



An
Bord
Pleanála

Inspector's Report ABP-301417-18

Development	Permission for development which will consist of the construction of a dwelling house, external store, waste water treatment system and all associated site development
Location	Rosshill, Roscam, Galway
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	18/44
Applicant(s)	Mary Harriett Madden.
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	1. Dr. James Mc Carthy. 2. Martin J. Fahy.
Observer(s)	None.
Date of Site Inspection	04 th of June 2018.
Inspector	Karen Hamilton

1.0 Site Location and Description

- 1.1. The subject site is a relatively flat agricultural field set along the coastline of Galway Bay, within the townland of Roscam, to the east of Galway City. The site is accessed by a narrow local road and the surrounding area is characterised by large one-off rural dwellings set on individual sites.
- 1.2. There is an agricultural access into the site and the field was used for cattle grazing upon site inspection. The boundary treatment around the site consists of mature trees and hedging. There is an existing dwelling located along the north of the site and open rolling fields to the south towards the coastline. The site is located c. 200m from an area of archaeological interest including a Round Tower, Church and graveyard.
- 1.3. A concurrent planning application (ABP- 301019-18) is before the Board for a similar development including minor amendments to the proposed dwelling, additional storage and amendments to the percolation area.

2.0 Proposed Development

- 2.1. The proposed development would comprise of the following:
 - Construction of detached split level dwelling and all associated works.

3.0 Planning Authority Decision

3.1. Decision

Decision to grant permission subject to 23 no. conditions of which the following are of note:

C 3, 4 & 5- Submission and agreement of a landscaping scheme

C 14, 15, 16, 17 & 18- Submission and compliance of details in relation to the wastewater treatment system.

C 19- Submission of details of proposed junctions with the existing Rosshill Road.

C 20- Submission of details for archaeological monitoring.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission and may be summarised below:

- The changes in the proposed development from recently granted application on the site are noted as a new external store, slight modifications to the external chimney and the size of the dwelling is less 84m² to that originally granted.
- The ownership, design and layout, visual impact, archaeological impact, landscape design and servicing of the site where all considered to be acceptable.

The following supplementary documents accompanied the application.

- Design Statement
- Ecological & Appropriate Assessment Screening Report
- Archaeological Impact Assessment (AIA)
- Landscape Design Statement (LDS)

3.2.2. Other Technical Reports

Recreation & Amenity Department- No objection to proposal.

Drainage Department- No objection to proposal.

Environment & Climate Change- No objection subject to conditions,

3.3. Prescribed Bodies

An Taisce- Raise concerns in relation to the location of a dwelling on this site, the previous change in zoning and the report of the Heritage officer on the previous application.

3.4. Third Party Observations

Three objections were received from residents in the vicinity of the site of which one is the appellant and these issues raised are included in the assessment. Other issues raised include impact on the servicing of the site including access, water and wastewater and the change in zoning of lands from agricultural to residential.

4.0 Planning History

ABP 301019-18 (Reg Ref 17/295)

A concurrent application is with the Board for decision for a similar dwelling on the same site and was granted permission by the Local Authority for a dwelling and all ancillary works. Changes proposed include a larger dwelling, no outside store and alterations to the location of the treatment system and reduction in the percolation area.

5.0 Policy Context

5.1. Design Manual of Urban Roads and Streets (DMURS)

5.2. Galway City Development Plan 2017-2023

The site is located on lands zoned as Low Density Residential (LDR) where it is an objective *“To provide for low-density residential development which will ensure the protection of existing residential amenity.”*

- Residential is a permissible use.

Fig 11.32: A specific zoning objective for the site:

Development on each site outlined in red shall be restricted to two houses only, reserved for the use of immediate family members of the land owner.

Policy 2.9 Low Density Residential Areas (LDR)

Protect the character of these areas by ensuring new development has regard to the prevailing pattern, form and density of these areas.

Protect the characteristics of these areas through development standards and guidelines.

Protected Views

Section 4.5.3 Views of Special Amenity Value and Interest include the view below as a “panoramic protected view”

V 9- Views towards the sea at Roscam.

Policy 4.5.3. Requires the protection of views and prospects of special amenity value and interest from inappropriate development and requires planting schemes to be limited so as they do not have a detrimental impact on any views.

Archaeology

The site lies in the proximity to recorded Monuments GA094-072002- Ecclesiastical enclosure, GA094-072004- Round Tower and GA094-072001- Church and GA094-072012/13, GA094-072013. There is a national monument Ref No. 46

Policy 8.5- Archaeological Heritage requires the protection of archaeological sites/ remains, requires surveying, recording or excavation during development and where a proposal has the potential to impact on an archaeological heritage shall include an archaeological assessment.

5.3. **Natural Heritage Designations**

The site is located 300m from the edge of the Galway Bay Complex SAC (site code 00268) and the Inner Galway SPA (site code 04031).

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of appeal are submitted from both the resident to the north of the site and who has submitted a similar appeal to the previous application (17/295) and a further appeal from another resident in the vicinity of the site and the issues raised are summarised below:

Heritage and Archaeology

- The development will visually dominate the round tower at Rosshill/ Roscam (08th century monastic site).
- This site should be protected and made accessible for the people of Galway.
- The proposed development and the extensive driveway and landscaping will have a direct impact on the setting of the round tower and the design of the dwelling aims to maximise impact over the tower.
- Considering the location of the stone wall it is probable the site was part of the entire historic site.
- The Galway City Development Plan identifies the Roscam standing stone and monastic site as an important site.
- The submitted archaeological assessment is an insufficient desktop study.

Coastal Greenbelt

- The green areas of Galway are under threat.
- Galway City Decision number 16/228 resulted in the significant loss of a green chunk of the coastal area.
- Another example of the planning conflict nearby is “Merlin Meadows”
- The size of the existing nature corridor will be restricted.

Environmental Related Points

- The impact on the nature of the area needs to be independently assessed.
- The site forms part of the Galway Greenbelt.
- The location of the site will have a negative impact on the local wildlife.
- Impact on the designated sites and habitat fragmentation is of concern (copies of articles from science journal submitted along with a zoning map indicating probable movement of species).

Residential Amenity

- There is a significant water supply issue to the site.
- Impact on dealing with a fire, should the water levels fall too low.

- There is a need to connect to a sewerage system rather than a treatment plant.
- The local road cannot accommodate any further traffic is too narrow for pedestrians also.
- The position of the dwelling breaks the existing building lines.
- The positioning of the site allows for an additional dwelling at the front of the site and would set a precedent for similar dwellings.
- The house is too close to the adjoining property, will dominate and overlook
- The positioning of the current treatment plant is unacceptable as it abuts another property.
- The design of the dwelling is not in keeping with other properties in the area.
- The driveway will pass too close to the adjoining property.
- The non-native planting is not acceptable and the planted trees will eventually block sunlight.
- The location of the soakaways should be well away from the boundary

Principle of development

- The land in question was rezoned from High Amenity Agricultural (G) to Low Density Residential (LDR) in the previous development plan.
- Initial lobbying was in relation to multiple dwellings.
- There were strong objections from the Local Authority and rezoning was undertaken as a material alteration.
- Planning application 16.68 has restrictions imposed although this application will remove previous restrictions.
- A previous application 08.697 for the same zoning was refused as there was too close to the monastic site.
- The development will impede the agricultural use in the area.

6.2. Applicant Response

An agent on behalf of the applicant has submitted a response to the grounds of appeal which may be summarised below:

Principle of development

- The proposed development accords with the policies and objectives of the development plan and proper planning. The zoning has been established on the site and the appeal process is no the correct forum to address this issue.
- The relationship between the applicant and the landowner has been justified.
- The proposed dwelling has been designed to be sympathetic to the site and surrounding area.

Heritage and Archaeology

- An Archaeological Impact Assessment (AIA) was undertaken which considered the impact on the adjoining National Monument.
- The outer enclosure of the monument is c. 170m away, separated from the site by a field and the lands are zoned as “Agriculture and High Amenity Area”.
- The AIA includes photomontage drawings in relation to the impact of the dwelling on the monument which indicate that it will not be significantly visible or impact on the round tower.
- The design of the dwelling is not to maximise the views of the monument rather to fit into the landscape.
- A landscape design accompanied the application and the impact is considered low.
- The DAU of the Department of Culture, Heritage and Gaeltacht had no objection to the proposal.

Environment and Ecology

- An Ecological Assessment & Appropriate Assessment Screening Report accompanied the planning application and concluded that the proposal will not

have a significant adverse impact on the conservation objectives of the European Sites.

Water Services & Traffic

- Irish Water responded to a pre application enquiry to state the watermain could be upgraded, therefore no issues arise with fire safety.
- The Environment Section of the Council did not have any objection to the proposed treatment system and percolation area.
- There is no issue with the road safety.

Residential Amenity and Landscaping

- There is no definitive building line in Rosshill, as submitted in a desktop analysis to denote the location of the existing and proposed development.
- There will be no overlooking onto the appellants site.
- The proposed site is 40m to the south east of the neighbouring dwelling house.
- The proposed dwelling has a lower finished floor level and roof level than the adjoining property.

6.3. Planning Authority Response

None received.

6.4. Observations

None received.

7.0 Assessment

- 7.1. An oral hearing request was submitted and following a recommendation from the Inspector the Board decided that an oral hearing was not warranted in this case, on the basis that there was adequate information on the file and with the undertaking of a site inspection an oral hearing should not be held.

7.2. A concurrent application is before the Board (ABP- 301019-18) for a similar development, minor differences include a reduced percolation area 60m², a reduced house size by 84m², an external storage shed and other minor external alterations.

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

- Principle of development
- Archaeology
- Visual Amenity
- Residential Amenity
- Access
- Water and Waste Water
- Appropriate Assessment

Principle of development

7.2. The site is an agricultural field located along the coastline of Galway on the outskirts of Galway City. The site is zoned as Low Density Residential (LDR) where it is an objective *“To provide for low-density residential development which will ensure the protection of existing residential amenity”*. A specific zoning objective in Fig 11.32 of the development plan states that development shall be restricted to two houses only and reserved for the use of immediate family members of the land owner. Following a request for further information, in regard to compliance with the site specific objective, the applicant submitted a marriage certificate to indicate that she is married to the landowners’ brother.

7.3. The grounds of appeal argue the previous zoning on the site as “Agriculture and High Amenity” is more appropriate to the site and the lands where rezoned during the development plan process to “Low Density Residential (LDR)” against the advice of the Chief Executive of the Local Authority. The response from the applicant refers to the development plan process and states that a change to the zoning is not applicable to the appeal. I have assessed the site specific zoning and I note the appropriate process within the Planning and Development Act, 2002 (as amended) for this designation and I consider the information submitted on the applicants relationship to the landowner is reasonable to comply with the requirements of the

development plan. I note there was no inclusion of a condition restricting occupancy to the applicant, which I consider would be necessary to ensure compliance with the site specific zoning and prevent speculative development, in order to comply with the proper planning and sustainable development of the area.

- 7.4. Therefore, having regard to the LDR zoning on the site and the information submitted in relation to compliance of the site specific zoning, subject to complying with other planning requirements as addressed in the following sections, the principle of the proposal is acceptable.

Archaeology

- 7.5. The site is located c. 117m from an ecclesiastical enclosure associated with a round tower, church and graveyard (monuments GA094-072001, GA094-072002, GA094-072003 and GA094-072004). The grounds of appeal are concerned that the location of the dwelling will have a negative impact on both the archaeology and the visual impact of the round tower and the graveyard.
- 7.6. An Archaeological Impact Assessment (AIA) accompanied the application which included a walkover survey and a visual impact assessment. The AIA also included the use of the full documentation of the sites from the Department of Arts, Heritage and the Gaeltacht (DAHG) and other available sources of historic data and surveys. The AIA includes an illustration of all the recorded monuments within an ecclesiastical enclosure wall located c. 117m to the south east of the site. The report notes the round tower is visible from the site from the highest point at the north east.
- 7.7. The report of the planner noted the absence of any national monuments on the site and considered the archaeological investigations could be included as a condition. Condition No 20 requires the applicant to engage the services of an Archaeologist for the undertaking, reporting and monitoring of archaeological investigations. In response to the grounds of appeal the applicant submitted pre development testing (excavation licence 18EO311), which the applicant states was permitted under Condition No. 20 of the previous permission Reg Ref 17/295. The results of the pre-development archaeological testing reported no finds, features or deposits uncovered in any excavated trenches.
- 7.8. Having regard to the visual impact assessment and the distance from the sites of archaeological interest, I do not consider the proposed development would have a

significant negative impact on the site of archaeological interest to the south-east of the site.

Visual Impact

- 7.9. The site is located along the coastline to the north of Galway City. The proposed dwelling is located at the upper end of a relatively flat site. The design of the dwelling is a contemporary, flat roof, single storey dwelling with two larger sections interconnected. The grounds of appeal are concerned the location and design of the dwelling will have a negative impact on the surrounding area and takes advantage of its location relative to the round tower. There are no specific views protected on the site although, the road leading up to (north) and past the site (west) includes protected “Views and prospects”, V9: Views towards the sea at Roscam.
- 7.10. A Visual Impact Assessment (VIA) submitted with the development plan includes a detailed analysis of characteristics of the site and surrounding environment and refers to the localised impact of the proposed dwelling from the immediate vicinity and not from a long distance away and concludes the proposal will have a low to medium impact. The VIA describes the protected views as those towards Galway Bay. In addition to the VIA, two photomontages were prepared from the round tower and from the public road to the west of the site. The photomontage from the round tower illustrates the distance from the site, separation distance and single storey design of the dwelling and includes tree planting along the south east of the site, part of the landscaping plan. Policy 4.5.1 of the development plan requires the protection of views and prospects which contribute to the visual amenity of the city. I note the location of the protected views and prospects along the public road south of the subject site and at a distance from the proposed dwelling and having regard to the overall design of the dwelling and the VIA I do not consider the proposal will have a negative impact on the protected views along the road defined as V9 in the development plan.
- 7.11. The boundary treatment around the site includes a stone wall with some mature trees and hedging. The submitted landscaping scheme includes the retention of the stone walls, additional tree planting and hedgerow enhancement. The grounds of appeal are concerned the amount of planting will “bury” the natural stone wall and block light into their house. The proposed landscaping includes the provision of haha

boundary and enhanced planting and salt tolerant species. The proposed landscaping scheme has been altered from the previous submitted proposal in ABP-301019-18 (Reg Ref 17/295). I note no objection from the Parks and Recreation Section. I consider the proposed landscaping proposal acceptable to ensure the proposed dwelling is assimilated into the site and surrounding area.

- 7.12. Having regard to design of the dwelling, the landscaping plan and the separation distance from the round tower and the views to be protected, I do not consider the proposed dwelling would have a significant negative impact on the surrounding area.

Residential Amenity

- 7.13. The proposed dwelling is split level with a single storey along the front and located c. 50m the rear and south east of an existing two storey dwelling. There is currently a row of mature trees along the northern boundary of the site. The grounds of appeal argue the proposal is not in keeping with the existing building line and therefore does not respect the characteristics of the surrounding area. In addition, they consider the amount of proposed non-native planting will remove light and have a negative impact on residential amenity.
- 7.14. The response from the applicant to the grounds of appeal refers to the height of the proposed dwelling in relation to the surrounding area and states the finished floor level of the proposed development is 19.10 AOD, whilst the appellants dwelling is 19.25 AOD . I note the overall design of the proposed dwelling and the proposed location from the existing dwelling and I do not consider the proposed dwelling would cause any overlooking or overbearing on the existing property. As stated above I consider the landscaping proposals are acceptable.
- 7.15. Having regard to the location and design of the proposed dwelling and distance from the closest dwelling to the north, I do not consider the proposed dwelling would have a significant negative impact on the residential amenity of the dwellings in the vicinity.

Access

- 7.16. The site is located along a small rural type lane which provides access for approx. 18 dwellings and there is currently an agricultural access into the site. The proposed development includes an upgrade of the existing access with the provision of sightlines of 70m in both directions. The Galway City Development Plan 2017-2023

does not include any specific requirements for sightlines although Table 13.3 of Galway County Development Plan 2015-2021 includes a requirement for 70m (y distance) on roads with speed limit of 50 kph. Table 4.2 of the Design Manual of Urban Roads and Streets (DMURS) requires 45m for the y distance for access in cities, towns and villages in order to increase driver caution and reduce vehicular speeds. There was no response from the Roads Department.

7.17. I note the location of the site along a quiet rural type road and whilst I note the DMURS standard for the y distance is 45m is applicable within and the towns and villages, I consider the characteristics of the area is rural in nature and a y distance of 70m is more relevant as per the County Development Plan. Therefore, the sightlines provided at the access are considered acceptable.

Water and Wastewater

7.18. The proposed development includes a connection to the public water mains system and includes a secondary waste water treatment system with soil polishing filter (120m²) to accommodate 8 persons. The grounds of appeal do not consider the dwelling can be adequately serviced as the site has no public sewer connection and the response from Irish Water is inadequate. An Taisce also raised concern in relation to the lack of public service which will give rise to a more likely cause of pollution.

7.19. Surface Water: Four soakpits are located along the northern boundary of the dwelling, adjacent to the proposed driveway beside the appellants dwelling and two within the site. The Environment Section has no objection to the proposed development. I consider the proposed treatment of surface water sufficient to prevent any negative impact on the surrounding area.

7.20. Water: The proposal includes connections to the public water supply via an existing 50mm water main along the front of the site. A response from IW for Reg Ref 17/295 referred to the rehabilitation and upgrade of the network at Rosshill in Q4 of 2017 (subject to change), which I consider reasonable.

7.21. Waste water: The site is located in an area identified with a “High” vulnerability classification in the GSI Groundwater maps, representing a GWP response of R2¹ under the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009) (Annex B3) (the site characterisation form notes it as

“extreme”) . No Karst features were noted in the site characterisation form within 500m although a karst spring is illustrated of the GSI groundwater maps 300m north of the site.

- 7.22. The trial hole assessment submitted by the applicant encountered no bedrock/ water table at a depth of 1.4m. The site is located within area defined as a “Regionally Important Aquifer-Karstified” and Section 3.2 of the site characterisation form requires a trial hole of a minimum depth of 3m as the potential for groundwater contamination is high where the rock is close to the surface. This was not achieved. Access to the site was restricted, therefore no trial holes were available for inspection. The submitted site characterisation records a T-test value of 19.17 min/25mm, which is within the acceptable range for a septic tank (Table 6.3) and would indicate good percolation. Having regard to the permeability of the bedrock (limestone) a P-test provided a value of 18.61 min/25mm. It is proposed to install a packaged treatment system with a percolation area/polishing filter where 1.2m of percolating material is provided. The size of the percolation area was reduced from the previous application from 180m² to 120m².
- 7.23. The applicant’s response to the grounds of appeal (Fig 4.5) includes an illustration of c. 40 existing and proposed dwellings within a c. 0.5km radius of the site, there is no public sewerage system currently available for the area. A letter submitted from the adjoining landowner states that additional dwelling is proposed directly to the south west of the site and will be subject to a separate planning application.
- 7.24. Having regard to the location of the site 200m south of a karst spring and within an area identified as Regionally Important Aquifer- Karstified, I consider the applicant was required to use a 3m trial hole for the purpose of the percolation test (Section 3.2 of the site characterisation form). In addition, it is of note the site is within 200m north of Galway Bay SSAC, which includes marine dominated habitats. In the absence of this data and having regard to the significant amount of properties in the vicinity, I do not consider the applicant has demonstrated the proposed wastewater treatment can meet the requirements of the EPA Guidance. Therefore, I cannot conclude that the proposed development would not have a significant risk of ground water pollution on a site which I consider is located within a sensitive water environment.

Appropriate Assessment

- 7.25. The site is located 200m from the edge of the Galway Bay Complex SAC¹ (site code 00268) and the Inner Galway SPA² (site code 04031). The Galway Bay Complex is a very large (14,408.98ha) marine dominated, made up of subsidiary bays, inlets and islands to name a few and the Inner Galway Bay SPA is a very large, marine dominated, site which supports internationally important wintering populations. A Screening for Appropriate Assessment accompanied the application and concluded there would be no potential impacts on any European Site subject to certain works which included the installation and maintenance of a sewerage treatment system according to EPA regulations.
- 7.26. The site is not directly connected to the adjoining Natura 2000 sites by any hydrology although the groundwater flow is directed west towards the Bay. As stated above, I do not consider the applicant has sufficiently demonstrated in the percolation test that the treatment of effluent can comply with the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009), therefore there is a potential risk for groundwater or surface water pollution on a site which is only 200m from the edge of the Galway Bay SAC and Inner Galway Bay SPA.
- 7.27. Therefore, having regard to the nature and scale of the proposed development, the conservation objectives and distance from the European Sites, on the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the Galway Bay Complex SAC (site code 00268) and the Inner Galway SPA (site code 04031), or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

¹ NPWS (2013) Conservation Objectives: Galway Bay Complex SAC 000268. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht.

² NPWS (2013) Conservation Objectives: Inner Galway Bay SPA 004031. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht.

8.0 Recommendation

- 8.1. Having regard to the failure of the applicant to sufficiently prove that the servicing of the site for a waste water treatment system can comply with the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009) in an area which I consider is classified as a highly sensitive water environment, it is considered the proposed development would have a negative impact on the groundwater 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

The site is located within area identified as a Regionally Important Aquifer-Karstified and is located c. 300m from a Karst Spring and 200m from the edge of the Galway Bay Complex SAC (site code 00268) and the Inner Galway SPA (site code 04031). The trial holes encountered bedrock at 1.4m. It is considered that, taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of development served by septic tanks in an area which is considered to be a highly sensitive water environment. The Board is not satisfied that that effluent from the development can be satisfactorily treated or disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development, would, therefore, be prejudicial to public health.

Karen Hamilton
Planning Inspector

01st of August 2018