



An
Bord
Pleanála

Inspector's Report ABP-302793-18

Development	Permission for the construction of a 1-2 storey dwelling with connection to the public sewer (as approved 15/1204) and associated site works
Location	Knockaunnacarragh, Barna, Co. Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	181152
Applicant	M Walsh.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party
Appellant	Michael P. Henry
Date of Site Inspection	10 January 2019
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The subject site is located along a Regional Road (R336), 1 km east of Barna village and 6 km west of Galway City. There are three large detached dwellings surrounding the site. The site is accessed by a newly constructed communal access route which goes north past the site and includes an associated footpath.
- 1.1.2. The subject site is given as 0.2078 ha.

2.0 Proposed Development

- 2.1.1. The proposed development is the construction of a 1-2 storey dwelling (252m²) with connection to the public sewer (as approved 15/1204) and associated site works including new boundary walls.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided to grant permission subject to 9 standard conditions.
- 3.1.2. The decision was in accordance with the planning recommendation.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The site is zoned existing residential in the Bearna Land Use Map 2018. The principle of the proposal is considered acceptable and no enurement shall be applied.
- The general footprint and wider dynamics of the site resemble the built form in the vicinity. There is no potential for the proposal to overlook the existing dwelling to the east by way of upper level, side elevation windows. The ground floor windows serving the proposed kitchen and living room are c10m from the footprint of the nearest property to the east. The eastern site

boundary shall be planted accordingly with landscaping to ameniorate the amenity associated with the site and that of the adjacent property to the east.

3.2.2. Other Technical Reports

none

3.3. Third Party Observations

3.3.1. An observation on the file has been read and noted.

4.0 Planning History

This site:

PL07.248246 PA Reg Ref 16/1374, application for the construction of a 1-2 storey dwelling with connection to the public sewer, as approved under 15/1204, and associated site works including road and new boundary walls, refused by the the Board on foot of the PA's decision to refuse, based on it's location within lands zoned as Outer Village Area (Phase 2) and Objective LU 13/ Residential Development Phasing of the Bearna Local Area Plan 2007-2017, which refers to the reservation of these lands for the long term growth needs of the town, which would generally not be developable for housing within the lifetime of the LAP.

Three dwellings.

15/1204

Grant of permission for provision of public sewer connection to service land and replace previously granted treatment plants for 3no dwellings (14/1272, 14/1315 & 15/19) and associated site development works for applicant Michael Breathnach.

Dwelling to the immediate east

16/1574 & 16/1372

Grant of permission for alterations and amendments to permitted dwelling for applicants Aoife Jackson & Pat Laffey.

16/09

Extension of duration for dwelling which included a shared entrance to an existing cottage to the east for applicants Aoife Jackson & Pat Laffey.

14/1315

Grant of permission for a change of house plans to previous permissions (13/1401 & 10/1321) for applicants Aoife Jackson & Pat Laffey.

13/1401

Grant of permission for relocation of dwelling and amendments to site layout for applicant Michael Breathnach.

10/1821

Grant of permission for a dwelling for applicant Michael Breathnach.

Dwelling to the immediate east

15/983

Grant of permission for retention and completion of garage for applicant M & A Henry.

14/1272

Grant of permission for change of house plans, previously granted 13/897 for M & A Henry.

13/897

Grant of permission for demolition of substandard house and replacement dwelling for Michael Breathnach.

Dwelling to the far east

16/313

Grant of permission for alterations to dwelling for Michael Walsh.

15/19

Grant of permission for change of house plans granted 13/1400 for Michael Walsh.

13/1400

Grant of permission for relocation of dwelling granted 11/1072 for applicant Michael Walsh.

11/1072

Grant of permission for construction of a 2 storey dwelling with treatment system for Michael Walsh.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Galway County Development Plan 2015-2021 is the operative plan, which includes the Bearna Plan adopted as variation no 2 (a) to the plan, 23rd July 2018; relevant provisions include:

Strategic vision:

To promote Bearna as a sustainable and vibrant coastal village, which maintains its attractive character, capitalises on its existing and future accessibility strengths, while offering a pleasant environment for a growing community, for living, shopping, education, business, recreation and tourism, all balanced against the need to safeguard and enhance the environmental sensitivities of the area, for present and future generations to come’.

Zoning map in which the subject site is zoned ‘residential existing’.

Density of 5 -15 units per hectare (2 – 6 per acre) are envisaged for low density residential development on zoned land.

Objective LU2 - Residential (R)

Promote the development of appropriate and serviced lands to provide for high quality, well laid out and well landscaped sustainable residential communities with an appropriate mix of housing types and densities, together with complementary land uses such as community facilities, local services and public transport facilities, to serve the residential population of the area. Protect existing residential amenities and facilitate compatible and appropriately designed new infill development, in accordance with the proper planning and sustainable development of the area.

5.2. Natural Heritage Designations

- 5.2.1. The nearest Natura site is the Galway Bay Complex SAC and Inner Galway Bay SPA located c. 500km from the subject site.

5.3. Environmental Impact Assessment

- 5.3.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment 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.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. This is a third party appeal against the decision to grant permission. The grounds includes:
- Galway County Council ignored the third party's submission and did not include any of the conditions requested.
 - Conditions requested are:
 - A natural hedge screening to be planted at an immediate height of 1.5m above the top of the existing boundary wall, between the proposed development and the adjacent property on the east side, from the centre of the gable of the adjacent property and the end of its driveway.
 - The nearest point of the proposed east gable wall to be 4m from the centreline of the boundary wall.
 - A high temporary dust screen to be erected on the east side to protect from dust and debris.
 - The proposed boundary wall running along the entrance road to be constructed in Lacken stone to match exactly the existing front boundary

walls of the adjacent properties in colour, construction specification and workmanship.

6.2. Applicant Response

6.2.1. Seán Dockry & Associates, Architects, Designers Project Managers have responded to the grounds of appeal, on behalf of the first party, which response includes:

- Re Proposed Condition 1 – the appellant has not provided planting on their own side despite it being proposed on their drawing. They appear to want to compel others to provide it. The parties should both screen within their own lands as they see fit. Concerns expressed regarding overlooking relate to ground floor windows only and can be addressed by landscaping. No concern arises re overlooking from upper level. There is a tradition not to build screen walls to back gardens in low density housing.
- Re Proposed Condition 2 - the appellant requests that properties should be equal distance from the centre point of the boundary wall. There is no reason for this. The houses are individually designed. The vehicular access is from the west side and houses are afforded wider distances on their west sides.
- Re Proposed Condition 3 – safety netting. The neighbours entitlement under civil law remains their natural recourse. Planning conditions cannot be overly prescriptive on matters such as construction safety. The enforcement or adjudication over any such condition would be a slow and inappropriate remedy route were a nuisance situation or unsafe / dangerous operation to arise.
- Re Proposed Condition 4 – to nominate a quarry and dictate the exact laying masonry technique. As designers they would want the remaining walls to closely match the original concept, however it is impractical or impossible to be so prescriptive. The availability of the seam of stone or even stone from this quarry is unreliable. The cost of either the product or the workmanship were they to be dictated in planning could become uncompetitive and restrictive. They suggest the description local stone and a final veto by submission of images or sample to the local authority.

6.3. Planning Authority Response

6.3.1. The planning authority has not responded to the grounds of appeal.

7.0 Assessment

7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, change in development plan policy, third party recommended conditions and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment 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 or projects, on a European site.

7.3. Change in Development Plan Policy

7.3.1. It is worth noting for the Board's attention that there has been a change in development plan policy since the previous decision under Board Reg Ref 07.248246. The current zoning is 'existing residential' which provides for development on the subject site. The Bearna Plan which is part of variation no. 2(a) to the Galway County Development Plan 2015-2021, as varied, provides for a density of 5 -15 units per hectare. The proposed development is at the lower end of the range.

7.3.2. The proposed development accords with the current Development Plan Policy for the area and Board's previous refusal reason (zoned as Outer Village Area (Phase 2) and Objective LU 13/ Residential Development Phasing of the Bearna Local Area Plan 2007-2017), no longer applies.

7.4. Third Party Recommended Conditions

7.4.1. The third party recommends 4 conditions for attachment to a permission for this development; re. screen planting, relocating the dwelling at a greater distance from the eastern boundary, the provision of safety netting along the eastern boundary,

and the use of a particular type of stone and particular masonry laying technique for the proposed wall.

- 7.4.2. I concur with the response on behalf of the first party with regard to each of the proposed conditions, and I am unable to recommend any of the third party's proposed conditions to the Board.

8.0 Recommendation

- 8.1.1. In the light of the above assessment I recommend that planning permission be granted for the following reasons and considerations and in accordance with the following conditions.

9.0 Reasons and Considerations

The site is located in an area zoned for low density residential development in the current Galway County Development Plan 2015-2021, as varied. The proposed dwelling accords with this zoning, would not detract from the residential amenities of adjoining properties or the amenities of the wider area and 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: In the interest of public health.

3. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

4. Details of the materials, colours and textures of all the external finishes to the proposed dwelling and associated boundary treatment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 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.

6. The developer shall pay to the planning authority a financial contribution of

€3,764 (three thousand seven hundred and sixty four euro) 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. The application of any indexation required by this condition 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.

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.

Planning Inspector

30 January 2018

Appendix 1 Photographs

Appendix 2 Extracts from the Galway County Development Plan 2015-2021, as varied.