



An  
Bord  
Pleanála

## Inspector's Report ABP-301131-18

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<b>Development</b>	Construction of a dwellinghouse, garage, waste water effluent treatment unit, percolation area and all associated site services. Gross floor space of proposed works, Dwelling 214sqm, Garage 60.00sqm.
<b>Location</b>	Cahergowan, Claregalway County Galway
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	17/1603
<b>Applicant(s)</b>	Thomas Noone
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission subject to conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	John Quirke.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	7 <sup>th</sup> July 2018.
<b>Inspector</b>	Bríd Maxwell

## 1.0 Site Location and Description

- 1.1. The appeal site has a stated area of .248 hectares is located within the townland of Cahergowan approximately 2km to the southwest of Baile Chláir, Claregalway. The site is accessed via a private cul de sac road which runs northwest from the N83 (formerly N17) terminating at the site which is approximately 250m from the N83. The roadway serves 6 established dwellings and agricultural lands and a dwelling is also located on the southwestern corner of the junction with the N83. Sightlines at the junction of the cul de sac and N83 are particularly restricted to the southwest due to the curvature of the national secondary road utility pole and vegetation. The Quality Bus Corridor QBC commences to the northeast of the junction of the cul de sac. There is another junction with a local road approximately 50m to the southwest.
- 1.2. The application site is part of a larger agricultural field and is bounded by a stone wall to the northeast and northwest. The field is relatively flat with a slight fall to the west.

## 2.0 Proposed Development

- 2.1. The application seeks permission for the construction of a two storey dwellinghouse 214m<sup>2</sup>, single storey garage 60m<sup>2</sup>, waste water effluent treatment unit, percolation area and all associated site services. The proposed dwelling has a nap plaster finish and blue-black slates tile finish to the roof. The proposed dwelling is to be setback circa 30m from the front boundary and an effluent treatment system is proposed to the rear. It is proposed to set back the existing front boundary for a distance of circa 15m which will also incorporate the proposed entrance.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1 Following decision of Director of Services, Planning and Environment to grant permission Galway County Council issued notification of decision to grant permission subject to 14 conditions which included the following conditions of note:

- Condition 2 Use shall be restricted to use as house for applicant for period of 7 years.
- Condition 3 A parking space not less than 15 metres long and 3m wide shall be provided immediately adjoining the edge of the margin of the roadway.
- Condition 14. Development Contribution €2,623.50

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

3.2.1.1 Planner's initial report notes that on site inspection there are deficiencies with respect to sightline visibility at the junction of the lane and public road as also highlighted in report of area Engineer in respect of withdrawn application 17/317. Refusal recommended on basis of non-compliance with development plan policy regarding development on national roads and traffic hazard on basis of inadequate sightlines. Following an extension of time and submission of unsolicited additional information the Planner's report reiterates initial recommendation to refuse permission noting availability of alternative lands within the landholding which may be more suitable for development.

### **3.2.2. Other Technical Reports**

3.2.2.1 Roads and Transportation Unit indicates no objection subject to a condition that the applicant provide an even and bitumen bound surface to the gateway area where the access road serving the development and the existing developments meets the N83 (formerly N17). The gateway area begins at the edge of the pavement of the N83, includes the entry and exit radii and extends for 10m into the access road. Works to be undertaken under road opening licence. The proposal is not considered to significantly change the volume and nature of traffic entering and leaving the public road.

### 3.3. Prescribed Bodies

3.3.1 Transport Infrastructure Ireland (TII) submission asserts that the application is at variance with official policy in relation to control of development on / affecting national roads as outline in DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities 2012 as the proposed development by itself and by the precedent which a grant of permission for it would set, would adversely affect the operation and safety of the national road network. The proposal would create an adverse impact on the national road and would, in the Authority's opinion be at variance with national policy in relation to control of frontage development on national roads. The proposed development is located on an unimproved section of national road where the maximum speed limit applies and would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of extra traffic generated.

### 3.4. Third Party Observations

3.4.1 Submission from Mr Stephen Dowds Associates Town Planning Consultants, on behalf of Mr John Quirke. Outlines no objection in principle however significant concerns arise with regard to it potential impact on access to his lands. Mr Quirke owns land immediately NW of the site. Borders of right of way are not demonstrated on submitted plans. Recessed front boundary required as well as the entrance.

## 4.0 Planning History

4.1 No planning history on the appeal site. The following relate to previous applications on sites in the vicinity:

**17/317** Application by Thomas Noone on site to the south east of the appeal site fronting onto N17 but with vehicular access from cul de sac private lane sought permission for dwellinghouse, domestic garage, proprietary effluent treatment unit.  
Withdrawn

**04520** Pól O Nuadáin Permission granted for construction of a dwellinghouse and septic tank.

**033097** Application by Pól O Nuadain for Permission for construction of a private dwellinghouse septic tank and percolation area. Withdrawn

**021035** Pól O Nuadain. Refusal of permission for construction of a new dwellinghouse, septic tank and percolation area. Grounds for refusal related to traffic hazard and backland development.

**033085** Permission granted to Daithí O Nuadain for construction of private dwellinghouse septic tank and percolation area.

**021097** Daithi O Nuaidain Application for construction of dwellinghouse septic tank and percolation area. Withdrawn.

## **5.0 Policy Context**

### **5.1. National Policy Guidelines on Sustainable Rural Housing 2005.**

5.1.1 The National Spatial Strategy identified categories of rural area types requiring differing settlement policies for rural housing. The Sustainable Rural Housing Guidelines issued by the Department of the Environment Heritage and Local Government, April 2005 are based on the presumption that people who are part of the rural community should be facilitated by the planning system in rural areas. The site is within an area identified as an area under strong urban influence as identified on Map 1 Indicative Outline of NSS Rural Area Types.

### **5.2 Spatial Planning and National Roads Guidelines for Planning Authorities, Department of the Environment Community and Local Government, January 2012.**

5.2.1 The guidelines set out planning policy considerations relating to development affecting national roads (including motorways, national primary and national secondary roads) outside the 50/60 kmph speed limit zones for cities, towns and villages. In relation to development plan policy the guidelines require that in relation to lands adjoining National Roads to which speed limits greater than 60kph apply, the policy of the planning authority will be to avoid the creation of any additional

access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kmh appl. This provision applies to all categories of development, including individual houses in rural area, regardless of the housing circumstances of the applicant.

### 5.3 Development Plan

5.3.1 The Galway County Development Plan 2015-2021 refers.

- The site is within an area under strong urban pressure GTPS and within An Ghaeltacht.
- Objective RHO 1 – Rural Housing Zone 1 (Rural Area Under Strong Urban Pressure – GTPS)
- Objective RHO 9 – Design Guidelines.
- Objective TI 6 – Protection of National Routes and Strategically Important Regional Road Networks.

*“It is an objective of the Council to provide the capacity and safety of the National road Network and Strategically Important Regional Road network in the County and to ensure compliance with the Spatial Planning and National Roads Planning Guidelines (2012). Galway County Council will not normally permit development proposals for future development that include direct access or intensification of traffic from existing accesses onto ant national primary or secondary road outside the 50-60kph speed limit zone of towns and villages.”*

- DM Standard 18: Access to National and Other Restricted Roads for Residential Developments. Housing need Eligibility Residential development along national roads will be restricted outside the 50-60kmp speed zones in accordance with the DoECLG Spatial Planning and National Road Guidelines 2012, Consideration shall be given to the need of farm families to live on the family landholding on a limited basis and a functional need to live at this location must be demonstrated. Where there is an existing access, the combined use of same must be considered and shown to be technically unsuitable before any new access can be considered. Access via local roads shall always be the preferred access.

## **5.4 Natural Heritage Designations**

The site is not within a designated area. The following designated sites within 15km are noted.

- Galway Bay Complex SAC
- Lough Corrib SAC
- Inner Galway Bay SPA
- Lough Corrib SPA
- Creganna Marsh SPA

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1 The appeal is submitted by Stephen Dowds Associates on behalf of John Quirke, Kiltroque, Claregalway.

- No objection in principle rather request an amendment of the conditions to address concerns regarding access to lands immediately to north west of the site.
- Drawings do not clearly demonstrate the right of way and this should be maintained.
- Suggest that entire road boundary be set back. Request a 15m long recessed front boundary along the entire NE boundary of the property.

### **6.2. Applicant Response**

6.2.1 The response submitted by McCarthy Keville O Sullivan on behalf of the applicant is summarised as follows:

- Applicant is engaged in farming on the family landholding. The entire farmholding is fragmented with largest parcel adjacent to family home and farmholding buildings. Whilst it may appear logical to develop a dwelling at this location it is not practical from a farming perspective as indicated in letter from veterinary surgeon.
- Appeal should be deemed vexatious.
- Development will not impact on access to appellant's land - will in fact create a setback resulting in widening of the roadway.
- Suggestion for increased setback is intended to increase the development potential of the appellant's holding.

### **6.3. Planning Authority Response**

The Planning Authority did not respond to the grounds of appeal.



## 7.0 Assessment

7.1 I note that the first party in response to the appeal has questioned its validity and asserted that the appeal is vexatious and without due foundation. The main grounds raised in the third-party appeal relate to the issue of potential impact of on the appellant's access to adjacent farm lands. The first party asserts that the proposal will not impact negatively on the established access and suggests that the setting back of the front boundary will potentially enhance access to adjacent lands.

7.2 From my review of the file, all relevant documents and inspection of the site and its environs, I consider that the main Planning issues for consideration in the Board's de novo assessment of the appeal may be considered under the following broad headings:

- Settlement Strategy
- Traffic safety
- Wastewater treatment
- Ribbon Development
- Appropriate Assessment.

## 7.3 Settlement Strategy

7.3.1 As outlined above, the site falls within an area indicated as an area under strong urban influence in the rural housing guidelines and an area under strong urban pressure in the Galway County Development Plan. Within the Development Plan it is the Council's policy to facilitate the rural generated housing requirements of the local rural community whilst also directing urban generated rural housing to areas zoned for new housing development in the city, towns and villages. Objective RHO1 – Rural Housing Zone 1 (Rural Area Under Strong Urban Pressure - GTPS provides at 1(a) *“Those applicants with Rural Links (defined as a person who has strong links to*

*the rural area and wishes to build a dwelling generally within an 8km radius of where the applicant has lived for a substantial continuous part of their life) to the area through long standing existing and immediate family ties seeking to develop their first home on existing family farm holdings”.*

7.3.2 The application details indicate that the applicant currently resides in the family home with his parents at Cahergown to the northeast of the appeal site. Documentation provided on the appeal file indicates that in terms of the applicant’s overall income self-employment farming contributes 25% while the remaining 75% is derived from employment as a labourer. Having assessed the submitted details I am not entirely convinced that a functional farming need to reside at this location has been demonstrated. I note that the assessment of rural links and the facilitation of rural housing is in the context of case by case analysis each individual site and the carrying capacity of the area.

7.3.3 In terms of the character of the area, it is evident from site visit and reviews of mapping that the appeal site is within an area of sustained pressure for development. Whilst the site is essentially rural in nature urban pressures are very visible and as such the restricted policies of the Development Plan are entirely reasonable and consistent with national policy on the basis of the proper planning and sustainable development of the area. In my view the proposed development would exacerbate a pattern of haphazard development and increase the pattern of suburbanisation of this area.

## **7.4 Traffic and Transport**

7.4.1 The issue of traffic and impact on the national road network is in my view a key issue in this case. Guidance in this regard is provided by the Spatial Planning and National Roads – Guidelines for Planning Authorities DoECLG 2012. The guidelines clearly state the “the policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kmh apply. The provision applies to all categories of development including individual houses in rural areas, regardless of the housing circumstances of the applicant.” The

Galway County Development Plan provides Objective TI6 *“It is an objective of the Council to protect the capacity and safety of the National Road Network and Strategically Important Regional Road network in the county and ensure compliance with the Spatial Planning and National Roads Planning guidelines 2012. Galway County Council will not normally permit development proposals for future development that include direct access or intensification of traffic from existing accesses onto any national primary or secondary road outside the 50-60kph speed limit zone of towns and villages.”* DM Standard 18 refer to consideration of the need to live on the family landholding on a limited basis and the requirement to demonstrate a functional need in terms of locational justification.

7.4.2 The proposed development would clearly conflict with the requirement of national policy to preserve the level of service and carrying capacity of the national road network. I noted that at the time of inspection traffic volumes along the N83 were considerable and speeds were high. The access road serving the site currently serves 6 dwellings and farmland and sightlines are deficient to the southwest and the junction is adjacent to the quality bus corridor. In my view the additional traffic turning movements arising from the proposed development would adversely affect the use of this national road. I consider that there are no exceptional circumstances which would warrant a deviation from official policy pertaining to development accessed from national roads. Accordingly, I am satisfied that the proposed development would conflict with national and local policy and would interfere with the carrying capacity and free flow of traffic along the N83.

## **7.5 Wastewater Treatment**

7.5.1 On the issue of wastewater treatment and disposal, it is proposed to provide a wastewater treatment system and polishing filter. I note the high watertable on site although unclear from site assessment form whether water ingress was at 1.6m, 1.7m or 1.8m below ground level. It is proposed to construct a raised percolation area to give minimum 1.5m separation distance between the invert of the percolation pies and the water table. Notwithstanding the proposed use of proprietary wastewater treatment systems concerns arise regarding that the concentration of

individual wastewater treatment systems in this area and potential for prejudice to public health.

## **7.6 Ribbon Development**

7.6.1 The Sustainable Rural Housing guidelines for Planning Authorities recommend against the creation of ribbon development for a variety of reasons relating to road safety, future demands for the provision of public infrastructure, as well as visual impacts. The guidelines state that ribbon development will exhibit characteristics such as high density of almost continuous road frontage type development for example where 5 or more houses exist on any one side of a given 250m of road frontage. The existing development along this private cul de sac road has taken place in an ad hoc and uncoordinated fashion. The proposed development would constitute an 8<sup>th</sup> dwelling within a 250m stretch of road. The proposal would clearly exacerbate the pattern of ribbon development contrary to the provisions of the Sustainable Rural Housing Guidelines.

## **7.7 Appropriate Assessment**

7.7.1 On the matter of Appropriate Assessment having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the proximity to the nearest European site, 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 and projects on a European site.

## **8 Recommendation**

8.1 Having read the submissions on file, visited the site and had due regard to the provisions of the Development Plan and all other matters arising, I recommend that permission be refused for the following reasons and considerations.

## Reasons and Considerations

1. The proposed development would result in the intensification of the use of an existing access onto the N83 National Secondary Road at a location where the maximum speed limit applies. The proposed development would be at variance with national policy in relation to the control of development on national roads as set out in the Spatial Planning and National Roads Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in January, 2012, which seeks to secure the efficiency, capacity and safety of the national road network. The proposed development, by itself, or by the precedent which the grant of permission for it would set for other relevant development, would adversely affect the use of a national road by traffic and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development is located on a private road the junction of which with the N83 National Secondary road is characterised by inadequate sightline visibility. The proposed development which would involve the intensification of use of this substandard access would endanger public safety by reason of traffic hazard.
3. The proposed development would constitute undesirable ribbon development in a rural area outside lands zoned for residential development and would therefore be contrary to the proper planning and sustainable development of the area.

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Bríd Maxwell  
Planning Inspector

19<sup>th</sup> July 2018

