



An
Bord
Pleanála

Inspector's Report ABP-300207-17

Development	Permission to construct a Dwelling House, Garage and associated Wastewater Treatment System
Location	Cartronlathan, Inverin, County Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	17/763
Applicant(s)	John Kilmartin.
Type of Application	Permission.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	John Kilmartin.
Observer(s)	None.
Date of Site Inspection	07 th of February 2018.
Inspector	Karen Hamilton

1.0 Site Location and Description

1.1. The subject site is located along the coastline, west of Galway City and south of the settlement of Inverin, Co Galway. The narrow lane way runs south from the main R366 and ends along the coastline at a small beach, adjoining the subject site. There are a number of single storey, one off dwellings located along the northern end of the narrow access road, closer to the settlement, although there are no dwellings in the immediate vicinity. The site is surrounded by a dry stone wall, rises higher along the north away from the coastline and is covered with a mix of rough scrub and ferns.

2.0 Proposed Development

- 2.1. The proposed development would comprise:
- Construction of a new two storey dwelling (233m²), garage and associated wastewater treatment system.

3.0 Planning Authority Decision

3.1. Decision

Decision to refuse permission for three reasons stated below:

1. Having regard to the sensitive, isolated coastal location and the proposed two storey dwelling which is excessive in terms of height and bulk and is suburban in terms of design it is considered that the proposed dwelling and excessive access road at this location would fail to integrate in the rural landscape and would be visually obtrusive in this area. It is considered therefore that the proposed development would interfere with the character of the landscape which it is necessary to preserve and would be contrary to objective NHB10- protection of coastal zone in GCDP. Therefore the proposed development would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the visual indicators on the site which would suggest poor percolation properties and/or a high water table the planning authority is not satisfied that the site can safely treat and dispose of waste water in accordance with the EPA Code of Practice 2009 and to permit the proposed development would be prejudicial to public health and therefore contrary to the proper planning and development.
3. Taking account of the fact that the site is located within c. 6m of lands identified as being at risk from coastal flooding and in the absence of a flood risk assessment the planning authority is not satisfied that the development is in accordance with the Planning System & Flood Risk Management Guidelines 2009 or would not be at risk of flooding in the future.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The report of the area planner reflects the decision to refuse permission following the submission of unsolicited additional information on the following:

- Omission of garage and reduction in the length of the drive due to a high water table and poor percolation properties and retention of the entire development in the upper section of the site which has percolation capabilities
- Amendments to the design and siting by a reduction in the height of the roof by 1.1m and further cut into the site by 1.5m.
- Submission of a folio plan and map to confirm the applicant's family home location and ownership details to comply with Objective RHO1.
- Reference to the Irish Coastal Protection Strategy Study indicates a max flood event level of 3.65m. The subject site is 4.35m below the proposed floor level of the dwelling plus 2.35m below the lowest point of the proposed site.

The planner considered the local needs of the applicant were acceptable although the remaining information was unacceptable to permit the design, wastewater treatment system or that there was no issue with flooding on the site.

3.2.2. Other Technical Reports

None received.

3.3. **Prescribed Bodies**

None received.

3.4. **Third Party Observations**

None received.

4.0 **Planning History**

No planning history on the site.

5.0 **Policy Context**

5.1. **National Policy**

- Sustainable Rural Housing-Guidelines for Planning Authorities (2005)
- EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009)
- The Planning System and Flood Risk Management. Guidelines for Planning Authorities, 2009.

5.2. **Galway County Council Development Plan 2015-2021**

The subject site is located with a “*Rural Areas under Strong Urban Pressure*” (GTPS) where it is an objective to facilitate genuine rural housing needs of the community.

Landscape Sensitivity Class 3, High Sensitivity.

- DM 39: Class 3- Few developments, including those with substantiated cases for such a specific location and which are in compliance with settlement policies.
- The site is located within a protected Focal point/ View (Map FPV1)

- NHB10- Protection of the Coastal Zone.

Housing

- **Objective RHO1**- Rural Housing Zone 1 (GTPS): Housing need criteria.
- **Objective RHO 9** - Design Guidelines: It is an objective of the Council to have regard to Galway County Council's *Design Guidelines for the Single Rural House*.
- DM 5: Rural Housing- Justification and connection to rural area for dwelling.
- DM 6: Assimilation of development into the landscape.
- DM 7: Site Size.

Water

- **Objective RHO 12** - Waste Water Treatment Associated with Development in Un-Serviced Areas.
- DM 29: Effluent Treatment Plants to comply with the EPA guidelines.

5.3. Natural Heritage Designations

The site is located c.1.5km south of the Connemara Bog Complex SAC.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted by the applicant and is summarised below:

- An amended design site layout map has been submitted which includes the removal of the garage and therefore the need for the driveway and access road which lead to a reduction in the road from 24m in length to c.100m, with less cut and fill.
- This site is the only one left in family ownership as all others have been given to siblings or required for road upgrade (R336).

- The design of the dwelling has been amended to sit better into the site including a reduction in the height of the dwelling by 1.1m, cut deeper into the northern end of the site (1.5m) and the upper slope of the site has been reduced so the northern façade will be 5608m above the ground level and single storey when viewed from the north.
- The tenant has rural housing need and the siting, scale and design as per DM 39 and should be permitted.
- In relation to the siting, the site is situated in an exposed location away from the R336 which is 820m to the north and c. 31m above sea level. There are many dwellings in the vicinity c. 200m radius from the site which are more prominent.
- The design of the dwelling utilises the simple T form layout as per the “Design Guidelines for the Single Rural House” as issued by the Galway County Council, similar to other granted, examples provided.
- DM 6 of the development plan states that all permissible buildings should avoid locally obtrusive elevated locations and should seek to preserve the traditional field pattern. The proposal retains the existing dry stone walls around the site and the topography and cut of the proposal ensures compliance with DM 6.
- The site has two layers and the groundwater drains organically south west towards the bay by a stream. The site characterisation form confirms a P value of 7.89mins/25mm for the upper site where it is proposed to locate the wastewater treatment system and includes a raised sand and soil polishing filter. The garage is omitted from the lower section as there is a high water table and poor percolation properties.
- Based on the Irish Coastal Protection Strategy Study (2013) and an estimated 1 in 200 flood event, the maximum flood event would be 3.65m which is 4.35m below the proposed floor level of the dwelling and 2.35m from the lowest point of the site. The proposed wastewater system and percolation area is located 5.75m above the nearest maximum flood depth and a minimum of 53.5m. Based on the above, a Flood Risk Assessment is not warranted.

6.2. **Applicant Response**

The applicant is the appellant.

6.3. **Planning Authority Response**

None received.

6.4. **Observations**

None received.

7.0 **Assessment**

7.1. The main issues of the appeal can be dealt with under the following headings:

- Rural Housing Policy
- Impact on Visual amenity
- Water and Waste Water
- Flooding
- Appropriate Assessment

Rural Housing Policy

7.2. The site is located in a rural area which has been identified in the development plan as being under strong urban pressure. The proposal is for a one-off house located 1km from the applicant's current residence, mothers dwelling, and on family owned lands. Objective RHO 1 (housing need) of the development plan includes the criteria for applicants proposing dwelling houses within this area. The applicant has submitted documentation to provide evidence of links the rural area including a birth certificate, letter of support from the local An Garda Siochana office, letter from the local parish priest and confirmation of attendance in the local school from 1992-1997. The applicant has not submitted any documentary evidence that he currently resides in the family home, rather, the information submitted on a site location map. I consider the submitted documentation reasonable to justify a link to the rural area.

- 7.3. The applicant has submitted Land Registry maps to illustrate seven large parcels of land within family ownership of which the subject site is included and states that the remaining sites are required for siblings or road upgrades (e.g. R336).

Impact on Visual Amenity

- 7.4. The subject site is a relatively flat site located along the coastline, west of Galway City, in an isolated location. There are no dwellings within the immediate vicinity of the site and a significant proportion of dwellings are located along the north of the lane, closer to the settlement of Inverin. There is a dormer dwelling located c. 200m along the west of the coastline. The first reason for refusal refers to the isolated location, design of the dwelling, excessive access road and the negative visual impact on the surrounding area which is contrary to objective NHB10- protection of coastal zone, in the development plan.
- 7.5. The proposed dwelling is cut into the upper, northern, section of the site by 1.5m, is c. 7m in height and 233m² and the proposed garage and laneway (24m) was removed from the overall design on submission of unsolicited information to the planning authority. The grounds of appeal refer to the location of the site away from the main R336, the height of the dwelling c. 31m above sea level, the T design of the dwelling, which complies with the design guidance in the development plan and compliance with DM 6 of the plan in relation to assimilation into the landscape. In addition, whilst it is acknowledged that the site is in an isolated coastal location, the applicant states that other lands within the family ownership are not available.
- 7.6. The “*Design Guidelines for Single Rural Houses*”, 2005, provides guidance for the location, siting and design of dwellings in Galway, and in the first instance reference to the setting and natural character of the site is necessary. The subject site is located within an area defined as Class 3, high landscape value, in the development plan, where few developments are permitted, including those with substantiated cases for such a specific location and which are in compliance with settlement policies. As stated above, it is considered the applicant has sufficient rural links to the area and land registry maps illustrate a significant family land ownership of other lands. The site is also located within an area identified for Focal Points/ Views (Map FPV1) where it is an objective to preserve any focal points and views of interest.

- 7.7. The overall design of the dwelling is a T shape, contemporary and simple in form which conforms to the design guidance. I consider a two storey dwelling (c. 7m in height) on this relatively flat isolated coastal location is contrary to the policies of the development plan to relation to the protection of valuable landscapes and I do not consider a cut of 1.5m into the upper section of the site sufficient to mitigate against a negative visual impact on the surrounding area. I consider any grant permission would set an undesirable precedent for similar development which would further erode the unique, scenic character of the area.
- 7.8. Therefore, having regard to the relatively flat topography of the site along the coastline in an area with Class 3 Landscape Sensitivity rating, high, in an area of Focal Point/ View, I consider the 2 storey dwelling would have a negative impact on the visual amenities of the area and therefore would be contrary to policy NHB 10 - Protection of the Coastal Zone, which requires the protection of the visual values of the coast and conservation of the character, quality and distinctiveness of seascapes.

Water and Waste Water

- 7.9. The proposed development includes a packaged wastewater treatment system with a raised sand polishing filter (16m²) and raised secondary polishing filter percolation area (54m²) designed for 8 persons. The second reason for refusal refers to the visual indicators on the site which would suggest poor percolation properties and/or a high water table therefore the planning authority is not satisfied that the site can safely treat and dispose of waste water in accordance with the EPA Code of Practice 2009. The grounds of appeal refers to the location of the wastewater treatment system on the higher level of the site and the information in the site characterisation form which indicate that the site can be serviced.
- 7.10. The site is located in an area identified as poor aquifer with a “Extreme” vulnerability classification in the GSI Groundwater maps, representing a GWPR response of R2¹ under the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009) (Annex B2). Evidence of bedrock exposure where noted on parts of the site.
- 7.11. There was no trail hole evident upon site inspection, also noted in the area planners report and both the planner and the applicant refer to the high water table on the site.

The site characterisation form states that no bedrock/ water table at a depth of 1.00m. The submitted site characterisation records a P-test value of 7.89min/25mm, which is within the acceptable range for a secondary treatment system and soil polishing filter (Table 6.3) and would indicate good percolation. Two soakaways are located down-gradient from the septic tank, below the proposed dwelling.

- 7.12. Table 6.1 of the EPA Code of Practice requires a minimum distance of the WWTS and percolation area from other receptors. The site is located 16m from the high water mark and 35m from a stream to the east. There are no dwellings in the vicinity of the site. It is proposed to connect to a group water scheme although no details or agreements have been submitted in this regard. I am satisfied the location of the treatment system can comply with the requirements of Table 6.1 of the EPA CoP.
- 7.13. Having regard to unavailability of any trial holes to inspect and the information on the planning application in relation to the high water table on the site and the natural wetlands in the immediate vicinity, I cannot definitively conclude that the effluent from the development can be satisfactorily treated or disposed of on site.

Flooding

- 7.14. The site is located along the coastline of County Galway. The OPW Flood Maps indicate an area of indicative coastal flooding to the south of the site. The third reason for refusal relates to the location of the site c. 6m from lands identified as being at risk from coastal flooding and in the absence of a flood risk assessment the planning authority is not satisfied that the development is in accordance with the Planning System & Flood Risk Management Guidelines 2009 or would not be at risk of flooding in the future. The applicant submits a flood risk assessment is not necessary as when mapped, the Irish Coastal Protection Strategy Study indicates a maximum flood event level of 3.65m which is 4.35m below the proposed floor level of the dwelling and 2.35m below the lowest point the proposed site. In addition, the applicant states that a dwelling located 300m south west (PL 14/569) of the site was permitted without a Flood Risk Assessment.
- 7.15. The national guidance, The Planning System and Flood Risk Management. Guidelines for Planning Authorities, 2009, refers to a precautionary approach when considering potential flood risk and requires the identification of source-pathway-receptor. Having regard to the high water table on the site and the wetlands directly

adjacent to the site and the location of the site c 6m from an area of indicative coastal flooding, I do not consider a distance of 4.35m from the maximum flood event, as suggested by the applicant, sufficient to remove the requirement for a detailed Flood Risk Assessment and in the absence of this information I cannot be satisfied that the site is not at risk of flooding.

Appropriate Assessment

- 7.16. The subject site is located c.1.5km south of the Connemara Bog Complex SAC (site code 002034) and the site is not connected to the designated site. Therefore, having regard to the nature and scale of the proposed development, the conservation objectives and distance from the European Sites, it is reasonable to conclude that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Connemara Bog Complex SAC, or any other European site, in view of the sites conservation Objectives, and a Stage 2 Appropriate Assessment is not therefore required.

8.0 Recommendation

- 8.1. Having regard to the location of the site along the coastline, which has a high landscape value in the development plan, the high water level and insufficient information on the trial holes and the location of the site in a coastal location partially covered by and surrounded by wetlands which is c. 6m from an area identified as subject to coastal flooding , it is considered the proposed development would have a negative impact on the character of the rural area, the ground and surface water and the visual amenities of the area.
- 8.2. It is recommended that the proposed development is refused for the reasons and considerations as set out below.

9.0 Reasons and Considerations

1. The site of the proposed development is located within 'Rural Areas under Strong Urban Pressure' as set out in the Galway County Development Plan 2015-202, where emphasis is placed on the importance of designing with the landscape and of siting of development to minimise visual intrusion as set out in the Design Guidelines for Single Rural Houses, which Guidelines are considered to be reasonable. The site is also located on lands which are identified as having a high Landscape Sensitivity rating and within a protected Focal Point/ View. Having regard to the topography of the site and the height of the dwelling, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the coastal landscape, would militate against the preservation of the rural environment and would set an undesirable precedent for other such prominently located development in the vicinity and therefore be contrary to policy NHB 10 of the development plan, Protection of the Coastal Zone, which requires the protection of the visual values of the coast and conservation of the character, quality and distinctiveness of seascapes. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to unavailability of any trial holes to inspect and the information on the planning application in relation to the high water table on the site and the location of natural wetlands in the immediate vicinity, the Board is not satisfied that the effluent from the development can be satisfactorily treated or disposed of on the site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health.

3. The proposed development is c. 6m from an area which is identified as being at risk from coastal flooding and in the absence of adequate information relating to the risk of flooding, analysis of such risk, and appropriate mitigating measures to address any risk, in accordance with Planning System and Flood Risk Management Guidelines, 2009, the Board is not satisfied the site would not be at risk of flooding. The proposed development would be contrary to the proper planning and sustainable development of the area

Karen Hamilton
Planning Inspector

20th of February 2018