



An
Bord
Pleanála

Inspector's Report ABP-303747-19

Development	Construction of a dwelling house, sewerage treatment system and all associated site works
Location	Lackafinna South, Co. Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	18/674
Applicant(s)	P. Lyons
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	James & Caroline Concannon
Observer(s)	None
Date of Site Inspection	9 th May 2019
Inspector	Irené McCormack

1.0 Site Location and Description

- 1.1. The subject site is a rural field in the townland of Lackfinna, 6km north of Loughrea.
- 1.2. The site is 0.2683ha in size and currently in agricultural use. Access is from minor local road (cul de sac) L-801803, which has a speed limit of 80kph. The carriageway is approx. 3m in width with no footpaths or public lighting.
- 1.3. The area is characterised by one-off dwellings and there is a suburban two-storey dwelling directly opposite the site. The site is elevated above the public road and is bound on both side by agricultural lands. There is a significant number of one-off rural dwellings located immediately south of the site.

2.0 Proposed Development

- 2.1. The proposed development will comprise the following:
 - Construction of a one and a half storey dwelling,
 - Provision of a sewerage treatment system,
 - All associated site works.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 13 no conditions. The relevant conditions are noted below:

- Condition 2 required the site to be accessed via vehicular access indicated as Option B on the revised plans submitted on 19th December 2018.
- Condition no. 3 relates to finish floor level and external finishes.
- Condition 4 required a parking space 3 meters wide be provided along the entire frontage of the site. Details to be agreed with the Area Engineer.
- Condition 5 relates to sightline triangle and overhead lines
- Condition 6 relates to the private well.

- Condition 7 relates to the type and maintenance of the waste water treatment system to be installed on site.
- Condition 12 relates to site landscaping.
- Condition 13 relates to development contribution.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial Area Planners report (12th July 2018) noted that the site is located in an area of landscape character 1 outside the GTPS/Urban pressure area and outside the urban fringe of Loughrea where no housing need is required to be established. Further information was requested in terms of a revised design having regard to the site elevation, details in relation to the well and sightlines.

The final report (16th January 2019) considered that the response to further information adequately addressed concerns raised regarding the design, water supply and sightlines. It was recommended that permission be granted subject to conditions.

3.2.2. Other Technical Reports

None received.

3.3. Prescribed Bodies

None received.

3.4. Third Party Observations

A total of three submissions were made in relation to the development. A brief summary of the issues raised in the submissions to the Planning Authority are set out below:

- The design, bulk and scale of the dwelling.
- Localised flooding.

- Private water supply.
- Provision of unobstructed sightlines.

4.0 Planning History

4.1. Site

4.1.1. None

4.2. Surrounding

- 4.2.1. 07/2854 – P. Lyons Permission granted for a dwelling house. This dwelling is located opposite the site.

5.0 Policy Context

5.1. Galway County Development Plan 2015-2021

- 5.1.1. The subject site is located in a “Structurally Weaker Rural” Area. These areas exhibit characteristics such as persistent and significant population decline as well as a weaker economic structure based on indices of income, employment and economic growth.

- 5.1.2. Section 3.8.2 *Structurally Weak Rural Areas (East and West of GTPS)* states:

In this rural area type, the key objectives of the Council are:

- To accommodate residential development proposals as they arise subject to satisfactory site suitability and technical considerations;
- To accommodate residential development proposals in accordance with Chapter 13 (Development Management Standards and Guidelines);
- To maintain and strengthen existing towns and villages and to direct urban generated housing demand into these areas;
- To protect areas located in Landscape Category 3, 4 and 5.

- 5.1.3. The site is located in an area designated as Landscape Category 1 - Low Sensitivity Area

- 5.1.4. Section 3.7 of the Plan refers to Single Housing in the Countryside

Housing

Policy RHO1- Rural Housing - It is a policy of the Council to facilitate the management of new single houses in the countryside in accordance with the Rural Housing Zones 1, 2, 3 and 4 and to support the sustainable re-use of existing housing stock within the County.

Policy RHO 2- Statutory Guidelines and County Development Plan.

Objective RHO 2 - Rural Housing Zone 2 (Structurally Weak Area)

It is an objective of the Council to facilitate the development of individual houses in the open countryside in "Structurally Weak Areas" subject to compliance with normal planning and environmental criteria and the Development Management Standards and Guidelines outlined in Chapter 13 and other applicable standards with the exception of those lands contained in Landscape Categories 3, 4 and 5 where objective RHO3 applies.

Objective RHO 9 - Design Guidelines.

DM 5: Rural Housing- Justification and connection to rural area for dwelling.

DM 6: Assimilation of development into the landscape

DM 7: Site Size.

Landscape

Objective UHO9- Ensure that new developments are responsive to their site context and in keeping with the character, amenity, heritage, environment and landscape of the area

Policy LCM 1- Landscape Sensitivity Classification.

Policy LCM 2- Landscape Sensitivity Ratings.

DM Standard 6: Assimilation of Development into Landscape

All permissible buildings should avoid locally obtrusive elevated locations and should be located on mid slopes or lower slopes of rising ground where possible.

Development should seek to preserve traditional field patterns and established hedgerow and woodland. A visual impact assessment may be required where the proposal is located in an area identified as "Focal Points/Views" in the Landscape

Character Assessment of the County or in Class 4 and 5 designated landscape sensitivity areas.

Water

Objective RHO 12 - Waste Water Treatment Associated with Development in Un-Serviced Areas.

DM 29: Effluent Treatment Plants to comply with the EPA guidelines

Transportation

DM 21: Building Line- Set back of 35m from the realigned carriageway, in the interest of rural amenities

5.2. National Policy

National Planning Framework, (2018)

Policy Objective 19: *'Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:*

- *In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;*
- *In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.*

Sustainable Rural Housing-Guidelines for Planning Authorities (2005)

EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009)

5.3. **Natural Heritage Designations**

There are no designated areas in the immediate vicinity of the site. Lough Rea SPA (site code 004134) is located 4.9km south of the site, Slieve Aughty Mountains SPA (site code 004168) is located 8.8km south of a site and Rahasane Turlough SPA (site code 000322) is located 11.5km west of the site.

5.4. **Environmental Impact Assessment**

Having regard to the nature and scale of the proposed development 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**

The grounds of appeal are submitted by the adjoining landowners James & Caroline Concannon are as summarised below:

- The public road fronting the site is a cul de sac restricted in width and does not have the capacity to accommodate speculative development.
- 70m sight distance has not been provided to the southeast of the entrance. Works required to ensure sightline availability require the consent of the appellant whose land this sightline passes. The appellant is not willing to provide a letter guaranteeing clear visibility over his lands.
- It is argued that the site is located on the urban fringe of Loughrea and under pressure from one-off housing. The development does not address an essential rural housing need.
- The private well proposed to service the site is located remote of the site, through private lands which are not part of the planning application.
- The location of the percolation area associated with the effluent treatment system is an area where flooding has previously occurred.

- It is set out that the depth of trial hole at 1.81m does not comply with minimum EPA requirements (2.1m – 3m) and the results of the site characterisation report are questionable.
- It is set out that there is a history of flooding in the vicinity of the site and the site flooded in December 2015. The requirement under condition no. 4 to remove the roadside boundary which acted as a partial containment bank could impact on the flood risk to the appellants lands.
- A planning history carried out in the name of Pat Lyons/Patricia Lyons outlined.
- The submission concludes that permission should be refused based on the fact that the site is not serviced, the capacity of the public road and risk of flooding and surface water contamination.

6.2. Applicant Response

- In relation to the third-party appeal lodged, it is stated that no housing restrictions apply in this rural area and that no built heritage, natural heritage or indicative flood risk designations are located in or directly adjacent to the site.
- It is set out that the local road is a cul de sac with limited traffic movements and that the condition imposed by the planning authority to recess the road side boundary will provide for the widening of the road to facilitate two cars passing.
- Sightlines are acceptable having regard to the cul de sac and limited traffic movements.
- The subject site is outside the GTPS/urban pressure area and outside the urban fringe of Loughrea where no housing needs applies.
- It is set out that the location of the well is within lands in the ownership of the applicant.
- Appropriate measures will be taken to address surface water run-off from the site
- It is stated that the trial hole depth is adequate in the context of the aquifer category and vulnerability rating for the site.

- With respect to flooding the site is 60m north of a flood risk area and therefore not an issue. Appropriate measures will be taken to address surface water run-off from the site. Noting the appellants reference to an attenuation tank for the site, the applicant has no objection to such a condition although he does not consider it necessary in this case.
- In relation to the planning search carried out by the appellants in the “Lyons” family name, it is set out that the site is located outside an area of special planning control and the Lyons family/applicant were not precluded from applying for planning permission on their lands.

6.3. **Planning Authority Response**

None received.

6.4. **Observations**

None received.

7.0 **Assessment**

7.1. The main issues of the appeal can be dealt with under the following headings:

- Rural Housing Policy
- Services - Water Supply and Waste Water
- Flooding
- Sightlines and Road Network
- Design and Visual Impact
- Appropriate Assessment

The issues of Design and Visual Impact is considered a **New Issue** in the context of the appeal.

7.2. **Rural Housing Policy**

7.2.1. The site is located in a rural area which has been identified in the Galway County Development Plan 2015-2021 as a “Structurally Weaker Rural Area”. Objective RHO 2 of the Development Plan sets out that is an objective of the Council to facilitate the development of individual houses in the open countryside in “Structurally Weak Areas” subject to compliance with normal planning and environmental criteria and the Development Management Standards and other applicable standards.

Therefore, in this instance the applicant is not required under the provisions of the Development Plan to demonstrate housing need.

- 7.2.2. Objective 19 of the National Planning Framework sets out that in providing for the development of rural housing, a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere. Part two of the objective states that in rural areas not under urban influence, the provision of single housing in the countryside can be considered based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.
- 7.2.3. On the basis of the location of the site in a “Structurally Weaker Rural Area”, I am satisfied that housing need does not need to be demonstrated in this instance.

7.3. **Services - Water Supply and Waste Water**

- 7.3.1. The proposed development includes a connection to an existing private well located to the west of the site within the applicant’s landholding. A chemical and bacterial analysis of the well was carried out in response to the planning authority’s request for further information. Water flow to service the dwelling was considered adequate and chemical analysis of sampled water complied with Drinking Water Regulations Limits.
- 7.4. The site is located in an area identified with a “extreme” vulnerability classification in the GSI Groundwater maps and is located within area defined as a “Locally” Important Aquifer, representing a GWP response of R21 under the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009) (Annex B2).
- 7.5. The trial hole assessment submitted by the applicant encountered no bedrock/ water table at a depth of 1.81m. The site is located within area defined as a “locally” Important Aquifer and Section 3.2 of the site characterisation form requires a trial hole of a minimum depth of 2.1.m. This was not achieved. No trial holes were available for inspection, although the ground was firm underfoot and there was no evidence of waterlogging on the site. The submitted site characterisation records a T-test value of 17.81 min/25mm and P-test value of 17.03 min/25mm, which is within

the acceptable range for a septic tank (Table 6.3) and would indicate good percolation. It is proposed to install a packaged treatment system and polishing filter.

7.6. Having regard to the location of the site within an area identified as “locally” Important Aquifer with an “extreme” vulnerability classification, I consider the applicant was required to use a 2.1m trial hole for the purpose of the percolation test (Section 3.2 of the site characterisation form). Therefore, I cannot conclude that the proposed development would not give rise to a significant risk of ground water pollution on the site.

7.7. **Flooding**

7.7.1. The appellant has raised concerns about localised flooding in the vicinity of the site. The site rises from south to north and is located 60m northeast of a flood risk area (Fluvial) associated with a local watercourse network. I note the site is elevated above the fluvial flood risk area, and I do not consider the site to be at risk of flooding.

7.7.2. The issue of surface water flooding is also raised. In this regard, I note the applicant proposes to install 4 soak pits on site and a french drain parallel to the rear site boundary to control surface water from the higher lands to the north of the site, with a gully across the driveway to capture excess surface water. This is acceptable.

7.8. **Sightlines and Road Network**

7.8.1. Sightlines are indicated at 70m and 50m respectively. The minimum requirement on a local road is 90m in accordance with the Design Manual for Roads and Bridges (DMRB) manual. This is not achievable in this instance.

7.8.2. The local road fronting the site is a minor local road (cul de sac) approx. 3m in width, and the site is located between two bends in the road which restricts traffic speed and acts as a natural traffic calming measure. I note the condition of the planning authority to remove and set back the roadside boundary. This is in my opinion is not justified and will serve to increase traffic speed along the road and represent a traffic hazard.

7.8.3. The local road is under significant pressure from one-off rural housing. I note c. 19 existing dwellings on the 1.4km stretch of cul de sac. Having regard to the cul de sac nature of the road, the restricted width and the extensive pattern of ribbon development to the south of the site, I am not satisfied that the public road has the

capacity to accommodate additional development. The development should be refused for this reason.

7.9. Design and Visual Impact

- 7.9.1. The proposed dwelling was revised following a request for further information and reflects a dormer type dwelling with a two-storey gable ended projection to one end faced in stone. The maximum ridge height is 7.385m. The site is elevated above the public road and occupies a prominent position as you approach the site from the south. The FFL is 2.3m above the public road fronting the site and the wider landscape falls in southerly direction away from the site. The dwelling will be visible as you approach the site from the south. The local road network is characterised by ribbon development and there are a significant number of suburban one-off rural houses located immediately to the south of the subject site.
- 7.9.2. It should be noted that the site is not located within any identified scenic or amenity designation and that the wider area is identified as 'Category 1 - Low Sensitivity Area'. These areas are considered to comprise the least sensitive landscapes in the county and generally have a higher capacity to absorb development than other locations
- 7.9.3. Whilst, I note no issue has been raised with the design and visual impact of the dwelling, I consider the design, in particular, the singular block form and height taken in conjunction with the siting of the dwelling on an elevated site does not serve to integrate the development into the rural landscape. The completed dwelling will be 9.7m higher than the public road. I consider the development contrary to DM Standard 6: *Assimilation of Development into Landscape* of the Development Plan which sets out that buildings should avoid locally obtrusive elevated locations and should seek to preserve traditional field patterns and established hedgerow and woodland.
- 7.9.4. With regards the removal of the hedgerow, I consider the planning authority's condition to remove the roadside boundary and set back same by 3 metres will further expose the site and the proposed dwelling, and in the context of the cul de sac nature of the road and the associated traffic volumes the extensive removal of hedgerow is not justified and contrary to policy objectives to assimilate new dwellings into the landscape.

7.9.5. Whilst, I note the applicant has reduced the scale of the proposed dwelling, it will remain visible from the surrounding area and I consider the dwelling would represent a visually prominent feature in the landscape and should be refused for this reason.

7.10. Appropriate Assessment

7.10.1. The proposed development is not directly connected with or necessary to the management of any European site.

7.10.2. Stage 1 Screening

Stage 1 is concerned with determining whether a described development, not being a development directly connected with or necessary to the management of a European site, in itself or in-combination with other described projects or plans, has the potential to have significant effects on any European site.

7.10.3. The Planning Authority carried out an Appropriate Assessment Screening report at application stage and it was concluded that the proposed development will not have a significant effect on the Natura 2000 network and a Stage 2 Appropriate Assessment is not required.

7.10.4. The site is neither in nor near to a Natura 2000 site. The closest Natura 2000 sites to the appeal site is Lough Rea SPA (site code 004134) at 4.9km and Slieve Aughty Mountains SPA (site code 004168) at 8.8km at their closest extent. There is no obvious direct pathway from the appeal site to the above sites, nor to any other Natura 2000 sites beyond.

7.10.5. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the distance to the nearest European Sites and the lack of an apparent pathway to same, it is reasonable to conclude on the basis of the information available on the file, which I consider adequate in order to issue a screening determination, that the development, individually or in combination with other plans or projects would not be likely to have a significant effect on the above listed European sites, or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. It is recommended that the proposed development is refused for the reasons and considerations as set out below.

9.0 Reasons and Considerations

1. The site is located within area identified as a locally Important Aquifer with a “extreme” vulnerability classification. The trial holes were at a depth of 1.81m and not 2.1m as required in EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009). The Board is not satisfied that that effluent from the development can be satisfactorily treated or disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development, would, therefore, be prejudicial to public health.
2. The proposed development would constitute random housing development in a rural area lacking certain public services and community facilities and served by a poor road network. The proposed development would, therefore, give rise to demands for the provision of further public services and community facilities and accordingly would be contrary to the proper planning and sustainable development of the area.
3. Having regard to the location of the proposed development on an elevated site visible from the wider approach to the site and to DM Standard 6: *Assimilation of Development into Landscape* of the Galway County Development Plan, 2015-2021, it is considered that the proposed house, by reason of its bulk and height, in addition to the proposal to remove the entire roadside boundary, would not be appropriate for this location. The proposed development would seriously injure the visual amenities of the area and would, accordingly, be contrary to the proper planning and sustainable development of the area.

Irené McCormack
Planning Inspector

17th June 2019