



An
Bord
Pleanála

Inspector's Report ABP-302607-18

Development	Erection of house, a waste water treatment system, domestic garage and all the associated site works.
Location	Cushmaignore, Co Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	18924
Applicant(s)	Niall Cunningham
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Maura Naughton
Observer(s)	None
Date of Site Inspection	13/12/2018
Inspector	Gillian Kane

1.0 Site Location and Description

1.1. The subject site is located on the northern side of the minimum road running through the west Galway village of Furbo. The undeveloped plot lies between a dwelling to the west and a narrow unsurfaced laneway to the east. The site appears to have undergone some ground clearance works and is currently elevated above the dwelling to the west. A development of contemporary dwellings An Fearban lies to the south and a primary school lies further west.

2.0 Proposed Development

2.1. On the 4th July 2018 planning permission was sought for the construction of a single storey four-bed dwelling of 256sq.m., waste water treatment system, domestic garage of 24sq.m. on a site of 0.25ha.

2.2. The application was accompanied by a cover letter referring to the planning history on the site and responding to the previous reasons for refusal, by a Site Suitability Assessment and details of the proposed WWTS.

3.0 Planning Authority Decision

3.1. Decision

On the 24th August 2018 the Planning Authority issued a notification of their intention to GRANT permission subject to 13 no. standard conditions.

3.2. Planning Authority Reports

3.2.1. **Planning Report:** Proposed development is acceptable within a settlement. Lands to the north are not compromised by the proposed development. Recommendation to grant subject to conditions.

3.3. Prescribed Bodies

3.3.1. **Transport Infrastructure Ireland:** The Authority will rely on the Planning Authority to abide by official policy in relation to development on /affecting national roads. The Planning Authority should protect the Government investment in national roads, should maintain the intended transport function, traffic carrying capacity and

efficiency of the road network, should ensure traffic hazards are not created, should protect the routes of future roads and should extend the life of the national road network.

3.4. **Third Party Observations**

- 3.4.1. An objection to the proposed development was submitted by the subject appellant. The issues raised mirror those in the appeal and are discussed in greater detail in section 6 below.

4.0 **Planning History**

- 4.1.1. Planning Authority reg. ref **98/4771**: Planning permission granted to Micheál O Neachtain for dwelling
- 4.1.2. Planning Authority reg. ref **01/4801**: Planning permission granted Micheál O Neachtain for dwelling
- 4.1.3. Planning Authority reg. ref **17/1782**: Planning permission refused for a dwelling on the grounds that the proposed right-of-way through the site to serve future residential development to the north would be premature and that the proposed development would be adhoc piecemeal development, and that the proposed development did not provide for adequate effluent treatment, parking, landscaping and open space and would be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

5.0 **Policy Context**

5.1. **Galway County Development Plan 2015- 2021**

- 5.1.1. Furbo / Na Forbacha is listed as an “other settlement in the countryside” in the settlement hierarchy of the development plan. Section 2.6.7 of the development plan states that development in the un-serviced countryside requires careful management, in order to balance the need to revitalise and support communities, while ensuring the overall sustainable development of these areas.
- 5.1.2. **Objective SS7** refers to the Development of Small Settlements and states that in the case of smaller settlements for which no specific plans are available, development shall be considered on the basis of its connectivity, capacity (including social, cultural, and economic, infrastructural and environmental capacity) and compliance

with the Core Strategy and Settlement Strategy, good design, community gain and proper planning and sustainable development.

- 5.1.3. **Objective SS 8** – Development of Rural Communities: Galway County Council shall recognise the important role of rural communities to the sustainable development of County Galway and shall ensure the careful management of development in these areas, having due regard to the relevant policies and objectives set out elsewhere in the plan.

5.2. **Natural Heritage Designations**

- 5.2.1. The subject site is 4km from the Inner Galway Bay SPA (site code 004031) and the Galway Bay Complex SAC (000268).

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- 6.1.1. A third party appeal of the decision of the Planning Authority to grant permission has been submitted by Mrs. M Naughton of Cushmaigmore, Furbo. The grounds of the appeal can be summarised as follows:
- The subject application is the same as reg.ref. 17/782 except for the access route.
 - While the right of way of the previous application has been omitted, the proposed development has clearly retained it. The nearby school and elderly residents that regularly use the footpath will be at risk. Inadequate provision has been made for road widening on the by-road.
 - Inadequate provision for the improvement of sightlines. No permission has been given by the appellant to improve the sightline from the west which is impeded by walls and vegetation. The site distances shown cannot be achieved.
 - The proposed development will increase traffic movements in this rural area. Within 1km there are numerous dwellings, housing estates, shop, school, apartments, hotel and offices.
 - The location of septic tanks on adjoining sites was not identified. The over-concentration of septic tanks and treatment systems in proximity to the on-site stream that discharges to the sea gives potential for pollution.

- Part of the application site includes part of the appellants land. The red and blue lines shown on the drawings are not correct.
- The subject site occasionally floods. The stream to the rear of the site frequently overflows onto the site and last year on to the public road. The proposed 600mm diameter pipe is inadequate to cater for the volume of water in the stream. The site assessment is not a true reflection of the subject site.
- The subject site is a bowl and the proposed split-level house is in danger of flooding as it will remove the natural floodplain. The existing culvert will flood onto the road.
- The proposed diversion of the drain is shown by the applicant to be through the appellants property and her septic tank which will not be possible to achieve.
- Housing in Gaeltacht areas should be affordable to locals and Irish language speakers. The proposed dwelling will be affordable only to those from the urban area rather than a fluent Irish speaker.
- The proposed house is not in keeping with the surrounding dwellings. The established building line should be respected. The site plan does not show the adjoining developments. The appellants house adjoining is not two-storey as suggested by the applicant but is a dormer. The proposed development is too low-density.
- The Board is requested to refuse permission.

6.2. Applicant Response

6.2.1. The applicant's response to the third-party appeal provides details of the site location & context, the planning application details and responds to the grounds of the appeal. The response can be summarised as follows:

- The proposed development provides a vehicular access to serve a single dwelling which will not generate significant volumes of traffic in this 50kph zone.
- The appellant previously received outline permission for a mixed- use development of houses, apartment and a creche (PL07.213302). The traffic generated by this development would be significantly more intrusive.

- The required sightlines transect the public footpath, not the appellants property. Unobstructed sightlines are available.
- The submission of TII was generic in nature and not in opposition to the proposed development.
- It is submitted that the septic tank referred to by the appellant may be unauthorised and as such cannot be taken into consideration.
- The site suitability assessment found the site to be in accordance with EPA standards for a tertiary treatment system. The proposed system is 25/30m from the appellant septic tanks and percolation area.
- The applicant is willing to suggest an alternative servicing arrangement for the site: running a gravity sewer pipe across the public road to connect to the existing treatment system serving An Fearban housing development directly to the south which is in the ownership of the applicant. Letter of consent submitted. Drawing no.s 128.PL210 and 128PL200 submitted. Letter from Consulting Engineers confirming that sufficient capacity exists in the treatment plant.
- The red line of the boundary has been altered to exclude the alleged location of the appellants septic tank and percolation area. The route of the proposed surface water culvert, the location of the proposed soak pit and garage have been moved slightly eastwards away from the appellants house. These are not considered material but can be re-advertised should the Board consider it necessary.
- There is no record of flooding at the site, nor is it an indicative future flood risk area. This is confirmed in the Planning Authority planning report, OPW floodmaps, Galway City Council Flood data and OSI data. Notwithstanding this, the proposed revision to servicing the site will negate the appellants concerns.
- The proposed building line is not inconsistent with the varied building line on this side of the road.
- The prevailing character of the area is large houses on large plots. The increase in density requested by the appellant contradicts her concerns over traffic volumes.
- The proposed high-quality design responds to the site and the wider area.

- The subject site corresponds to the land registry boundary.
- The proposed development being for a single dwelling does not require a linguistic impact statement. Furbo is located in District D of the Gaeltacht Plan.
- The Board is requested to grant permission.

6.3. **Appellant Response to Applicants Submission**

6.3.1. The appellant responded to the submission of the applicant. The response can be summarised as follows:

- Unobstructed sight distances are not available as they cross over private property.
- As the applicant owns the development to the south, development to the north is assumed, leading to further traffic problems.
- The Appellant has never applied for planning permission on her site – only the previous title holders. That application was accessed from a by-road to the East and not the R336. This permission expired and new development plans are in place.
- The Applicant cannot dismiss the TII submission as incorrect.
- The alleged unauthorised structures on site are from the 1960's. They were exempted development when constructed.
- The applicant is trying to mislead the Board with their suggestion to connect to the An Fearbán development as the development is owned by the An Fearbán Complex owner's management company which is a separate entity to Wyckam Limited. The letter of consent contravenes the Companies Act 2017.
- The An Fearbán development is at high risk of coastal flooding. While capacity may be available it is likely to be impacted by rising sea levels. Permission was refused on the adjoining site (reg. ref. 17/1629) on flooding grounds. There are no details of the stated capacity.
- The subject site occasionally floods and is waterlogged for a substantial part of the year. Details can be attained from the Area Engineers. Photos attached.

- If Na Forbacha is to be a village it should be more dense with municipal services and transport links. If it is not a village development should only be for local families.
- The Applicant now refers to the proposed dwelling as 'two level'. The attic is habitable and not referring to it is misrepresentation.
- Two storey split level is not in keeping with the area.
- The Architect listed on the drawings is not on the RIAI register of architects.
- The Applicant has misunderstood the appellants map which clearly shows the location of her septic tank.
- The changes proposed in the Applicants response are significant and should be made public in the interest of natural justice.

7.0 **Assessment**

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Traffic
- Flooding
- Environmental Impact Assessment
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. The subject site is an in-fill plot within an established settlement. The principle of residential development on the site is acceptable. The proposed part single part two storey dwelling is largely in keeping with the pattern of development in the wider area.

7.2.2. The matters raised by parties regarding the planning status of structures on adjoining sites is not relevant to the subject appeal. The legal status of the red-line boundary is a civil matter for the parties involved.

7.3. Traffic

- 7.3.1. The proposed development will not cause a traffic hazard to the nearby primary school. A further entrance on the subject road, within an established residential settlement will not impact the school or the existing dwellings. The proposed set-back of the boundary wall will allow greater visibility along the footpath. Sightlines are shown from the proposed entrance and available to the east and west. The appellant's private property will not be affected.
- 7.3.2. TII commented on the application stating that the Planning Authority must uphold the official policy of the body. TII did not indicate any concerns over the proposed development.

7.4. Site Suitability

- 7.4.1. The appellant states that the quantity of septic tanks in the immediate area coupled with the inadequate waste water treatment proposals will cause injury to public health. A site suitability assessment carried out for the subject proposal indicates that the subject site is suitable for the disposal of domestic effluent on-site.
- 7.4.2. In their response to the appeal, the applicant has submitted revised proposals for the servicing of the proposed dwelling. It is proposed to run a gravity fed sewer pipe across the public road to connect to the residential development across the road that is in the ownership of the applicant. A letter of consent from the development company was submitted with the appeal response. A letter from the Consulting Engineer states that the plant has sufficient capacity.
- 7.4.3. The above changes required some amendments to the red-line boundary. The appellant was given the opportunity to respond. She stated that the revisions were significant and should be made public.
- 7.4.4. I am satisfied that the proposed revisions affect the subject site and the appellants property. The appellant was made aware of the revisions and has had the opportunity to comment. I see no gain in making the proposed changes public as they are not significant.
- 7.4.5. I am satisfied that it has been demonstrated that the subject site can adequately dispose of any domestic effluent generated on site without injury to public health.

7.5. Other

- 7.5.1. The subject dwelling does not propose a right of way to the rear.
- 7.5.2. The development plan does not require an Irish language condition for dwellings within the Furbo village.
- 7.5.3. The appellant states that the subject site has flooded in the past, with subsequent problems for adjoining landowners and the public road. I can find no recorded evidence of flooding on the subject site.

7.6. Appropriate Assessment

- 7.7. The site is located approx. 4.4 km from of the Galway Bay Complex SAC (site code 00268) and the Inner Galway SPA (site code 04031). The Galway Bay Complex is a very large (14,408.98ha) marine dominated, made up of subsidiary bays, inlets and islands. The Inner Galway Bay SPA is a very large, marine dominated, site which supports internationally important wintering populations. Given the nature of the proposed development which is a single dwelling the nature of the receiving environment which is a built-up village area, no appropriate assessment issues arise and it is considered that 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.

7.8. Environmental Impact Assessment Screening

- 7.8.1. Having regard to nature of the development comprising a single dwelling in an established village there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required

8.0 Recommendation

- 8.1.1. It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

9.1 Having regard to the zoning objective of the area, the design, layout and scale of the proposed development, the nature and extent of the development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development for which permission is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed 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. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

3. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

4. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

5. The developer shall pay to the planning authority a financial contribution 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. Details of the application of the terms of the Scheme 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 the proper application of the terms of the Scheme.

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.

Gillian Kane
Senior Planning Inspector

17 December 2018