



An
Bord
Pleanála

Inspector's Report ABP 302333-18

Development	Construction of a house, domestic garage, proprietary treatment system and site works.
Location	Ballynamanagh East, Clarinbridge, Co. Galway.
Planning Authority	Galway County Council.
P. A. Reg. Ref.	18/700.
Applicant	Conor Tarpey
Type of Application	Permission
Decision	Grant Permission.
Type of Appeal	Third Party
Appellant	Francis Bannon
Date of Site Inspection	22 nd October, 2018
Inspector	Jane Dennehy

Contents

1.0 Site Location and Description.....	3
2.0 Proposed Development.....	3
3.0 Planning Authority Decision	4
3.1. Decision.....	4
3.2. Planning Authority Reports.....	4
3.3. Third Party Observations.....	5
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Development Plan.....	5
6.0 The Appeal.....	6
6.1. Grounds of Appeal.....	6
6.4. Planning Authority Response	7
7.0 Assessment.....	7
8.0 Recommendation.....	10
9.0 Reasons and Considerations	10

1.0 Site Location and Description

- 1.1. The application site has a stated area of 4,440 square metres and is formed from agricultural land with dense hedgerow along the front boundary on the north side of a minor county road extending along a route in a westerly direction from Clarinbridge. Some road frontage dwellings are located to the west and further to the east there is continuous road frontage residential development and a small residential estate on the west side of Clarinbridge. The public road rises towards the west and levels fall towards the south on the opposite side of the road towards the Clarinbridge river.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for construction of a two-storey dwelling with a total stated floor area of 225 square metres. A detached garage structure, with a stated floor area of 99.5 square metres is shown at the rear east side and a treatment plant and percolation area is to the rear west side of the site. Alterations, incorporating natural stone wall construction on the front boundary to either side of a proposed entrance at the centre are modified to achieve seventy metre sightlines from the edge of the carriageway. A post and rail fence is to be erected on the west and rear site boundaries and the existing natural stone wall along the east side boundary is to be retained. A car parking space is shown on the roadside edge adjacent to the proposed entrance.
- 2.2. The application includes copies of Land Registry Folio documentation indicating ownership of No. 3 Parklands, Clarinbridge in the townland of Ballynamanagh East, since 2003 according to a solicitor's letter, ownership of the appeal site lands, a birth certificate (1996) notes about attendance at the local school (2009-2013) and sports activities and employment in Oranmore.
- 2.3. The application also includes a site characterisation form and report of the proposed effluent treatment system, an appropriate assessment screening report, copy of a statement from Stephen Tarpey, No. 3 Parklands, Clarinbridge who indicates that he is in ownership of the adjoining lands and that he consents to the carrying out of proposed alterations to boundaries and maintenance.

2.4. In the further information submission lodged with the planning authority on 2nd July, 2018, the footprint of the dwelling is moved forward and fenestration in the eastern gable end is omitted.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. By order dated, 23rd July 2018, the planning authority decided to grant permission subject to fourteen conditions generally of a standard nature and the following additional requirements.

Condition No 2 is an occupancy condition.

Condition No 3 has a requirement for provision for one car space “at the edge of the margin” of the roadway which is to be levelled and graded to a standard suitable for off road parking.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning officer considered the development to be urban generated and in conflict with Rural Housing Policy, RHO1 of the CDP owing to the applicant’s ownership of a dwelling within Clarinbridge village. Refusal of permission recommended. He also notes and refers to the assessment of the prior application under P. A. Reg. Ref.17-1727, details of which are in Para 4 below. There is a handwritten note, dated, 23rd July, 2018 with the initials “ER” on an additional page which is as follows; “Current residence on outskirts of village therefore not urban generated. Grant subject to conditions and enurement clause”.

3.2.2. Other Technical Reports

The report of the Roads and Transportation department indicates no objection subject to conditions.

3.3. **Third Party Observations**

A submission was received from Francis Bannon, (the appellant party) who is ownership of the adjoining lands to the east in respect of which there is an extant grant of permission for a dwelling. He indicates concern about potential overlooking and the site layout and footprint and building line for the proposed dwelling relative to that of the permitted dwelling on his lands.

4.0 **Planning History**

P. A. Reg. Ref. 17/1727. This is a similar application to the current application subject to appeal and it was withdrawn prior to determination of a decision.

5.0 **Policy Context**

5.1. **Development Plan**

The operative development plan is the Galway County Development Plan, 2015-2021 according to which the site location is in a rural area outside the settlement of Clarinbridge in respect of which, Rural Housing Policy Objective, RHO1 (Rural Housing Zone 1) applies. This policy precludes consideration of urban generated housing outside settlements except for persons who satisfy specific criteria regarding connections with the area and the rural economy. The location is also within the Galway Transportation Planning Study Area (GTPS)

5.2. **Strategic Guidance issued under Section 28 of the Planning and Development, Act, 2000 as amended.**

The area in which the site is located is identified as an area under “strong urban influence” in the Section 28 Guidelines: *Rural Housing: Guidelines for Planning Authorities* (DOEHLG 2009)

6.0 The Appeal

6.1. Grounds of Appeal

6.2. An appeal was received from Francis Bannon on his own behalf on 13th August, 2018. Mr Bannon states that he is in ownership of the adjoining land to the east of the appeal site and that permission has been granted for a dwelling on these lands under P. A. Reg. Ref. 09/828 and 14/1291. According to the appeal.

- The proposed development would have negative impact on the residential amenities of the adjoining, unconstructed dwelling on the adjoining lands on the east which is in the ownership of Mr Bannon for which the applicant has the benefit of a grant of permission which expires in January, 2020.
- It is noted that although a refusal of permission was recommended, a grant of permission was issued for the proposed development. An issue relating to compliance with rural housing policy had been raised. Issues regarding traffic safety and compliance with rural housing policy had been raised in the prior application, which was withdrawn.
- Mr. Bannon confirms that he has no objection in principle to development of a house on the site in a different layout and design to that proposed. He argues that the site layout fails to take Mr Bannon's permitted development into account. The footprint was brought forward and, some design changes were made in revisions in the further information submission of 2nd July, 2018. The footprint of the proposed house which is a large two storey structure is back land. It is to the rear of the building line of the permitted dwelling on the appellant's land. The appellant's property is a dormer dwelling similar to the majority of houses in the area which are single storey or dormer dwellings. The proposed development is overbearing and visually intrusive and would devalue the appellant's property.

6.3. Applicant Response

6.3.1. A submission was received from the applicant's agent, Oliver Higgins on 14th September, 2018 according to which:

- 6.3.2. In the further information submission, the revised layout the footprint is moved forward from the original position proposed. It is 27.9 metres in distance from the proposed entrance. The windows which were originally included for the eastern gable are omitted. It is understood that Mr Bannon is satisfied with the omission of the windows.
- 6.3.3. To address Mr Bannon's concerns, a further revision to the site layout is proposed which is acceptable to the appellant. A plan drawing is attached to the submission in which the footprint is moved forward to a position 21.9 metres from the front entrance and in which the finished floor level is reduced to 99.0 m above local datum from 99.5 m above local datum resulting in a ridge height (above the ground floor) of 7.87 metres. There is a separation distance ranging from 13.4 metres to 15.3 metres from the wall between the two properties.

6.4. **Planning Authority Response**

There is no submission from the planning authority on file.

7.0 **Assessment**

- 7.1. The issues raised in the appeal are first addressed below followed by consideration of issues that have arisen further to *de novo* review of the application and finally Environmental Impact Assessment Screening and Appropriate Assessment Screening are addressed.
- 7.2. The issues central to the appeal are that of potential impact on the residential amenities of the permitted dwelling on the adjoining land to the east, the grant of permission for which has not been taken up to date. The objection is to:
- The proposed inclusion of windows in the east facing gable end
 - The footprint of the dwelling which is set behind that of the appellant's permitted dwelling and
 - Visual impact of the proposed two storey dwelling.
- 7.3. However, with regard to the windows and the footprint of the proposed dwelling, further revisions to the site layout, previously modified in the further information submission at application stage are proposed by the applicant in the submission to

the Board received on 14th September, 2018. In it, the windows are omitted from the east facing gable end and the footprint is moved further forward on the site so that the main front building line, excluding a forward projecting entrance lobby is approximately five metres behind that of the appellant's permitted dwelling. This footprint is considered fully acceptable both in terms of setback from the road frontage and the separation distance from the adjoining permitted dwelling in the presentation towards the road frontage. The written confirmation received from the appellant as to the acceptability of the proposed omission of the windows and repositioned footprint on the site are noted.

7.4. It appears, based on review of the final submission of the appellant received on 10th October, 2018, that the original objection to the dwelling design, height and form has not been withdrawn by the Appellant. The point made is that dormer style dwellings rather than two store dwellings are predominant in the area. The proposed two storey dwelling is considerable in width and in depth which, coupled with the high eaves height, results in a dwelling of considerable mass and relative dominance at the elevated site location and, relative to existing road frontage development in the area although it is noted that the ridge height comes within the maximum limit provided for in the planning authority's Rural House design guidelines. It is therefore considered that the proposed dwelling is visually obtrusive and that a lower profile design, form and height would be more appropriate for the site location in the event of favourable consideration in principle of the applicant's proposal to construct a dwelling on the site.

7.5. **De novo review of the application**

7.6. Issues that have arisen which considered for further assessment below are that of: --

- Consistency with the Rural Housing Policy and,
- the detached garage

7.7. **Rural Housing Policies.**

7.7.1. The rural area in which the site is located is under "strong urban influence" according to the *Sustainable Rural Housing: Guidelines for Planning Authorities* issued by the Department of the Environment, Heritage and Local Government in 2005. It is also within the Galway Transportation Study Area (GTPS) and at a location classified as

within a Rural Housing Zone 1 for which Policy Objective RHO1 applies according to the *Galway County Development Plan 2015-2021*.

- 7.7.2. As indicated in the planning officer report, the applicant resides at a property within the settlement boundary of Clarinbridge, at No 3 Parklands which was purchased in 2003 which is circa one kilometre from the site location in the rural area outside Clarinbridge. The applicant purchased the application site in 2016 and has provided documentary evidence of Title to these lands.
- 7.7.3. It is accepted that the applicant has demonstrated that he is a member of the local community with links to the area. However, it is not agreed that the applicant has demonstrated a rural housing need as well as satisfying the criteria for Policy Objective RHO1 of the Galway County Development Plan in that his principle place of residence is at No 3 Parklands which is in his ownership. To this end, it is agreed with the planning authority that the proposed development would be urban generated development as the applicant cannot demonstrate a rural housing need. To this end it is considered that the decision of the planning authority to grant permission is in material conflict with the policies and objectives of the statutory guidelines and the county development plan and that permission should be refused.
- 7.7.4. With regard to the proposed entrance which is to be created at the road frontage the applicant has submitted evidence of consent to carry out alterations to the road frontage boundaries in third party ownership to facilitate the achievement of seventy metre sight lines, and to maintain the boundaries.
- 7.8. **Detached Garage.**
- 7.8.1. While in principle a detached garage for use in connection with residential use of a dwelling would be acceptable, it is noted that the proposed garage is considerable in size and has a stated floor area of 99.5 square metres. A garage structure of such size, for use ancillary to the residential use of a dwelling would be unwarranted. In the event of possible favourable consideration of the proposed development prior clarification as to the rationale for a proposed garage of such size, for use in connection with the residential use of the dwelling would be advisable.
- 7.9. Environmental Impact Assessment Screening.
- 7.9.1. Having regard to the minor nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no

real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.10. Appropriate Assessment Screening.

- 7.10.1. A screening assessment report has been included in the application submission which has been consulted in conducting the appropriate assessment screening.
- 7.10.2. Galway Bay Complex SAC and the Inner Galway Bay SPA which are circa 150 metres from site location. However, having regard to the satisfactory arrangements for effluent treatment and disposal and to the scale and nature of the proposed development, no Appropriate Assessment issues arise.

8.0 Recommendation

- 8.1. In view of the foregoing it is recommended, that the planning authority decision to refuse permission be upheld based on the reasons and considerations set out below:

9.0 Reasons and Considerations

- 9.1. The site of the proposed development is located within the Galway Transportation and Planning Study Area, is subject to 'strong urban influence' according to *Sustainable Rural Housing: Guidelines for Planning Authorities* issued by the Department of the Environment, Heritage and Local Government in 2005 and within Rural Housing Zone 1 to which Objective RHO 1 of The Galway County Development Plan, 2015-2021 in respect of which development of a dwelling is restricted to persons who satisfy specific criteria that demonstrates genuine rural housing need. The proposed development constitutes urban generated housing in that the applicant is in ownership of an existing dwelling within the settlement of Clarinbridge, in which residential development is directed. The proposed development is therefore in material contravention of a development objective of the *Galway County Development Plan 2015-2021* and *Sustainable Rural Housing: Guidelines for Planning Authorities* issued in 2005 under Section 28 of the Planning

and Development Regulations, 2000 as amended and, is contrary to the proper planning and sustainable development of the area.

Jane Dennehy
Senior Planning Inspector.
15th November, 2018.

Decision Quashed