 motorway to the north. The local road provides access to a number of individual dwellings that have developed in ribbon form, primarily along the northern side of the road.
- 1.2. The appeal site accommodates a single-storey dwelling and a garage on a large rectangular site. It is adjoined on both sides by residential property, with common boundaries formed by walls/hedgerows. To the front there is a substantial garden enclosed by a dry stone wall. To the rear there is a newly developed patio area and this is separated from the remaining area of the site by a dwarf wall. Beyond this the ground has been disturbed and a new effluent treatment system has been installed. The rear boundary is defined by an unmanaged hedgerow beyond which lies agricultural land.

2.0 Proposed Development

- 2.1. The proposal as described in the public notices seeks the retention of the rear and front extensions to the existing house, alterations to elevations, extension to existing garage and the creation of a new driveway entrance.
- 2.2. Further information on the application was requested by the planning authority on 26/4/16, relating to the following matters;
 - Details of legal interest in the service road and the area between it and the public road to include land registry details, details of right of way etc.,
 - Site specific flood risk assessment.
 - Screening for Appropriate Assessment.
 - Proposals to upgrade the existing septic tank system to EPA standards to include full site suitability assessment carried out in accordance with EPA Code of Practice.

The response of 24/10/16 included the following;

- Land Registry Details.

- Flood Risk Assessment carried out by Hydros, Engineering Hydrology Consultants,
- Appropriate Assessment Screening Report prepared by Planning Consultancy Services, and
- Site Characterisation Report prepared by Clarke Construction Design Ltd.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for the development for the following reason:

‘Based on the information submitted with the application details and the location of the development site within an identified groundwater and pluvial flood risk area, the planning authority is not satisfied that the development site is not at risk of flooding in the future, therefore if permitted as proposed the development would materially contravene objective FL 1 of the Galway County Development Plan 2015-2021 and would, therefore, be contrary to the proper planning and sustainable development of the area.’

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **Planning Officer’s** report of 16/11/16 noted that the planning permission granted under Reg Ref No 36559 permitted a house served by a septic tank and percolation area. The septic tank and percolation area appears to be located outside the original site boundary and the site has been significantly enlarged. It is stated that the applicant has submitted land registry details which indicates ownership of the entire site including the area over the previous service road. The remaining three houses have individual entrances, notwithstanding the absence of planning permission. The applicant has submitted revised plans and particulars indicating the minimum visibility required for the entrance and provided a detailed section of the sight distances.

The elevational changes and extensions are considered acceptable. The house is single storey and there are no upper floor overlooking windows proposed. The garage and fuel area are less than 60 m²

The Planning Officer notes that the site is located within a groundwater flood risk area. The findings of the site specific flood risk assessment are noted i.e. that the house is located within an area of extreme floods and that the finished floor level is above flood level. Mitigation measures are proposed to reduce the ground level area to the rear of the site to accommodate the loss of area arising from the development to be retained. It is noted that the site section indicates the polishing filter distribution is not raised but has a distribution level area below existing ground level.

Information to inform AA Screening has been included with the application which concludes that no significant effects will occur on Galway Complex SAC and Galway Bay SPA.

Refusal of permission is recommended 1 no. reason relating to flood risk.

3.2.2. **Other Technical Reports**

None.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

A submission was received from Mr Stephen Dooley who resides in the adjoining property. The issues raised related to overlooking windows and impacts on privacy, the erection of an 8ft fence, the provision of a hard core area between the properties, removal of a tree and tar storage on the site.

4.0 **Planning History**

28368 – Outline planning permission granted for 4 no. housing development including the subject site, served by a shared entrance onto the public road.

36559 – Approval granted for a house on the site.

70891 – Permission granted for retention of new access road to public road on the site to the southeast.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the **Galway County Council Development Plan 2015-2021**. The site lies in a rural area which is unzoned.

Flood Risk Management Policies and Objectives are set out in Section 8.7 of the Plan.

5.2. Natural Heritage Designations

The AA Screening Report submitted with the application details the designated sites within 15km of the site.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are summarised below:

- The planning authority decision pays little, or, no attention to the planning history on the site or to the principle of residential development and domestic effluent disposal which is long established on the site.
- The proposal is to provide superior effluent disposal arrangements than those permitted. It will include a new effluent treatment system percolating to an existing raised percolation area, designed in accordance with EPA standards. The original permission was granted for a traditional septic tank and percolation area, all well below existing ground levels.
- Prior to the lodgement of the planning application, the applicant decommissioned the septic tank percolation area, which was below ground level. The septic tank was relocated and a new raised percolation area was constructed.

- During the course of the application, the applicant proposed to replace the septic tank and install a new proprietary treatment system to connect to the raised percolation area. This is critically important as it appears that the planning authority misread the applicants' proposals and formed the opinion that the polishing filter distribution level is too low and not raised.
- To clarify the position, updated drawings have been prepared by Clarke Construction Design, Consultant Engineers. The drawing entitled 'Sections & Levels' shows the correct levels on the site. The distribution level is raised at 9.566m over existing ground level at 9.42 m at the rear of the site. The distribution level is 0.296m higher than the proposed flood attenuation level of 9.27m to the rear of the site.
- The site layout plan attached indicates the previous position of the septic tank/percolation area and the position of the proposed effluent treatment system distributing to an existing raised percolation area.
- With regard to flood risk mitigation measures, a flood risk attenuation area is indicated to the south of the site as per the Flood Risk Assessment. In addition, a non-return valve is included on the sewer line as an additional safety measure. Section B-B indicates that the current raised percolation area is positioned 0.814m higher than the original percolation area serving the original septic tank on the site.
- The conclusions of the FRA remain valid which stated inter alia that;

The mitigation measures proposed to reduce the ground level of the area as shown on Figure 17 by 0.15m will have a positive effect on flooding at the specific site and the neighbouring lands i.e. the proposed works as per planning reference 16/251 will not have adverse impacts on the floodplain... The raised percolation area is higher than the existing septic tank levels and the proposed wastewater system is a replacement to the existing septic tank. Therefore, the effluent discharged has better standards. In light of the above it is considered that the proposed development does not materially contravene Objective FL 1 of the development plan.
- When the applicants' applied for planning permission in March 2016, they set out to regularise minor works relating to the house, which had existed on site

for over 30 years. Subsequently, they have been forced to comply with the up to date requirements for EPA Site Suitability, AA Screening and FRA, even though the house was originally permitted in 1978. The permission pre-dated the EU Habitats Directive, the EPA standards, the Flood Risk Guidelines and Objective FL1 of the current development plan. The planning authority have been overzealous and unfair in the pursuit of new environmental requirements at an established residential site.

- The applicants' have complied with all relevant environmental requirements including Objective FL1 of the development plan. It is hoped that the Board will acknowledge the fact that the proposed development, for which retention is sought, will result in improved effluent disposal arrangements and flood risk mitigation measures which have not previously existed on the site.
- The original permission on the site referred to a small housing development for 4 no. sites to be served by a shared entrance onto the public road. Since the permission was granted in 1987, the pattern of development in the area has changed significantly. The adjoining roads in the area are all characterised by one off houses, all with individual vehicular entrances onto the public road.
- Retention permission has been granted at the neighbouring site to the south east to have a stand alone access onto the local road under Reg Ref No 70891. The precedent of this departure from the original shared entrance serving the 4 no. original sites, has therefore been established.
- The proposed stand alone entrance is therefore consistent with the prevailing pattern of development in the area and is located at a point where there are adequate sightlines available onto the public road, which has the benefit of excellent vertical and horizontal alignment.
- The alterations made to the external elevations have resulted in an improved house design.

6.2. Planning Authority Response

No response to the grounds of appeal were submitted by the planning authority.

6.3. Observations

None.

7.0 Assessment

- 7.1. The main issues that arise for determination by the Board relate to the appropriateness or otherwise of the retention of the development as constructed.
- 7.2. The applicant in this case seeks permission to retain a small extension to the front of the house, an extension to the rear, an extension to the existing garage, alterations to the elevations and the creation of a new entrance to the property.
- 7.3. The alterations/extension to the front of the house are of a very minor nature, involving changes to fenestration and extending the dining room. The development is suitably designed and finished to tie in with the existing elevational treatment. There are no impacts on adjoining property or on the visual amenities of the area and accordingly, I have no objection to its retention.
- 7.4. To the rear of the house, an extension has been constructed to the back of the house and at the back of the garage. The extension to the house provides an additional bedroom and ancillary accommodation. It is finished externally to match the existing house and provides an attractive addition to the house. There is a side window facing towards the adjoining dwelling to the east but any potential for overlooking is prevented by the existing wall and screen planting. No impacts on the visual or residential amenities of adjoining property arise from this development and accordingly I have no objection to its retention.
- 7.5. Similarly, the garage extension has been suitably finished to match the house. It contains no side windows, eliminating any potential for impacts on the privacy of the adjoining house to the west.. Subject to a condition controlling its use, I have no objection to its retention.
- 7.6. A new vehicular entrance has been constructed from the house onto the public road. The original planning permission for the development of this site and the adjoining three sites to the east included an access road that ran parallel to the local road and providing access to all four properties. All of these properties have developed independent access onto the public road. The applicants have confirmed that they

are the legal owners of the lands in question. The new access is located towards the eastern end of the site frontage. Adequate visibility is available in both directions to achieve safe access and accordingly, I have no objection to its retention.

- 7.7. During the processing of the application, the planning authority raised issues regarding flooding, noting that the site was located in a groundwater flood risk area. Issues were also raised regarding the septic tank, which was noted to be located outside the boundaries of the original site. At the request of the planning authority the applicant undertook a site suitability assessment, Flood risk assessment and screening for Appropriate Assessment.
- 7.8. Whilst the treatment system does not form part of the application, I have considered it in the assessment as the planning authority raised issues in this regard. The Site Characterisation Report noted that the site is located in an area of bedded limestone. The underlying aquifer is 'Regionally' important (Karstified) with an 'Extreme' vulnerability rating. Rock was encountered in the trial hole at 1.6m. The water table was not encountered. The percolation tests indicated soils with rapid percolating properties, consistent with limestone derived soils. The target at risk is groundwater, with the potential for effluent to pass rapidly through the soil without adequate attenuation prior to reaching groundwater. The report recommended the installation of a packaged wastewater treatment system with polishing filter.
- 7.9. The original below ground septic tank was decommissioned by the applicants' and a new tank and raised percolation area provided at the rear of the house. Having regard to the site assessment, the applicants are prepared to install a proprietary treatment system with the effluent pumped to a raised percolation area. The applicants' appeal includes section drawings showing the distribution level above existing ground level and flood attenuation level. I accept that the new effluent treatment arrangements would result in an improved quality of effluent which would reduce potential impacts on ground water quality.
- 7.10. The OPW Flood Maps for the area indicate that a combined groundwater pluvial flood risk area overlaps the subject site. I note that these maps are intended for indicative purposes only. The Flood Risk Assessment report notes that while flooding has occurred to the northeast and southwest, there is no history of flooding on the subject site. It has been established that the floor level of the house is 0.3m above

ground and the ground level is above the predicted flood level. The extensions are at similar levels to the existing house and are not at any greater risk of flooding. Compensatory storage is proposed at the rear of the site should the increased footprint result in any loss of potential floodplain.

- 7.11. The principle of residential development has been established on the site. On the basis of the information submitted, I do not accept that there is any justification for a refusal of permission. The proposed flood mitigation measures are an improvement on existing conditions and will reduce the potential for any future flooding on the site.
- 7.12. The planning authority in its reason for refusal considered that the proposed development would materially contravene the provisions of the Plan, specifically Objective FL 1. This objective seeks to ensure that flood risk is appropriately managed and assessed. It requires compliance with the Planning System and Flood Risk Management Guidelines for Planning Authorities 2009
- 7.13. Should the Board consider that a grant of permission is appropriate in this case it is bound by the provisions of section 37(2) of the Planning and Development Act 2000, as amended. Under its provisions, the Board may only grant permission where it considers that the following criteria apply;
- (i) the proposed development is of strategic or national importance,
 - (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
 - (iii) permission for the proposed development should be granted having regard to the regional and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
 - (iv) permission for the development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.
- 7.14. Having regard to the planning history of the site and to the provisions Section 37(2)(b) (iii) of the Planning and Development Act 2000, as amended, and in particular Government Guidance as expressed in the Planning System and Flood

Risk Management -Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in November, 2009, I consider that planning permission should be granted for the retention of the development as proposed. I draw the attention of the Board in particular to the provisions of paragraph 5.28 of the Guidelines which makes specific reference to minor proposal including small extensions to houses, noting that they are unlikely to raise significant flooding issues, unless they obstruct important flow paths, introduce a significant additional number of people into flood risk areas or entail the storage of hazardous substances. It is clear that the retention of the development as proposed will not result in any of these scenarios.

- 7.15. The Board will note that a site specific flood risk assessment has been carried out. It has been demonstrated that there is no documented flood history associated with the subject site and measures are proposed to mitigate any potential future flood risk. Furthermore, there is no evidence that the retention of the development would cause or exacerbate flood risk in other locations. I consider that flood risk has been assessed and that any future risk can be appropriately managed.

Note: I would point out to the Board that the site the subject of the current application is significantly larger than that for which permission was originally granted. I note that the planning authority raised no issues in this regard.

8.0 Recommendation

- 8.1. Having considered the contents of the planning application, the decision of the planning authority, the provisions of the development plan, the grounds of appeal and the responses thereto, my inspection of the site and my assessment of the planning issues, I recommend that permission be granted for the retention of the development for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the established residential use on the site, it is considered that subject to compliance with the conditions set out below, the retention of the development as propose would not increase the risk of flooding on the site, would be acceptable in terms of traffic safety and convenience and would not detract from

residential and visual amenities of the area. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 24th day of October 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 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 interests of clarity.

2 The garage shall be used solely for purposes incidental to the enjoyment of the dwelling house and shall not be used for commercial or industrial purposes or for human habitation

Reason: In the interest of residential amenity.

3 (a) The proposed effluent treatment system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on 24th October 2016, and in accordance with the requirements of the document "Wastewater Treatment and Disposal Systems Serving Single House (EPA Code of Practice 2009). Arrangements in relation to the ongoing maintenance of the system shall be submitted to and agreed in writing with the planning authority within one month of the date of this order.

(b) treated effluent shall be discharged to a raised percolation area constructed from imported fill with a suitable T value and depth to ensure adequate attenuation of the effluent prior to discharge to ground. The percolation area shall be provided in accordance with the requirements of the Wastewater Treatment and Disposal Systems Serving Single House (EPA Code of Practice 2009).

(c) Within three months of the commissioning into use of the effluent treatment system, 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 sets out in the EPA manual.

Reason: In the interests of public health.

Breda Gannon
Planning Inspector

22nd March, 2017