



An
Bord
Pleanála

Inspector's Report ABP-301048-18

Development	Construction of a dwelling house, domestic garage/fuel store, septic tank, treatment system and percolation area and all ancillary site works.
Location	Curragh West, Dunmore County Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	17/1725
Applicant	James Murphy
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant	John Mullen
Date of Site Inspection	25/6/2018
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1. The appeal site is located at Curragh West, Dunmore County Galway, on a local road where the site adjoins another dwelling.
- 1.2. The site is given as 0.30ha.

2.0 Proposed Development

- 2.1.1. The proposed development is the construction of a dwelling house, domestic garage/fuel store, septic tank, treatment system and percolation area and all ancillary site works. Gross floor space of proposed works: dwelling 233sqm, garage 59sqm.
- 2.2. The dwelling is two storeys and is sited 7m from the western site boundary and 30m from the eastern site boundary. The finished floor level is 10.35m with reference to a temporary benchmark of 10m at the entrance gateway, and this requires lowering the ground level, shown as 11.6m and 11.85m in the vicinity of the dwelling and 12.95m at the western boundary.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission for the development subject to 14 conditions, including:

2 During the construction stage of the proposed development the following best practice mitigation measures must be employed to prevent any significant adverse impacts to Natura 2000 sites in the vicinity of the site.

- a) Works such as soil excavation, soil depositing or soil stripping will not be conducted during or immediately following periods of heavy or prolonged rainfall.
- b) All stockpile areas of sand, gravels and soils should be stored on level terrain and shall be covered during heavy rainfall periods in order to prohibit the mobilisation of sediments.

- c) Works with concrete shall be done during dry conditions for a period sufficient to cure the concrete (at least 48 hours).
- d) Concrete pours shall occur in contained areas.
- e) Washing out of concrete trucks should not be permitted within the site and should be conducted in hard standing areas.
- f) All petroleum products to be bunded during the construction stage of the development.
- g) If water is running off site then straw bales should be put in place during construction to as to trap any silt present in the water.
- h) If soil or other material such as gravel or handstand material are being brought onto the site ensure that the source is free of invasive species.

Reason: In the interests of protecting the integrity of Natura 2000 sites.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The site is located in an area designated as landscape sensitivity class 1 (where class 1 is the least sensitive and class 5 the most sensitive).

The site is located within an area designated as (L1) locally important, generally moderately productive in local zones.

The site is drained by the Corrib River.

The sight visibility distance to the south west traverses lands outside the red line area but the adjoining lands are in family ownership. The wall boundary along the frontage will be confined to 600mm to facilitate sight visibility in this direction. The sightline to the east is not impeded and does not overlap any third party lands.

The trial hole was in excess of two metres deep and completely dry and 't' and 'p' values pass. The applicant proposes to install a package wastewater treatment system and polishing filter.

Design – the overall height is confined to below 8 metres, the footprint is in excess of 5m from site boundaries and approximately 50m from the nearest dwelling and it is not considered that the development will overshadow. The development is in accordance with DM standard 7 of the development plan and the garage is of a domestic scale and sited appropriately.

The development is compliant with DM standard 21 in terms of set back from a local road.

Landscaping and assimilation – landscaping is illustrated along the side and rear boundaries on the site layout. This will be augmented by way of condition. The ffl is at a comparable level to the adjoining property and the form of the dwelling is considered to assimilate appropriately at this location. The cross section submitted, illustrates a pronounced degree of cut along the western boundary, and this shall be graded in the interests of overall assimilation.

3.3. The decision was in accordance with the planning recommendation.

3.4. **Third Party Observations**

3.4.1. A third party observation has been read and noted.

4.0 **Planning History**

Adjoining site:

07/2672 permission to construct dwelling. granted

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. Galway County Development Plan 2015-2021 is the operative plan relevant provisions include:

The site is located in a structurally weak area.

The key objectives of the Council in relation to rural housing in this area are:

To accommodate residential development proposals as they arise subject to satisfactory site suitability and technical considerations;

To accommodate residential development proposals in accordance with Chapter 13 (Development Management Standards and Guidelines);

To maintain and strengthen existing towns and villages and to direct urban generated housing demand into these areas;

To protect areas located in Landscape Category 3, 4 and 5. (The site is not located in landscape category 3, 4 or 5.)

5.2. Natural Heritage Designations

- 5.2.1. The Williamstown Turloughs SAC site code 002296, is the nearest Natura Site located some 0.75 km away.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. This is a third party appeal against the decision to grant permission. The grounds includes:

- The third party objects to this two storey house or any house on the site because of the very high elevation of the site.
- It would overshadow third party's house which is a bungalow.
- It would hinder the natural daylight to third party's house.
- It would restrict the view from the south west.
- It would be an invasion of privacy into third party's sitting room, kitchen/dining and conservatory because of its height and proximity.
- All houses in the neighbourhood are bungalows. The proposed dwelling is overbearing and out of character.
- The applicant is not confined to building a dwelling on this particular area of the field, which is directly beside the third party's house, considering the large acreage of the field.

6.2. Applicant Response

6.2.1. The first party has responded to the grounds, including:

- Regarding the high elevation, the first party took account to the site and appellant's house and his proposed house has a finished floor level of 10.35m in comparison to the appellant's permitted finished floor level of 10.40m
- Regarding overshadow appellant's house which is a bungalow, the permission was for a dormer.
- Regarding hindering the natural daylight, the house is positioned on the left hand boundary of the site as far away as possible from the adjoining site, approximately 50m.
- Regarding restricting the view, the site is larger than the standard 0.5ac and the house is positioned to maximise distance to the appellants house and is stepped to that it is not directly in line with the other property.
- Regarding privacy, the plans were drawn so that there is no window on either the ground or first floor on the side facing the appellant's house. The distance between the houses is c50m and the attached conditions require a hedge to be sown in the first planting season. The sitting room windows to the site of the appellants house were not included in the original planning submission.
- Regarding all houses in the neighbourhood being bungalows, appellant's permission was for a dormer, the next house in the direction of Dunmore is a dormer and the house to the rear is two storey. There are lots of other two-storey properties in the wider community.
- Regarding moving the house, the first party is not the owner of the entire field; has been gifted the site by his father; the site was chosen to ensure the necessary sightlines were available, and off the regional road R360 and that the area was not traversed by ESB lines which run through the middle of the field.
- Further comments regarding housing need and local need are made in the submission.

6.3. **Planning Authority Response**

6.3.1. The planning authority has not responded to the grounds of appeal.

7.0 **Assessment**

7.1. The issues which arise in relation to this appeal are: appropriate assessment and residential amenity and the following assessment is dealt with under those headings.

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. **Residential Impact**

7.3.1. Most of the issues raised in the grounds of appeal relate to residential amenity: overshadowing, blocking light and impact on privacy. In my opinion, having regard to the distance between the two houses, none of these impacts will arise. It is noted that currently the third party's dwelling is isolated with no development on either side and this situation will be altered, nevertheless in terms of the application of standards, neither overshadowing or impact on privacy should be a reason to refuse permission. Partial screening is provided by a low hedge between the sites and some trees along the common boundary, and there is ample space available on both sites for additional screen planting if desired.

7.3.2. It is of concern to the third party that views from the existing dwelling will be blocked. Views are normally only protected from public places in the context of being of public amenity value. The placement of a building, where currently there is a field of pasture, may impact on a view valued by the householder but this is not a reason to refuse permission.

7.3.3. It is of concern to the third party that the proposed dwelling is two storey; that all houses in the neighbourhood are bungalows; and that the proposed dwelling is overbearing and out of character.

The first party response refers to the variety of house types in the area.

There is no restriction on two storey houses in this area. Any visual impact arising from the juxtaposition of a bungalow and a two storey houses on adjoining sites, is mitigated by the distance between the houses and by the presence of existing trees and a hedgerow in the boundary between the houses and will be further mitigated by proposed landscaping of the site.

The two storey house design should not be a reason to refuse permission.

- 7.3.4. The third party has raised as an issue that the applicant is not confined to building a dwelling on this particular area of the field, which is directly beside the third party's house considering the large size of the field.

The first party in response states that he is not the owner of the entire field; the site has been gifted by his father; it was chosen to ensure the necessary sightlines were available and off the regional road R360 and that the area was not traversed by ESB lines which run through the middle of the field. Further comments regarding his housing need and local need are made in the submission.

The total landholding is not shown on map so neither side of the argument can be tested. However, there are no particular locational constraints arising in relation to the subject site which would require an examination of the total landholding, or the selection of a more appropriate site.

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 and for the following reasons and considerations.

9.0 Reasons and Considerations

The proposed development of a two storey dwelling, would subject to the following conditions, provide necessary accommodation for members of this rural community, would not unduly impact on the residential amenities of adjoining residential

property, would comply with the Galway County Development Plan and would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out in accordance with the plans and particulars lodged with the application 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. Prior to the commencement of development, a landscaping scheme, using only species native to this area, shall be submitted for the written agreement of the planning authority and the planting shall be carried out in accordance with the agreed scheme in the first planting season following occupation of the dwelling. The landscaping scheme shall include a cross section through the site detailing a satisfactory gradient in the vicinity of the western site boundary; details of the front, roadside boundary and the roadside parking area.

Reason: In the interests of visual amenity.

3. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended work practices and environmental controls for the development, including hours of working, site management and the management of surface water run-off.

Reason: In the interests of environmental protection and amenity.

4. a) 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.

(b) 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.

5. a) 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 to prevent pollution.

6. The developer shall pay to the planning authority a financial contribution of €1,623 (one thousand six hundred and twenty three euro) 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, as amended. The contribution shall be paid prior to 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

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

Planning Inspector

30 July 2018

Appendices:

- 1 Photographs
- 2 Extracts from the Galway County Development Plan 2015-2021