



An
Bord
Pleanála

Inspector's Report ABP-300108-17

Development	Retention of Dwelling House, Chalet and Boat Shed
Location	Caorán Beg, Carraroe, County Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	17/708
Applicant	Liam O'Domhnaill
Type of Application	Retention
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellant	Liam O'Domhnaill
Date of Site Inspection	23 rd February 2018
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located at Caoran Beg, Carraroe, Co Galway. The site is located along a local road and is elevated with reference to the road. Outcropping rock can be seen in the vicinity.
- 1.1.2. The site is occupied by a bungalow, set well back from and roughly parallel to the public road, with rendered walls and a tiled roof. A smaller building at right angles to the bungalow, to the left and rear, is also tiled and rendered. This latter building is the building referred to as a chalet. Also to the rear of the bungalow and to its right and roughly parallel to the public road is a slate roofed rendered building. This is the building referred to as the boat house.
- 1.1.3. Near the southern boundary and close to the road, at a level considerably lower than the dwelling, there is a septic tank. Adjoining the septic tank there are rocks and stones at ground level. There are two surfaced access driveways serving the site.
- 1.1.4. The site has a stated area of 0.5689 hectares (planner's report 0.4229ha).

2.0 Proposed Development

- 2.1.1. The proposed development is described in the published notice as retention for the existing private dwellinghouse, chalet, boat storage shed and steel storage shed.
- 2.1.2. The application is accompanied by a report from Ronan O'Halloran BE, O'Halloran Engineering, on the effluent treatment system. The report states that the existing septic tanks is precast concrete and in the form of a figure 8 thus providing two individual chambers, a primary and secondary chamber with the walls acting as a baffle wall. The roof/lid is not readily visible on site and is underground but there are two access hatches located on risers in the lid. Access to both the primary and secondary chambers is achievable.
 - The existing tank measures 1.2m diameter x 1.5m (x 2) liquid depth volume 3.4 m³.

- The existing dwelling has 3 bedrooms and the granny flat has 1 bedroom which equates to a p.e. of 6.

- The tank capacity, per section 7.1.1 of the code of practice, is calculated as:

$$C=150 \times p +2000$$

$C=150 \times 6 +2000 =2.900\text{m}^3$. Therefore the septic tank has sufficient capacity.

- During the inspection it was noted that the outlet pipe contained a T fitting and a drop pipe. It was also noted that it was full of sewage, indicating that it is sealed, not leaking and operating correctly.
- During inspection the tank was fully desludged allowing visual inspection of the walls and floor. No cracks, leaks or defects were recorded.
- The ground surrounding the septic tank appears firm and dry. There are no signs that the percolation area is not functioning properly; no evidence of ponding.
- The septic tank appears to be an adequate system.
- Mr O'Halloran recommends that the tank be inspected and desludged periodically to ensure the correct working.
- There are two openings in the baffle wall. He recommends that the opening located near the floor be blocked over to ensure greater separation between the primary and secondary chamber to ensure a better degree of settlement.
- There was no drop pipe on the inlet side of the tank and same should be installed within the tank.

2.1.3. Other documents submitted with the application include:

- A letter from Peter O'Donnell's GP is attached stating his strong opinion that Mr O'Donnell should continue to live at his current address where his family provides crucial support.

- A letter from Seamus Ó Scanláin (SOS Liquid Waste) confirming desludging and washing of septic tank on 25th April 2017.
- Land registry details for 0.4249ha.
- Extracts from the planning permission for a five bedroom house on a site, roughly corresponding to, but smaller than, the subject site (ref 25274).

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse planning permission for the following reasons:

- 1 The subject site is located within a Class 3 sensitivity designated landscape. It is considered that the three out buildings subject of retention by reason of their combined size, height and design are not considered ancillary to the main dwelling on site, would seriously injure the amenities, or depreciate the value, of property in the vicinity, and would set an undesirable precedent for similar developments in the area and therefore would be contrary to the proper planning and sustainable development of the area.
- 2 The unauthorised detached structure, as a self-contained private residential building situated within a private residential rural site located within the Galway Transportation Planning Study Area, which is an area subject to strong urban influence, is contrary to development management standard 4 in GCDP and to permit same in the absence of a waste water system which provides secondary treatment would seriously injure the amenities, or depreciate the value, of property in the vicinity, and would set an undesirable precedent for similar developments in the area and therefore would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The Planning Report includes:

- The site is located in a landscape designated as class 3 where class 1 is least sensitive and class 5 most sensitive.
- The site is located in the Gaeltacht.
- Galway Transportation Planning Study Area
- The area is designated as a poor aquifer generally unproductive except in local zones.
- The site is located off a local road approx 2km south of Carraroe Village.
- AA SAC and SPA sites:

Connemara Bog Complex SAC

Kilkieran Bay and Islands SAC 2km

Inishmore Island SAC

Inishmore SPA

Connemara Bog Complex SPA

Slyne Head to Ardmore Point Islands SPA

3.2.3. The site consists of a single storey dwelling, a boat shed with a roof ridge height of 6.650m and a gross floor area of 128sqm, a steel shed (78 sqm) and a one bedroom (48 sq m) granny flat combined gross floor area 417.44 sq m. The applicant was granted planning permission in 1977 for a dwelling. The dwelling constructed on site is bigger than what was granted permission. The three other structures on site are unauthorised and this application is proposing to regularise this.

3.2.4. Details have been submitted regarding the existing waste water unit on site which is a septic tank. The report could not confirm any details regarding secondary treatment of waste water on site.

3.2.5. The unauthorised structures combined are 254 sq m in area and the boat shed is higher than the dwelling. It cannot be considered that these structures are ancillary to the dwelling.

- 3.2.6. The granny flat is removed from the dwelling. Development management standard 4 states that a granny flat must be attached to the family home unless there are exceptional circumstances to warrant a separate detached unit.
- 3.2.7. No justification for the granny flat or additional boat shed has been provided for the consideration of the planning authority.
- 3.2.8. The decision was due 11/7/17.
- 3.2.9. An extension of time for making a decision was granted of which no details are given.
- 3.2.10. 28/8/2017 unsolicited further information.
- Revised site layout showing removal of steel shed.
 - Letter to show reasoning behind application for retention.
 - Applicant is gifting the family home to his eldest son Liam Eoin and retention is required as the family home is sited incorrectly to the planning permission when built in the late 70s early 80s.
 - He has no other land but he has a boat shed which he now wants to give to his other son Maitiú, in respect of which he previously applied for planning permission for change of use to a domestic house (16/1701).
 - The chalet started out as a shed but his brother Peter was diagnosed with a terminal illness and requires 24 hour care.
 - The first party decided with his siblings to convert the shed to a 1 bed chalet with a disabled bathroom to meet his requirements rather than putting him in care or a nursing home. The wife of the applicant and his sisters and brothers all take time to cater for his needs. He needs attention throughout the day which is detailed in the letter. He is much happier at home. The Council have been subsidising his rent via the HAP scheme.
 - The first party has demolished the steel shed, to show that this is about his son and brother. He hopes the shed conversion is now more acceptable. With fresh landscaping to the property and a fence defining it, it will look like two properties.
- 3.2.11. Second Planning Report

- 3.2.12. Notwithstanding the further information submitted it is considered that the development constitutes overdevelopment and it is evident that the intended use of the boat house is domestic. The retention of the boat house, which is excessive in terms of height and size, for an ancillary building, if permitted, may give a precedent for a further proliferation of residential units on site and set an undesirable precedent for similar types of development.
- 3.2.13. Having regard to the policies and objectives of the GCDP and DoEHLG Sustainable Rural Housing Guidelines as they relate to rural housing the EU Habitats Directive and proper planning and sustainable development of the area, in conjunction with the planning history and planning application it is considered that the proposed development would be contrary to the sustainable development of the area, the Habitats and Birds Directives the sustainable rural housing guidelines and the County Development Plan.

4.0 Planning History

16/1701 retention of an existing boat shed, change of use to domestic dwelling, construct new sunroom extension and alterations to boat shed including a new effluent treatment system. Gross floor 133.6 sq m.

25274 planning permission for the erection of a dwelling at Keeraunbeg, granted, 26th September 1977.

11/921 cead pleanáil chun athrú a dhéanamh ar plean tí agus ar plean garáiste (uimhir tag 07/4563 (252 sqm), withdrawn. Details of this application have been supplied by the planning authority although the application was by a different applicant on a site to the south and on the opposite side of the road.

5.0 Policy Context

5.1. Development Plan

5.2. Galway County Development Plan 2015-2021 is the operative plan. Relevant provisions include:

The area is designated as a rural area under strong urban pressure, (GTPS The Galway Transportation and Planning Study).

Strategic Aims - The strategy for achieving quality housing is based on strategic aims, including ensuring the support and maintenance of the rural population.

Landscape Value Rating – high. Landscape sensitivity - class 3 medium. Landscape sensitivity is a measure of the ability of the landscape to accommodate change or intervention without suffering unacceptable effects to its character and values.

Sensitivity ratings are derived from a combination of landscape values and landscape character

Development Management Standard 4: Family Granny Flats (Urban & Rural Areas)

The creation of a family flat to be occupied by a member of the occupant family is generally acceptable. Generally speaking the granny flat must be attached to the family home unless there are exceptional circumstances to warrant a separate detached unit.

5.3. Natural Heritage Designations

The Kilkieran Bay And Islands SAC (site code 002111) is the nearest Natura Site, located c 2km from the site.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal has been made by Pat Sullivan (Seirbhísí Uí Shúilleabháin) on behalf of the first party against the decision to refuse permission. It includes:
- 6.1.2. Originally they had applied to retain the dwelling, chalet, boat shed and steel storage shed. The application was to be refused so they extended the application to review their position. They decided to remove the large steel storage shed, because the only concern was to try and cater for son Maitiú and bother Peter.
- 6.1.3. Details of Peter's needs are stated.
- 6.1.4. The boat shed is being gifted to Maitiú as the family home is willed to the older son Liam Eoin. Details of a previous application for change of use of the boat shed are enclosed.
- 6.1.5. Responding to the decision:
- Re precedent – this application is an exception. The first party has just over an acre of land. He wishes to help his sons equally, thus the gift of the boat shed.
 - Peter is another exception, due to his illness.
 - The Board is requested to review the decision on behalf of Liam, Maitiú and Peter.
 - The Council has an issue with 3 outbuildings. They have removed one to try to aid Maitiú and his young family to have their own home and Peter to spend whatever remaining time he has in relative comfort.
 - The boat shed has been there for c10 years and does not intrude on the vicinity, is behind the family home and looks more balanced with the removal of the steel shed.
 - They consider that the Council have been a bit harsh in their decision.

6.2. **Planning Authority Response**

The planning authority have not responded to the grounds of appeal.

7.0 **Assessment**

7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, effluent treatment, the refusal reasons and the impact on the character of the area and the following assessment is dealt with under those headings.

7.1.2. The application is for retention of existing private dwellinghouse, chalet and boat shed. In relation to the retention of the boat shed, it's possible future use is referred to in the planner's report and in the grounds of appeal but any such use is not part of the application and should not therefore form any part of the Board's assessment of this appeal.

7.2. **Appropriate Assessment**

7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment 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.

7.3. **Effluent Treatment**

7.4. The application includes retention of a septic tank system. Although not referred to in the planner's assessment this is an important issue. The existing septic tank is located beside the site boundary.

7.5. No details of the percolation is provided or can be obtained. A percolation area requires a distribution box and there is no evidence provided that such exists.

7.6. It is evident that insufficient space is available within the site for a percolation area, that a percolation area was not provided and that the effluent is likely to discharge to a soakpit, which is not an environmentally acceptable method of disposal.

7.7. The mapping supplied with the application shows that this area has outcropping rock. Outcropping rock is visible within the site and on adjoining lands.

7.8. The site characterisation report (by O'Halloran Engineering) submitted in connection with the application to convert the boat shed to a dwelling (16/1701), with the provision of an effluent disposal to the east of the existing dwelling, shows that the water table was encountered at 0.8m below ground level and bedrock at 1.2m below ground level and included an evaluation that:

an elevated bedrock level was encountered on site, thus a raised polishing filter bed will be required. The topsoil and subsoil material encountered on site is a good clay material. The overall evaluation of the trial pit is that it is good.

The report recommends a packaged wastewater treatment system and soil polishing filter bed, the invert level of the distribution stone to be a minimum of 0.4m above the existing ground level to ensure a separation distance of 1.2m of unsaturated soil over the water table level.

A report on the existing wastewater treatment & disposal system (by O'Halloran Engineering) submitted in connection with the subject application includes details of an inspection of the existing septic tank which indicates that the condition and capacity of the tank are acceptable.

An outlet pipe containing a T-fitting and a drop pipe was noted. The absence of a drop pipe on the inlet pipe was noted.

The percolation area, being underground, was outside the bounds of inspection. There was no evidence to suggest that there was any issue with effluent ponding on any factors to suggest a percolation rate of the soil or subsoil was slow or impeding infiltration of the effluent.

He notes two ope in the baffle wall between the septic tank chambers and recommends that the ope located near the floor be blocked over to ensure greater separation between the primary and secondary chamber to ensure a better degree of settlement.

7.9. Although the retention is for a development carried out on foot of a 1977 permission it includes retention of a self contained dwelling which was provided more recently, date unspecified.

7.10. In my opinion upgrade of the treatment system is a reasonable requirement.

- 7.11. Based on the information on file it appears that the septic tank is operating satisfactorily, but the assessors recommendation that the ope in the baffle wall located near the floor be blocked over to ensure greater separation between the primary and secondary chamber to ensure a better degree of settlement, should be implemented in addition to the provision of a drop pipe within the tank on the inlet pipe.
- 7.12. The septic tank is located close to the roadside and site boundaries at a low point of the site where a gravity fed percolation area could not be installed. Since a percolation area could not be provided by means of a gravity system it is considered reasonable to require the use of a pumped distribution system to an intermittent filter system / raised percolation area, such as is provided for in the current code of practice.
- 7.13. Subject to the foregoing I consider the retention of the septic tank acceptable.
- 7.13.1. **Sensitivity Designated Landscape.**
- 7.13.2. The first refusal reason refers to the Class 3 sensitivity designated landscape within which the site is located and the visual impact of the three out buidlings the subject of retention by reason of their combined size, height and design, which are not considered ancillary to the main dwelling on site.
- 7.13.3. This area is a Class 3 landscape sensitivity area which is medium sensitivity. The three out buidlings have been reduced to two as a result of the removal of the steel shed, which was included in the original application. The unsolicited further information refers to it as having been removed from the site.
- 7.13.4. Certain buildings, by the nature of their function, are higher than a single storey dwelling, e.g. a hay shed or boat shed. In my opinion the group of buildings remaining on the site have the appearance of a dwelling and outbuildings, such that, notwithstanding their combined size, height and design, the chalet and boat shed can be considered ancillary to the main dwelling on site.

7.14. Precedent

7.15. Precedent is referred to in the planner's report: that the further proliferation of residential units on site may set an undesirable precedent for similar types of development.

7.16. The grounds of appeal states that this application is an exception; the first party has just over an acre of land; he wishes to help his sons equally, and therefore has gifted the boat shed to one; and his brother's illness makes his case exceptional.

7.16.1. I accept the arguments made in the grounds of appeal that the circumstances documented on this file are not likely to be repeated. In my opinion the proposed development does not give rise to precedent.

7.17. Contrary to Development Plan Policies.

7.18. The second refusal reason refers to the Galway Transportation Planning Study Area, the area being subject to strong urban influence, development management standard 4 in GCDP and the absence of a waste water system which provides secondary treatment.

7.19. Development management standard 4 refers to a family flat to be occupied by a member of the occupant family being generally acceptable; but also that generally the flat must be attached to the family home unless there are exceptional circumstances to warrant a separate detached unit. In the subject development the chalet is a separate detached unit. It is located close to the rear of the main dwelling and to the utility room door, off the kitchen, which makes it reasonably accessible to the main house. The documentation on the file indicates that many different people provide the care that is required by the occupant, Peter O'Domhnaill, and it is therefore reasonable that the accommodation be provided as a separate detached unit in this case.

7.20. As regards the Galway Transportation Planning Study Area and the area being subject to strong urban influence, neither policy would indicate that the retention of the dwelling, chalet or boat house is inappropriate.

7.21. The issue of wastewater has been assessed under a separate heading.

8.0 Recommendation

- 8.1. In the light of the above assessment I recommend that planning permission be granted in accordance with the following conditions for the following reasons and considerations.

9.0 Reasons and Considerations

It is considered that the proposed development, which would involve the retention of an existing dwellinghouse on a site where permission for a dwellinghouse was granted in 1977 to the current applicant; and of a chalet for the accommodation of a member of the applicant's family, whose need for such accommodation has been detailed; and for the retention of a boat shed which was erected on the site almost ten years ago, would not injure the amenities of the area or depreciate the value of property in the vicinity, or be contrary to the provisions of the Galway County Development Plan 2015-2021, and would, subject to the following conditions, be in accordance with the proper planning and sustainable development of the area.

10.0 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 the 28th day of August 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. a) The lower of the two openings in the baffle wall between the septic tank chambers shall be blocked to ensure greater separation between the primary and secondary chamber in order to ensure a better degree of settlement.
- b) A drop pipe shall be installed within the tank on the inlet pipe.
- c) Effluent from the septic tank shall be treated in an intermittent filter system using a pressurised/pumped distribution system and shall discharge to ground via a polishing filter, in accordance with the standards set out in the document entitled 'Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)' – Environmental Protection Agency, 2009.
- d) The work required to implement this condition shall be undertaken within three months of the date of grant of permission under the supervision of a competent person, who shall certify to the satisfaction of the planning authority, that the work has been carried out and completed in accordance with the Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.

Reason: In the interest of public health.

3. The chalet shall only be used as ancillary accommodation in conjunction with the use of the main dwelling on the site.

Reason: In the interest of clarity.

4. This permission is for the retention of the existing dwellinghouse, chalet and boat storage shed. This order shall not be construed as granting permission for any use other than boat storage for said shed.

Reason: In the interest of clarity.

Planning Inspector

15th March 2018

Appendices

- 1 Photographs
- 2 Extracts from Galway County Development Plan 2015-2021
- 3 Extracts from 'Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)' – Environmental Protection Agency, 2009