



An
Bord
Pleanála

Inspector's Report ABP 301453-18

Development	Dwelling, Garage and associated services.
Location	Kilroghter, Castlegar, Co. Galway.
Planning Authority	Galway County Council
P. A. Reg. Ref.	18/80
Applicant	John Carney.
Type of Application	Permission
Decision	Refuse Permission
Type of Appeal	First Party X Refusal
Appellant	John Carney
Date of Site Inspection	24 th July, 2018.
Inspector	Jane Dennehy

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1.0 Site Location and Description

The site location is in Kilroghter, to the north of Galway City, to the south west of Claregalway which is on the N84 and it has frontage onto the northern side of a minor county road. (L-6207) There are road frontage dwellings on either side of the site of the proposed development.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority on 31st January, 2018 indicates proposals for construction of a house with a stated floor area of two hundred square metres, a detached garage with a stated floor area of thirty-two square metres and to install a private waste water treatment system. The application is accompanied by a site characterisation form, appropriate assessment screening report, copies of land registry documentation and some details of the applicant's background.
- 2.2. According to the application, the site was purchased by the applicant, who is from the locality and is employed as a carpenter in the area, in 2014.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 26th March, 2018, the planning authority decided to refuse permission based on four reasons.

Reason 1 relates to deficiencies in sightlines at the entrance in that the applicant does not have sufficient legal interest to implement setbacks front the road frontage over third lands.

Reason 2 relates to consolidation of unsustainable residential development in an area militating against the preservation of the rural environment and leading to demands for uneconomic provision of services and facilities.

Reason 3 relates to failure to demonstrate rural housing need in accordance with qualification criteria for locating a house in the Rural Housing Zone 1

area with the development constituting urban generated housing in an area under strong urban influence which would materially contravene the Objective RHO 1 of the CDP, the (Section 28) Sustainable Rural Housing Guidelines and, would set undesirable precedent for similar development.

Reason 4 relates to endangerment of public safety by reason of traffic hazard due to addition traffic generation on a substandard road in width and alignment where visibility in both directions at a junction is substandard.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning officer in determining that the proposed development constituted urban generated development, noted the location of the applicant's family home in an area designated for agricultural use and applications for similar development in the area for which permission was refused.

3.2.2. Other Technical Reports

The Roads and Transportation Unit in a report indicated a recommendation for refusal of permission on grounds relating to deficiencies in sightlines at the entrance and lack of capacity of the applicant to demonstrate that the deficiencies could be overcome.

4.0 Planning History

P. A. Reg. Ref. 16/1458: Permission for a house, garage and services with a total stated area of 230 square metres was refused on grounds of failure of the applicant, (David Browne) to satisfy the housing need criteria for the location provided for the strategic guidance and the CDP. As a result, the proposed development would constitute urban generated housing which would materially contravene the CDP and the (Section 28) Sustainable Rural Housing Guidelines and, would set undesirable precedent for similar development.

5.0 Policy Context

Development Plan

- 5.1. The operative development plan is the Galway County Development Plan, 2015-2021 the location is subject to the objective: "RHO 1": which seeks to manage single house development in accordance with Rural Housing Zones 1-4 and which supports sustainable re-use of existing housing stock according to the planning authority's Rural Housing Policy. The site location is within with an area designated as being within Rural Housing Zone 1 which is an area under "strong urban pressure". Criteria for applicants seeking to develop single houses in these areas are set out in section 3.9 (page 61.) The location is also within the area of the Galway Transportation Planning Area (GTPS)
- 5.2. The landscape sensitivity is categorised as Category 3 within a range 1 – 5. Objective RHO 3 confines consideration of applications to those received from applicants with genuine rural housing need.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was received from James Roche on behalf of the applicant on 20th Aril, 2018 according to which:

- The application should be favourably considered because the applicant has links with and involvements in the area. A Map showing the location of the family dwelling and the site location with copies of folio documentation for both sites, a letter from the applicant's former local school and from others demonstrating involvements in the area where provided with the application.
- The family dwelling, (where the applicant resides) on Monument Road is a short distance from the site. When the applicant's parents constructed their dwelling the site location on Monument Road was within the area of Galway

County Council but later, the administrative area of Galway City Council was extended to include the location on Monument Road. It is unreasonable for the applicant to be penalised over this. A change in administrative areas should not affect the applicant.

- The applicant is willing to accept an “enurement” condition if required.
- Comprehensive appropriate assessment screening and site characterisation details were provided with the application.
- Permission was granted for a prior application for the site under P. A. Ref. Ref. 25462 although the permitted development was not implemented.
- There is no issue with sight lines to the west and only minimal issue with the sight line to the east. An official at Galway County Council, (Mr Costello) did not consider that there was a significant issue.
- The site could be regarded as “infill”. It is a one-off development which would not cause precedent. Reasoning relating to preservation of the rural environment is irrelevant.
- There are no issues with layout, dwelling design and style.
- There is no question of traffic hazard.

6.2. Planning Authority Response

There is no submission from the planning authority on file.

7.0 Assessment

- 7.1. The issues considered central to the determination of the decision which relate to the four reasons attached to the planning authority decision and, in addition, precedent and appropriate assessment can be considered below under the following sub-headings:

Adequacy of sightlines in each direction at the entrance,

Additional traffic generation on a substandard road network.

Unsustainable demand for services and facilities in a rural area not designated for development.

Material Contravention of Policy Objective RHO 1 of the CDP for a rural area under strong urban influence within the GTPS area.

Precedent.

Appropriate Assessment

Adequacy of sightlines in each direction at the entrance

- 7.2. Further to review of the application documentation and inspection of the site frontage and the public road at the site location, it has been concluded that the observations of the planning officer as indicated in his report can be fully supported. Sightlines cannot be achieved without significant alterations to the boundaries on land in third party ownership. There is no evidence of written consent to the applicant or any proposals to demonstrate applicant has not provided any written consent or proposals in this regard. To this end, the reason included with the decision to refuse permission on grounds of lack of inability on the part of the applicant to provide for satisfactory sight lines in either direction along the public road at the entrance is reasonable. Furthermore, as discussed in the following subsection, the vertical and horizontal alignment of the road, proliferation of vehicular entrances to private residential properties, lack of pedestrian facilities are serious issues of concern regarding the road network at Kilroughter. As such, it is considered that no

relaxation of minimum standards can be justified in the interests of pedestrian and vehicular safety on the public road.

Additional traffic generation on a substandard road network

- 7.3. The network of minor local roads between the junctions with the N84, on the opposite side of the N4 at Castlegar and to the east are seriously substandard in vertical and horizontal alignment, and extremely hazardous at intersections in that road users are largely unsighted on approach and at the junctions of the local road network with the N 84. In many places vehicles cannot pass, there being reliance on pull in areas at entrances and elsewhere. The inclusion of a reason for refusal of permission on grounds of endangerment of public safety by reason of additional traffic generation on the substandard road network and poor visibility at the junction is considered reasonable and is supported.

Unsustainable demand for services and facilities in a rural are not designated for development.

- 7.4. Although the area is characterised primarily by urban generated single house development it does not have the benefit of any policy objectives to allow for consideration of proposals for single house development except on exceptional services. The seriously substandard local road network and the lack of pedestrian facilities has been discussed above. Furthermore, there is a lack of public sewerage treatment facilities with each single house development being reliant on private effluent treatment and disposal systems as a result of which there is a proliferation of such facilities. There is also reliance of private car transport.
- 7.5. Additional residential development generates increased demand for provision for and upgrade of services and facilities not intended for areas not designated or zoned for development of an urban nature. Favourable consideration of the proposed development would exacerbate this scenario and would be contrary to the strategic and local development objectives that directs development into other areas and which seeks to preserve the rural environment. The inclusion of a reason for refusal of permission on such grounds is considered reasonable and is supported.

Material Contravention of Policy Objective RHO 1 of the CDP for a rural area under strong urban influence within the GTPS area.

- 7.6. The site location is within an area under strong urban influence and within the area of the GTPS according to the development. As previously stated, the local road network is extremely substandard and hazardous given the extent of development it serves. The area has been under very strong pressure and demand for one-off housing development to the extent that its rural character has been undermined in that it is primarily characterised by continuous road frontage commuter/urban generated single house development serviced by private effluent treatment and disposal systems.
- 7.7. While the applicant has connections with the area by reason of the location of the family home on Monument Road, to which the family moved in the 1980s, there is no connection with the application site and there is no evidence that the applicant, who states that he is a carpenter, is dependent on the site location and rural economy for his livelihood. Although the applicant's family has resided on Monument Road and the applicant attended a local school and is involved in sports in the area, there is also no evidence that the applicant's family has connections with or was/is dependent on the rural economy for a livelihood. To this end, it is considered that the application, having regard to the eligibility criteria for an applicant seeking to develop a house in an area under strong urban pressure -GTPS as provided for under Objective RHO 1 would materially contravene this policy objective within the CDP. The applicant does not have long standing ties and is not seeking to develop a home on an existing farm holding, a substantial housing need, functional dependency on the immediate rural area, or ownership of the site lands for over twenty years.
- 7.8. The willingness to accept an "enurement" condition (as provided for under RHO (3)) is noted but considered irrelevant in that the application is considered unacceptable.
- 7.9. The references in the appeal to the change in the administrative boundaries for the locations within which the applicant's family home and the location of the proposed development have been noted. Nevertheless, the matters raised are considered immaterial to the consideration of the proposed development and the applicant's

eligibility for consideration for a house having regard to the rural housing policies set out in the Galway County Development Plan, 2015-2021 for the area.

Precedent.

7.10. In the appeal reference is made to other applications for development in the vicinity in making the case for the proposed development. However, based on review of the Galway County Council website it is of note that the two applications, for single house developments serviced by private effluent treatment plants which were unsuccessful: A planning authority decision to grant permission to Eddie Griffin at Kilrogther was overturned following third party appeal. (PL 07 243979/ P. A. Reg. Ref. 14/623 refers. Permission was also refused for a second application by Mr. Griffin on 6th February, 2018. (P. A. Reg. Ref. 17/1229 refers.) Record of a further application stated in the appeal to have the planning register number, “25462” could not be traced.

Appropriate Assessment.

- 7.11. The application includes a comprehensive appropriate assessment screening report which has been consulted for the purposes of the appropriate assessment screening for the proposed project. The site location is circa 450 metres from the Lough Corrib Special Area of Conservation (Code 000297 and Lough Corrib Special Protection Area (Code 004042)
- 7.12. Threats would be potential for water pollution from contaminated water or effluent from the site. However, there are no watercourses at the site location and there are no hydrogeological pathways or links to these sites. The project is a small scale single house development which is to be serviced by a private waste water treatment plant.
- 7.13. No potential likely significant effects on the achievement of the conservation objectives for Sites and the protected species and Habitats on Annex 1 and 2 are identified.
- 7.13.1. Having regard to the scale and nature of the proposed development and to the serviced central business district location, no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. In view of the foregoing, it is recommended that the planning authority decision to refuse permission be upheld and that the appeal be rejected. Draft Reasons and Considerations follow.

9.0 Reasons and Considerations

1. The site is located within an area on the outskirts of Galway city designated in the Rural Housing Policy within the Galway County Development Plan, 2015 – 2021 (CDP) as an area “under strong urban pressure – and, within the area of the Galway Transportation and Planning Study (GTPS), the eligibility criteria for consideration for single house development for which is provided under Objective RHO 1. Having regard to the criteria set out under Objective RHO 1 and based on the information available with the application and the appeal indicating that the site is not within an existing family farm landholding or on land that has been in family ownership for a period of twenty years or more and that the applicant is not functionally dependant on the local rural economy in the immediate area for his livelihood it is considered that the proposed development would therefore materially contravene Rural Housing Policy development objective RHO 1 of the Galway County Development Plan, 2015 – 2021, would set undesirable precedent for further similar development and, would be contrary to the proper planning and sustainable development of the area.
2. Taken in conjunction with existing development in the area the proposed development would extend and consolidate the demand for existing unsustainable, urban generated residential development on a substandard local road network lacking services and facilities and would lead to demands for uneconomic provision of such services and facilities and demand for unsustainable transport. The proposed development would set undesirable precedent for further similar development and would be contrary to the proper planning and sustainable development of the area.

3. The Board is not satisfied based on the information available with application and the appeal that the applicant has sufficient legal interest to enable him to provide for adequate sightlines in each direction along the public road from the proposed entrance. The additional traffic generation by the proposed development and associated turning movements on the substandard local road network and substandard junctions with the N84 where no public footpaths existing and where sightlines would be seriously deficient would result in obstruction of the safe and free movement of pedestrians and vehicular traffic. The proposed development would therefore endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.

Jane Dennehy
Senior Planning Inspector
26th July, 2018.