



An  
Bord  
Pleanála

## Inspector's Report ABP-303685-19

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<b>Development</b>	Construction of a dwelling and connect to the existing public sewer.
<b>Location</b>	Seapoint, Barna, Co Galway
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	181616
<b>Applicant(s)</b>	Noel Murphy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Noel Murphy
<b>Observer(s)</b>	1. Des Fitzgerald & Meriel FitzSimon
<b>Date of Site Inspection</b>	14 <sup>th</sup> May 2019
<b>Inspector</b>	Ronan O'Connor

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located in the village of Bearna, approximately 7km west of Galway City. The site is located to the rear of an existing dwelling that fronts onto Pier Road, and is accessed via an existing access route off Pier Road. On site is an existing dwellinghouse and associated outbuildings.
- 1.2. Pier Road intersects with the R336 coastal route that runs east west between Galway and Connemara Pier Road. Approximately 100m to the south-east of the appeal site Pier Road terminates in a turning circle immediate north of Barna Quay.

## **2.0 Proposed Development**

- 2.1. Construction of a dwelling house.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Refuse permission for two reasons relating to (i) non-compliance with sightlines and (ii) over-development of site and impact on amenity.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The report of the planning officer reflects the decision of the planning authority.

Points of note are as follows:

- Notes that dwelling is larger in footprint than previous refusal.
- Result in loss of amenity to the adjoining property to the east.
- Garden only extends for 6m whereas a distance of 11m is generally required.
- A reduced floor area is not considered feasible on this confined site.
- Reduces amenity space of existing property to the west.
- Roads have objected to previous applications – vehicular layout has not materially altered under this application.

- Recommendation that permission be refused.

### 3.2.2. Other Technical Reports

None.

### 3.3. Prescribed Bodies

TII – No observations.

### 3.4. Third Party Observations

#### 3.4.1. Two submissions were received (not including the submission from TII noted above).

The issues raised are as follows:

- Impact on amenity/overlooking/privacy
- PA should include landscaping condition.
- Applicant does not own the access road.
- Proposed sewer passes through lands not within the applicant's ownership.

## 4.0 Planning History

18/111 House – Refuse for 6 reasons relating to (i) sightlines (ii) impact on amenity, (iii) overdevelopment of site (iv) capacity of existing public sewer (v) non-compliance with Part V and (vi) legal interest in access to the site.

17/132 House – Refuse for 4 reasons relating to (i) impact on amenity, (ii) overdevelopment of site, (iii) capacity of existing public sewer and (iv) non-compliance with Part V.

## 5.0 Policy and Context

### 5.1. Development Plan

#### 5.1.1. The operative development plan is the Galway County Development Plan, 2015-2021. Relevant provisions include:

- Section 13.2 General Development Guidelines including DM Standard 1 – Qualitative Assessment – Design Quality, Guidelines and Statements (Urban and Rural Areas).
- Section 3.4.3 Infill/Subdivision of Individual Sites - Subdivision shall be considered subject to safeguards regarding residential amenity, internal space standards, private and public open space, car parking and maintenance of the public character of the area.

5.1.2. The Bearna Local Area Plan (LAP) has been included within the Galway County Development Plan 2015-2021 (Variation No. 2 (a) to the Galway County Development Plan 2015-2021 – effective from 23<sup>rd</sup> July 2018).

5.1.3. The site is zoned Village Centre. Residential is 'open for consideration' with the Village Centre Zoning. A use that is classified as Open for Consideration is one that the Local Authority may permit where it is satisfied that the suggested form of development will be compatible with the policies and objectives for the zone, will not conflict with permitted uses and conforms to the proper planning and sustainable development of the area, including the policies and objectives set out in this plan.

5.1.4. Relevant provisions of the Bearna Plan include:

- Objective RD 3 – Quality Housing Environments
- Objective LU 1 – Village Centre (VC)
- DM 1 – Development Densities

5.1.5. The following Section 28 Ministerial Guidelines are considered of relevance to the proposed development.

- Sustainable Residential Development in Urban Areas (May 2009)

## 5.2. **Natural Heritage Designations**

5.2.1. None.

## 5.3. **EIA Screening**

5.3.1. Having regard to the nature and scale of the proposed development, a single dwellinghouse, 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. The Grounds of Appeal, as submitted on behalf of the First Party Appellant, are as follows:

#### Sightlines

- Existing speed limit is 30 km/h
- Sightlines are 50m to the south and 80m to the north/required sight distance is 33m in each direction.
- The sight distances set out under DM Standard 20 apply to new entrances only and should not be applied in this case.

#### Overdevelopment/Development Standards

- Site is identified as Village Centre under the BLAP 2015-2021.
- Medium to high density development is acceptable/proposal is compliant with the BLAP.
- Site configuration is typical of town and village centres.
- Site has a coverage of 25% - well below 80% allowed under DM1.
- Meets development standards.
- Sites in close proximity have been granted permission for development that have similar or higher densities than this proposal (16/147, 18/148).
- Similar development to this type granted under 12/1568.
- DM Standard 7 relates to rural development and is therefore not relevant.
- Proposal is in line with policies to consolidate development within the Village Centre.

- Other developments of a similar type granted under the previous plan (14/1145, 14/1146, 14/1174, 14/784, 09/556, 08/3213).

#### Other

- Applicant was born and reared on this landholding/is the only family lands available for him to build on/parents require medical support from the applicant.

### **6.2. Planning Authority Response**

6.2.1. None.

### **6.3. Observations**

6.3.1. 1 no. observation received from Des Fitzgerald and Merier FitzSimon, Pier Road, Barna.

- Neighbours of the appellant.
- No objection to a one-storey dwelling provided privacy is respected by means of screening.

### **6.4. Further Responses**

6.4.1. None.

## **7.0 Assessment**

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of Development
- Impact on Amenity
- Traffic Safety/Sightlines
- Other Issues
- Appropriate Assessment

## **7.2. Principle of Development**

- 7.2.1. Residential development (not apartment development) is 'open for consideration' under the Village Centre Zoning. A use that is classified as 'open for Consideration' is one that the Local Authority may permit where it is satisfied that the suggested form of development will be compatible with the policies and objectives for the zone, will not conflict with permitted uses and conforms to the proper planning and sustainable development of the area.
- 7.2.2. Objective LU1 – Village Centre of the Bearna Plan states that Objective LU1 - Village Centre (VC) seeks to promote the development of the Village centre as an intensive, high quality, well-landscaped, appropriately scaled and accessible environment, with an appropriate mix of uses, including residential, commercial, service, tourism, enterprise, public and community uses that also provides a range of retail services, facilities and amenities to the local community and visitors to the village. The village centre shall remain the primary focus for retail and service activity within Bearna.
- 7.2.3. As such a residential dwelling on this site can be considered in accordance with the objective above, although proposals for such dwelling houses are subject to the detailed considerations below. In addition, Section 3.43 Infill/Subdivision of Individual Sites of the CDP states that subdivision of sites shall be considered subject to safeguards regarding residential amenity, internal space standards, private and public open space, car parking and maintenance of the public character of the area.

## **7.3. Residential Amenity**

- 7.3.1. The Planning Authority raised concerns in relation to the overdevelopment of the site, and the impact on adjoining amenity.
- 7.3.2. The Appellant states that the proposal is compliant with the standards in the Bearna Plan and that development such as this is typical of town and village centres. The appellant also cites other similar developments which have been granted permission in the vicinity.
- 7.3.3. In relation to amenity impacts, I note the proposed dwellinghouse is located approximately 15m from the existing dwellinghouse on the site. The gable end of the dwelling houses faces towards the existing dwelling, and there is a set of patio doors and two windows on this gable end at ground floor level. However having regard to



the distance from opposing windows I do not consider that overlooking of the existing dwelling house will occur.

- 7.3.4. There is an existing dwellinghouse located to the north-east of the site, fronting onto Pier Road, and the proposed dwellinghouse is set back 6m from the boundary of this site. There is only one ground floor window on the gable end of the house facing towards this dwelling and there is substantial screening in place. As such I do not overlooking of this dwelling will result.
- 7.3.5. In relation to the impact on the dwelling to the south-east, there are no directly opposing windows facing toward the site and as such no material overlooking of this property will occur. Screening is proposed to overcome any actual or perceived overlooking of the rear amenity space of this dwelling and this is sufficient in my view.
- 7.3.6. In relation to the proposed garden areas, it would appear that the lawn area to the east of the proposed dwelling house is allocated to the proposed dwelling. This is relatively small in area, and would be shaded for much of the day and as such would provide only limited amenity for the occupiers of the proposed dwellinghouse.
- 7.3.7. In addition the rear windows of the proposed dwelling house, one of which serves a bedroom, are set back only 3m from the northern boundary of the site, resulting in poor outlook from these windows.
- 7.3.8. The amenity space of the existing dwelling on the site would be severely compromised as a result of the proposed development. There is a substantial loss of garden area, and the garden that does remain is overlooked by the ground floor patio doors and windows on the gable end of the property, and is further compromised by the existence of an overbearing structure in close proximity to the garden space.
- 7.3.9. In relation to the precedents cited by the applicants, I note that each case is considered on its individual merits, and in this instance the shortcomings of this particular proposal preclude a grant of permission in my view.
- 7.3.10. In conclusion, the proposed dwelling house would result in a poor amenity standards for future occupants of the dwellinghouse, and would result in a loss of amenity for the occupiers of the existing dwellinghouse on the site.

#### **7.4. Traffic Safety/Sightlines**

- 7.4.1. The Planning Authority has raised concerns in relation to sightlines, and state that the required sightlines have not been achieved and that the proposal would give rise to a traffic hazard.
- 7.4.2. The Appellant has stated that the sightline standards for Regional Roads have in fact been achieved and that, furthermore, the access point is existing and that standards for new access points are not applicable in this instance.
- 7.4.3. My observations on site were that adequate sight lines are in place, and that Pier Road is very lightly trafficked, due to the lack of through traffic and the limited extent of road, and what traffic there is moves at slow speed due to the termination of the road at the harbour. Furthermore, the proposed development would result in only very limited vehicle movements, and there is an existing access here already which serves the existing dwelling on site.
- 7.4.4. In conclusion I do not concur with the view of the planning authority that the proposal would constitute a traffic hazard and I do not consider that this reason for refusal should be upheld in this instance.

#### **Other Issues**

- 7.4.5. Waste – It is proposed to connect to the public sewer. There is a letter on file from Irish Water stating that the proposed connection can be facilitated.
- 7.4.6. Land Ownership/Right of Way – A submission at application stage has raised the issue of landownership and right of way over the existing access road. In this regard I note the Board does not have remit in adjudicating on land ownership or rights of way issues and this is a matter that should be resolved in the Courts. In this regard I note the provisions of S.34(13) of the Planning and Development Act 2000 (as amended) and Chapter 5.13 'Issues relating to title of land' of the 'Development Management – Guidelines for Planning Authorities' (DoECLG, June 2007).

#### **7.5. Appropriate Assessment**

- 7.5.1. The site is circa 1.4 km from the Galway Bay Complex SAC (000268) and the Inner Galway Bay SPA (0004031). The project is for one dwelling connecting to the existing public sewer.

7.5.2. Having regard to the scale and nature of the permitted development and the serviced village centre 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. Refuse permission.

## 9.0 Reasons and Considerations

The proposal, as a result of the constraints of the site, and the location of the site within the front garden area of an existing dwelling, would result in poor standards of amenity for future occupiers of the proposed dwelling, as a result of the inadequate area of private amenity space, and as a result of the poor outlook from the rear ground floor windows. Furthermore, the proposal would seriously injure the amenity of the existing dwelling on the site by reason of loss of garden space, overlooking of the remaining garden space, and as a result of an overbearing form of development on the boundary of the garden space. As such, the proposal would be contrary to guidance set out in the Sustainable Residential Development in Urban Areas (2009), and its accompanying Best Practice Design Manual, and would be contrary the proper planning and sustainable development of the area.

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Rónán O'Connor  
Planning Inspector

16<sup>th</sup> May 2019