



An
Bord
Pleanála

Inspector's Report PL07.248291

Development	Retention of changes to front and side boundary treatment and landscaping at existing site.
Location	Cinn Uisce, Claregalway, County Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	16/1453
Applicant(s)	Stephen Gill
Type of Application	Retention permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	James & Patrick O'Connell & others
Observer(s)	None
Date of Site Inspection	7 th July 2017
Inspector	Karla Mc Bride

1.0 Site Location and Description

The appeal site is located to the NE of Claregalway Village in County Galway and the surrounding area is rural in character. The site is located in the townland of Kiniska and within a small settlement which contains several houses and sheds. The site is located on the NE side of the local road and it bound to the SE by a detached house and to the NW by an enclosed yard that contains several large sheds with houses beyond. The roadside boundaries are mainly defined by dry stone walls and hedges. The original appeal site boundary with the local road has been removed and replaced by a temporary screen and the topsoil has been removed from the site and replaced with stone aggregate. The internal appeal site boundaries are defined by a mix of mature hedges and fences and the site forms part of a larger landholding that extends to the NE of the site appeal. Photographs and maps in Appendix 1 describe the site and surroundings in more detail.

2.0 Proposed Development

2.1. Planning permission is being sought to retain:

- Changes to the front and side boundaries around the site.
- Changes to the landscaping within the site

3.0 Planning Authority Decision

3.1. Further Information

Further Information was requested in relation to:

- Details of proposed surface finishes and drainage arrangements for the setback area between the relocated roadside boundary and the local road - *details submitted.*
- The purpose of the revised access arrangements and the need for the setback area to justify the largescale removal of the low stone wall and vegetation - *site will restored to its original grass covered condition, topography and levels; the original wall was in poor condition and the*

vegetative covered hindered visibility; the new wall be will be set back from the road edge and the gate will be in a similar position; the lands will be used for grazing and there will be no intensification of use; and a small parking area will be retained.

- Revised sightlines from the relocated vehicular access and letters of consent from adjoining landowners for the maintenance of roadside boundaries to achieve and maintain the sight lines - *the sightline to the E does not pass through the adjoining landowners site and written consent submitted from the landowner to the W; no intensification of use of the entrance; and the new layby would improve traffic safety.*
- Submit a revised site layout plan which accurately describes all adjoining development – *details submitted.*

3.2. **Decision**

Following the receipt of Further Information, the planning authority decided to grant retention planning permission subject to 7 standard conditions.

- Condition no. 3 required that the access be used for agricultural purposes.
- Condition no.4 required the maintenance of sight lines.
- Condition nos.5 & 6 dealt with drainage and the disposal of surface water
- Condition no.7 required that the use of indigenous dry stone walling which should not exceed 1m in height when viewed from the roadside.

3.3. **Planning Authority Reports**

Planning Reports

The County Council decision reflected the recommendation of the planning officer.

Other Technical Reports

None on file.

3.4. **Prescribed Bodies**

Case not circulated.

3.5. **Third Party Observations**

Several letters of objection received from local residents who raised concerns in relation to inaccuracies in the submitted plans and development description, adverse visual impact on rural landscape and agricultural character of the area, unacceptable commercial activity (parking of plant and machinery) within the historic Clachan Village, flood risk, and traffic generation and hazard.

4.0 **Planning History**

No relevant planning history for the site.

EN16/079: Enforcement Letter served on applicant in July 2016 in relation to:

- Unauthorised site clearance – the removal of existing hedgerow, stone wall and trees from the front and lateral boundaries.
- Site clearance and topsoil and the importation and fill of stone and hardcore material into the site including the roadside edge.
- Unauthorised commercial activity with the intent of using the site from the parking of plant and machinery, removal of the roadside boundary and the replacement of topsoil with stone aggregate.

5.0 **Policy Context**

5.1. **County Galway Development Plan 2015-2021**

The site is located in a rural area and within:

- A Class 1 Sensitive Landscape (least sensitive)
- The Gaeltacht
- The GTPS
- An area designated as a (Rkc) Regionally Important, conduit karst aquifer, development potential limited.
- An area drained by the Corrib River

5.2. Natural Heritage Designations

The site is located with 15k of the following European sites:

- Galway Bay Complex SAC
- Lough Corrib SAC & SPA
- Monivea Bog SAC
- Inner Galway Bay SPA
- Cregganna Marsh SPA

6.0 The Appeal

6.1. Grounds of Third Party Appeal

- Retention permission is sought for boundary treatment and landscaping but not the other works that have taken place, and the works are incorrectly described in the Public Notices and application form.
- Site could be used in connection with the applicant's business (window manufacture) and the site is the subject of an Enforcement Notice.
- The adjoining site to the NW is in separate ownership, it contains several sheds which are used for commercial purposes by the applicant and others, and not all of the sheds are shown on the submitted plans.
- Other works have taken place on the applicant's lands which have not been described in the Public notices and application form, they give rise to confusion as to the intent of the retention application, and include:
 - Infilling outside site boundary with aggregate.
 - Alteration of ground levels within the site and adjacent lands.
 - Storage of top soil from the appeal site on the adjacent lands.
 - Relocated entrance off the local road.
 - Linkage with the adjoining lands to the W.
 - Operation of unauthorised businesses by applicant on lands to the W.

- The Enforcement Notice refers to "unauthorised activity with the intent of using the site for the parking of plant and machinery."
- Adverse impact on neighbouring houses as a result of raised site levels (which would be further raised by the reinstatement of topsoil) and could give rise to drainage problems and a risk of flooding.
- The extent of the works suggest that the intended use of the site is for commercial and not agricultural activities (infilling, recessed roadside boundary & internal vehicular link) and the proposed retention of the boundary alterations and landscaping are part of a larger development.
- Adverse impact on the visual amenities of the rural area.

6.2. Applicant Response

- Applicant removed topsoil, a boundary wall and gate from a small site and laid a thin layer of hardcore to create a yard area; unaware that planning permission was required; works ceased on receipt of an Enforcement Notice; and retention permission is now being sought for the works.
- The works are minor in nature and extent; propose to provide a 3m setback and construct a 1m high wall with farm gate; the lands are un-zoned in a Class 1 landscape; and there is no planning history.
- The site has not and will not be used for commercial purposes.
- The development description is suitably brief in accordance with Article 18 (d) of the Regulations and the extent of the development within the red line boundary was clearly indicated in the submitted plans.
- The extent of the overall lands are outlined in blue, topsoil was removed and a thin layer of hardcore was laid on an area to the front of the landholding, however this area straddles the red line and blue line boundaries.
- Intend to retain a small area inside the gate as a parking area, and the topsoil will be reinstated over the remainder of the site, as indicated in Figure 2.
- Willing to accept a condition requiring the reinstatement of the topsoil within 6 months of the Board's decision, although it is acknowledged that a large part

of this area is outside the red line boundary but within the blue line boundary, this can be facilitated under the provisions of S.34(4) (a0(i) of the Act .

- Seek to retain a narrow front portion of the hardcore area behind the gate (as indicated in the FI response drawings) for parking; and works are in accordance with road safety, set back and sightline standards.
- Site levels have not been raised significantly with no impact on drainage.
- The site is not within a flood risk zone and there are no recorded flood events in the area and an FRA is no required or warranted and the hardcore is pervious; however, the ground level behind the proposed wall will be reduced to 9.9m TBM and below the road level of 10TBM and a 1m deep soakaway will be constructed, as indicated in Section A-A of the FI response.
- The adjoining site to the W is in separate ownership; there is no internal connection to this site and the former boundary was replaced with a palisade fence; minor mapping inaccuracies were clarified a part of the FI response.
- Condition nos. 5 & 6 address drainage concerns and no.7 requires the construction of a dry stone wall in the interest of visual amenity.

6.3. **Planning Authority**

No response.

6.4. **Observations**

None.

7.0 **Assessment**

The main issues arising in this case are:

- Principle of development
- Nature of development
- Visual amenity
- Drainage and flood risk
- Other issues

7.1 **Principle of development**

The applicant is seeking planning permission to retain changes to the front and side boundaries and landscaping at the existing agricultural site. The site is located in an un-zoned rural area which is covered by the County Galway Development Plan 2015 to 2021 and the changes to the boundaries and landscaping are acceptable in principle.

7.2 **Nature of development**

This application for retention permission was submitted in response to enforcement proceedings that were initiated by the Enforcement Section of Galway County Council in relation to unauthorised development on the appeal site and the adjacent lands which are also in the applicant's ownership. The appeal site is approximately 30m wide and 8m deep and the adjacent lands to the rear are approximately 25m wide and 38m deep.

The Enforcement Letter served on applicant in July 2016 under EN16/079 identified the following areas of concern in relation to the overall lands:

- Unauthorised site clearance – the removal of existing hedgerow, stone wall and trees from the front and lateral boundaries.

- Site clearance and topsoil (removal) and the importation and fill of stone and hardcore material into the site including the roadside edge.
- Unauthorised commercial activity with the intent of using the site from the parking of plant and machinery.

Additional clarity in relation to the nature of the development were provided by way of Further Information.

The applicant is seeking planning permission to retain the roadside and lateral boundary alterations, and to erect a new 1m high boundary wall which would be set back approximately 3m from the roadside edge along with a new c.4.8m wide entrance gate and parking area.

The applicant has confirmed that neither the appeal site nor the adjacent lands in his ownership will be used for commercial purposes; that there will be no internal connection to the adjacent site to the W which is in separate ownership; that the topsoil will be re-instated over the appeal site and adjacent lands in the applicant's ownership, except for a small section in the SE corner next to the entrance gate that will be used for vehicle parking; and that appropriate drainage measures will be put in place along the new roadside boundary

In relation to the commercial use of the appeal site and adjacent lands: The applicant has not applied for planning permission to change the use of the appeal site from agricultural to commercial use or to retain an existing unauthorised change of use. The use of the appeal site lands and the adjacent lands to N of the appeal site, which are in the applicant's ownership, for anything other than agricultural use would require a separate planning application.

In relation to the reinstatement of the topsoil at the appeal site and adjacent lands: The reinstated topsoil would be spread over the imported stone aggregate/hardcore that currently covers the appeal site and adjacent lands in the applicant's ownership. This element of the proposal was not included in the public notices or the planning application however it was referred to in the applicant's cover letter, it was also included in the Further Information response drawing and the objectors addressed it

in their submissions. The arrangements are considered acceptable provided that the original site levels and topography are reinstated within the appeal site as defined by the red line boundary. The applicant's reference to Section 34(4)(a)(i) of the Planning and development Act, 2000 (as amended) in respect of the adjacent lands is noted, however it is not considered relevant in this case as the works are not necessary to implement the current proposal.

In relation to the retained hardstanding area: This area would be located in the E half of the c.240sq.m. appeal site behind the proposed new entrance gate and it would be approximately 15m wide, 8m deep and 120sq.m. This element of the proposal was not included in the public notices or the planning application although it did form part of the Further Information response drawing. Given that the roadside boundary will be set back by c.3m over a distance of c.30, the retention of a hardcore parking area within the appeal site is not warranted.

7.3 Visual amenity

The applicant has removed the existing dry stone wall and hedges that originally defined the boundary with the local road which has had an adverse impact on the visual and residential amenities of the rural area. It is proposed to erect a new concrete wall which would be set back c.3m from the roadside edge. A planning condition should be attached which requires the construction of a new dry stone wall which would be similar to the original wall, in the interest of visual amenity.

7.4 Drainage and flood risk

The appeal site is located within a relatively flat landscape which does not lie within a flood risk zone or an area liable to flooding, there have been no recorded flood events in recent years, and I am satisfied that a Flood Risk Assessment is not required. However, the works could give rise to localised drainage problems in the immediate area. This concern would be addressed by the reinstatement of the original site levels and by the proposed soakage pit along the new boundary wall. The drainage arrangements are considered acceptable subject to compliance with any other requirements of Irish Water and the planning authority.

7.5 Other issues

Vehicular access: The boundary set back, vehicular access, sightlines and road surface arrangements, as clarified by way of the Further Information response, are considered acceptable subject to compliance with planning authority requirements.

Appropriate assessment: The development would not affect any European Sites having regard to the nature of the works and the absence of a direct connection to any SACs or SPAs in the wider area.

8.0 Recommendation

Arising from my assessment of this appeal case I recommend that planning permission should be granted for the development proposed for retention for the reasons and considerations set down below and subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the County Galway Development Plan 2015 to 2021, and to the nature, and scale of the development proposed for retention, it is considered that subject to compliance with the following conditions, the development proposed for retention would not seriously injure the amenities of the area or of property in the vicinity or give rise to a traffic hazard. The development proposed for retention would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development proposed for retention shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the Further Information received by the planning authority on the 17th day of February 2017, 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. For the avoidance of doubt, this planning permission relates to the development as advertised and described in the Public Notices, planning application and Further Information response submission, and relates solely to works within the appeal site boundary as defined by the red line on the submitted plans.

Reason: In the interest of clarity.

3. The vehicular access shall be used for agricultural purposes only and the hard standing/parking area shall be omitted.

Reason: In the interest of orderly development and the proper planning and sustainable development of the area.

4. The new boundary wall shall be of indigenous dry stone walling which shall not exceed 1 meter in height when viewed from the roadside.

Reason: In the interest of visual amenity.

5. The following roads and traffic requirements shall be compiled with:

(a) Sight distance triangles shall be maintained and kept free from vegetation or other obstructions that would reduce the minimum visibility required.

(b) Overhead lines and poles shall be set back in line with the new boundary wall at the developer's expense before work commences. No pole shall be left in the layby or in the sightlines of the development where the poles might obstruct the view of the road of existing road users and/or persons accessing the site.

Reason: In the interest of orderly development and road safety.

6. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of Irish Water and the planning

authority for such works and services as appropriate.

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

Karla Mc Bride

Planning Inspector

11th July 2017