



An
Bord
Pleanála

Inspector's Report

ABP-303941-19

Development	Demolition of shed and construction of 3 no. houses within the curtilage of a protected structure. A Natura Impact Assessment has been lodged with the appeal.
Location	Ardrahan, Co. Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	181803
Applicant(s)	Colin Fahy
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Colin Fahy
Observers	Ardrahan Group Water Scheme
Date of Site Inspection	06 th June 2019
Inspector	Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.1444 hectares, is located in the village of Ardrahan, Co. Galway approximately 28km to the south east of Galway City. The appeal site is a short distance from the centre of the village and on the eastern side of the R458 and within the 50km speed limit zone of the village. The appeal site is a vacant site that is overgrown and is defined by walls along each boundary (approximate 1.2m high). There is an existing shed on the site and a vehicular entrance onto the R458. Immediately to the south of the site is a dwelling and that backs onto the southern boundary of the site (facing south towards Market Square), which is a protected structure. Immediately north of the site is a single-storey dwelling facing onto the R458. To east of the site is a field and further to the north are the ruins of a Castle (recorded monument).

2.0 Proposed Development

2.1. Permission is sought to demolish an existing shed and construct three new dwelling houses, wastewater treatment plant, polishing filter and all associated site works. The site is within the curtilage of a protected structure. The proposed dwellings are two-storey terraced dwellings with a floor area ranging from 111.1sqm to 114.7sqm. The dwellings feature a pitched roof and an external finish of render, stone cladding and blue/black slates. The dwellings have a ridge height of 8.48m. A new vehicular entrance is proposed from the public road with a parking area with 8 spaces. A wastewater treatment system is provided to the rear of the site.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on three reasons...

1. Having regard to the proposed communal on-site wastewater treatment system (developer provided), and in absence of satisfactory documentary evidence to confirm adequate installation and operation of the system, and in absence of any guarantee of long-term management and adequate maintenance of same, the Planning Authority is not satisfied that the development would not be prejudicial to

public health. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the design of the proposed residential development, in conjunction with the absence of an assessment of the impact of the proposal on the functioning use of the Protected Structure (RPS no. 883) and on the setting of nearby Protected Structures in Ardrahan village, it is considered that the proposed development would materially and adversely affect the character and setting of Protected Structures and would seriously injure the visual amenities of the area. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.

3. Having regard to the location of the proposed development above a regionally important karstified aquifer with a GSI groundwater vulnerability rating of extreme, in conjunction with the location of the proposal within 15km of 28 no. European Sites and the absence of any specific ecological assessment (Appropriate Assessment Screening and/or Natural Impact Statement) to comply with the requirements of Articles 6(3) and 6(4) of the Habitats Directive, the Planning Authority is not satisfied, based on the information available and information included in the planning application, that the proposed project is not likely to have a significant effect, either individually or in combination with other plans or projects, on the integrity and qualifying interests/conservation objectives of the European Sites within its zone of influence. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (13/02/19): Concerns were expressed regarding the proposal for wastewater treatment system and impact on public health, the impact on a protected structure and the wider village, the lack of information regarding appropriate assessment. Refusal was recommended based on the reasons outlined above.

3.3. Prescribed Bodies

3.3.1 TII

No observations.

3.3.2 Department of Culture, Heritage and the Gaeltacht.

The site is located within an historic town with a recorded monument. An archaeological condition is required (archaeological monitoring).

3.3.3 Department of Culture, Heritage and the Gaeltacht.

Further response indicating that an archaeological condition is required (archaeological monitoring).

3.4. Third Party Observations

Barry & Brid Deignan, Ardrahan North, Ardrahan, Co. Galway.

- The proposal is overdevelopment of the site, there are issues concerning ground conditions and wastewater treatment, the proposal would be visually overbearing, the proposal would overlook the adjoining dwelling, the location of parking adjacent the observers' property would cause noise and disturbance and the proposal would cause traffic safety concerns.

4.0 Planning History

18/579: Permission refused to demolish shed and construct 3 no. dwellings. Refused based on public health concerns regarding wastewater treatment and water supply.

On other sites

ABP-304337-19: Current appeal concerning a proposal for 23 no. houses, wastewater treatment plant and all associated site works to the south of Ardrahan village.

5.0 Policy Context

5.1. Development Plan

The relevant Development Plan is the Galway County Development Plan 2015-2021. Settlement Strategy is outlined under Section 2.6 of the Plan.

Ardrahan is located in Tier 5 of settlements and labelled 'Other Villages'.

"These settlements have a population of less than 1500 persons and provide a more limited range of services to smaller hinterlands than the key towns. Service provision often includes a range of retail and educational services but limited financial, health and community services".

Section 2.7 Settlement Strategy Objectives

Objective SS 6 – Development of Other Villages

Protect and strengthen the economic diversity of the smaller towns, villages and small settlements throughout the County, enabling them to perform important retail, service, amenity, residential and community functions for the local population and rural hinterlands.

Section 3.3 Housing Location/Design and Density in Urban Areas.

"The Core Strategy contained in Chapter 2 of this plan recognises the importance of the larger and smaller town and village structures within the County. The DoEHLG's Guidelines for Planning Authorities on *Sustainable Residential Development in Urban Areas* (2009) outlines sustainable approaches to the development of urban areas. Appropriate locations for new residential development schemes are:

- Large towns: populations of 5,000 or more people;
- Small towns and villages: population ranging from 2,000 to 5,000 persons;
- Towns and villages; population ranging from 400 to 2000 persons.

In accordance with the Guidelines, areas suitable for residential development are identified in urban areas.

There are a number of villages within the County that do not have Local Area Plans and therefore it is important that the County Development Plan addresses the main facets of urban housing/design”.

Objective RHO12- Waste Water Treatment Associated with Development in Un-Serviced Areas

Permit development in un-serviced areas only where it is demonstrated to the satisfaction of the Planning Authority that the proposed wastewater treatment system is in accordance with the *Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses EPA (2009)/ EPA Wastewater*

Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels (1999) (or any superseding documents) and subject to complying with the provisions and objectives of the EU Water Framework Directive.

5.2. Natural Heritage Designations

There are number of Natura 2000 sites within 15km of the appeal site. The nearest is Ardrahan Grassland SAC (002244) 0.6km from the site.

5.3. EIA Screening

Having regard to nature of the development comprising of the construction of 2 no. dwellings and associated site works, 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

A first party appeal has been lodged by McCarthy Keville O’Sullivan Ltd on behalf of the applicant, Colin Fahy.

- It is noted that the proposed wastewater treatment system has been assessed in relation to the Water Framework Directive (site suitability) and is an

appropriate system. The proposal is consistent with Development Management standards and Development Plan objectives regarding wastewater treatment.

- It is noted that the site is adjacent but not within the curtilage of a protected structure. It is noted that the proposal would have no physical impact on the historic fabric of the protected structure. It is noted that the proposal would have minimal impact on the character and setting of the protected structure and general visual amenities of the village.
- It is noted that the provision of additional dwellings in the village is appropriate and in keeping with Development Plan policy.
- In response to the third reason for refusal regarding Appropriate Assessment a Natura Impact Statement has been prepared and submitted. The NIS concludes that the proposed development, individually or in combination with other plans and projects, will not affect the integrity of any European Site.

6.2. Planning Authority Response

No response.

6.3. Observations

6.3.1 An observation has been submitted by Ardrahan Group Water Scheme.

- The observer notes that in the event of grant of permission a condition should be applied requiring the applicant to confirm agreement for connect to the group water scheme prior to the commencement of development.

7.0 Assessment

7.1. Having inspected the site and the examined the associated documents, the following are the relevant issues in this appeal.

Principle of the proposed development/development plan policy/development control standards

Design, scale, pattern of development, architectural heritage

Traffic/car parking

Public Health

7.2. Principle of the proposed development/development plan policy/development:

7.2.1 The appeal site is located within the village of Ardrahan, which is Tier 5 settlement under County Development Plan Settlement Strategy. This tier of settlement is labelled 'Other Villages' and "these settlements have a population of less than 1500 persons and provide a more limited range of services to smaller hinterlands than the key towns. Service provision often includes a range of retail and educational services but limited financial, health and community services". This settlement is a lower tier settlement with no Local Area Plan or defined development boundary and land use zonings. Objective SS 6 – Development of Other Villages of the County Development Plan is to "protect and strengthen the economic diversity of the smaller towns, villages and small settlements throughout the County, enabling them to perform important retail, service, amenity, residential and community functions for the local population and rural hinterlands". Development Plan policy is supportive of the development of residential development within such settlements.

7.2.2 The appeal site is located is close proximity to the centre of the village and is infill site sandwiched between an existing two-storey dwelling to the south and a single-storey dwelling to the north. The site is well within the urban speed limit zoned of the village. I would consider the principle of the proposed development is acceptable and would be in accordance with the Development Plan Settlement Strategy. I would consider the proposal is contingent on it being of an appropriate scale relative to the existing settlement, being satisfactory in regards the pattern and scale of existing development in the village, adjoining amenities, traffic safety and public health. All of these issues are to be explored in later sections of this report.

7.3 Design, scale, pattern of development, architectural heritage:

7.3.1 The appeal site is in a small scale village settlement that has a very small condensed pattern of development centred around a staggered junction. The village has not had any new development of multiple dwellings and the successful integration of such development into the village structure and character is an

important consideration. The appeal site is in close proximity to the village centre and is an infill site located between existing dwellings so lends itself to development without significant impact on the footprint of the village. The proposal is for 3 no. two-storey terraced dwellings with a building line matching the side elevation of the dwelling to the south and staggered as you move north. The dwellings feature a pitched roof with external finishes of render and stone. The dwellings provide an urban edge due to their location close to the road edge and footpath with parking and turning areas located on the north side of the proposed dwellings. I would consider that the scale and design of the proposed development is modest in nature and has regard to its location within a small village settlement and is appropriately scaled residential development. The design and character of the dwellings although not exceptional in terms of architectural character are relative simple in design and would not be out of character at this location. I would consider that the proposal is appropriate in scale and design and is an acceptable expansion of the urban pattern of village. I am satisfied that the scale of development and its layout has adequate regard to the amenities of adjoining properties to the north and the south in terms of scale and orientation.

7.3.2 The village has a distinctive character defined by a number of protected structures and archaeological features. The dwelling immediately to the south of the site is protected structure. The dwelling to the south is identified as no. 883 on the record of protected structures and described as a detached three bay, two storey house, c. 1900. There is an existing shed to the rear of the protected structure and on the appeal site, which is to be demolished. The public notices indicate that the appeal site is within the curtilage of a protected structure, while the appeal submission notes that it is adjacent the curtilage of a protected structure and not within it. The appeal site appears to be physically separated from the curtilage of the protected structure, however the existing shed does appear to be accessible from curtilage of the protected structure and therefore part of the site is within the existing curtilage of a protected structure.

7.3.3 There appears to be a lack of clarity regarding whether the site is within the curtilage of a protected structure. I would note that the existing shed on site appears to be functionally connected to the protected structure and the shed on site to be demolished is within the existing curtilage of a protected structure. Having a look at

historic maps this shed does not appear to be original to the protected structure or central to the status of such as a protected structure as well as the fact the site does appear to be separate to the appeal site. I would consider that the demolition of the shed would not have a significant or adverse impact on the character and setting of the protected structure. I would also note that the design and scale of the proposed dwellings have adequate regard to the setting of the adjoining protected structure. The proposed development is not out of scale relative to the existing protected structure and would not be visible from Market Square. When viewed along the R458 the dwelling will not be out of scale relative to the protected structure and such are staggered in building line moving north to reduce visual impact. There are other protected structures in the village including the Garda Station and Market Cross. As noted earlier the overall design and scale of development is satisfactory and has adequate regard to its location in a small rural settlement and is an appropriate design for an infill site such as this. The proposal would be satisfactory in the context of the setting and character of the adjoining protected structure and the visual amenities of the area.

7.4 Traffic/car parking:

7.4.1 The appeal site has an existing vehicular entrance onto the R458, however it does not appear that such is in much use due to the vacant and overgrown nature of the site. The proposal provides for a new vehicular entrance further north along the road frontage with access to a parking area providing for 8 no. car parking spaces and a turning area. Development Plan requirements for parking are 1.5 space per dwelling with such a standard exceeded in the case of the proposed development and adequate provision for turning movements provided for on-site.

7.4.2 The development and associated vehicular entrance is located well within the 50km urban speed limit zone and at a location where the vertical and horizontal alignment of the public road is of a good standard. In addition there is an existing footpath located along the road frontage of the site and for good distance further north of the site. The proposed development is modest in scale and such taken into account with the design and layout of the vehicular entrance, the car parking and turning area and the alignment of the public road mean that the proposed development would be acceptable in the context of traffic safety and convenience.

7.5 Public Health:

7.5.1 The appeal site is in small village that is a lower category settlement in the County Development Plan Settlement Strategy. The village does not have any municipal wastewater systems in place for existing and proposed development with no future plans or projects to provide such services within the village. It is proposed to provide an on-site wastewater treatment plant and polishing filter. It is notable that under Development Plan policy and in particular Objective RHO12 relating to Waste Water Treatment Associated with Development in Un-Serviced Areas that development will be permitted “in un-serviced areas only where it is demonstrated to the satisfaction of the Planning Authority that the proposed wastewater treatment system is in accordance with the *Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses EPA (2009)/ EPA Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels (1999) (or any superseding documents)* and subject to complying with the provisions and objectives of the EU Water Framework Directive”.

7.5.2 A hydrogeological assessment and site suitability assessment was submitted.

The site suitability assessment included a trail hole test with the water table not detected in the 2.6m deep trail hole. The results of T tests for deep subsoils and/or water table and P tests for shallow soil/subsoil and/or water table indicate acceptable values for wastewater treatment. The site is underlain by a regionally important aquifer with a vulnerability rating of high. It is proposed to install a wastewater treatment plant and polishing filter with a PE of 18 to serve four dwellings. It would appear that the adjoining dwelling to the south of the site shares a septic tank with an existing dwelling to the east and that it is be disconnected from this septic tank and connected to the new wastewater treatment system.

7.5.3 The site suitability assessment of the site indicates that soil conditions on site are suitable for the operation of a wastewater treatment system. I would consider subject to installation and operation of such in accordance with EPA guidance, *Treatment Systems for Small Communities, Business, Leisure Centres and Hotels* and having regard to Objective RHO12, the proposed development would be acceptable in the context of public health.

7.6 Appropriate Assessment:

7.6.1 Appropriate Assessment (AA) considers whether the plan or project in combination with other projects and plans will adversely affect the integrity of a European site in view of the site's conservation objectives and includes consideration of any mitigation measures necessary to avoid, reduce or offset negative effects. This determination must be carried out before a decision is made or consent given for the proposed development alone or in combination with other plans and projects would not adversely affect the integrity of a European site in view of the site's conservation objectives.

7.6.2 Guidance on appropriate assessment is set out in the European Commission's Assessment of plans and projects significantly affecting Natura 200 sites: Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (European Commission 2002) and in the Department of the Environments' Appropriate Assessment of Plans and Projects Ireland, Guidance for Planning Authorities (December 2009, revised February 2010).

7.6.3 In response to the third reason for refusal the appellant has submitted a Natura Impact Statement. The report identifies all designated Natura 2000 sites within 15km of the site. These are...

Ardrahan Grassland SAC (002244) 0.6km from the site.

Kiltiernan Turlough SAC (001285) 3.3km from the site.

Lough Fingall Complex SAC (000606) 4.0 km from the site.

Coole-Garyland Complex SAC (000252) 4.3km from the site.

Peterswell Turlough SAC (000318) 4.6km from the site.

Carrowbraun, Newhall and Ballylee Turloughs SAC (002293) 4.9km from the site.

Lough Coy SAC (002117) 5.1km from the site.

Rahasane Turlough SAC (000322) 5.5km from the site.

Cahermore Turlough SAC (002294) 5.7km from the site.

Kiltartan Cave SAC (000286) 6.6km from the site.

Caherglassaun Turlough SAC 6.8km from the site.

Galway Bay Complex SAC (000268) 7.4km from the site.

East Burren Complex SAC (001926) 9.3km from the site.

Sonnagh Bay SAC (001913) 9.7km from the site.

Lough Curra SAC (000299) 12.1km from the site.

Termon Lough Sac (001321) 13.1km from the site.

Drummin Wood SAC (002181) 13.2km from the site.

Lough Reagh SAC (000304) 14.1km from the site.

Gortacarnaun Wood SAC (002180) 14.5km from the site.

Coole-Garryland Complex SPA (0004107) 5.5km from the site.

Rahasane Turlough SPA (004089) 5.6km from the site.

Slieve Aughty Mountains SPA (004168) 6.4km from the site.

Inner Galway Bay SPA (004031) 7.6km from the site.

Lough Cutra SPA (004056) 12.1km from the site.

Cregganna Marsh SPA (004142) 12.2km from the site,

Lough Rea SPA (004134) 14.1km from the site.

The report outlines the Qualifying Interests and Conservation Objectives for these sites. In terms of assessment of likely effects the report focuses on the Galway Bay Complex within which the site is located and the Galway Bay SPA which is located adjacent the appeal site. The report notes that the Castletaylor Complex SAC, Kiltiernan Turlough SAC, Lough Fingall Complex SAC and the Galway Bay Complex SAC were identified with the likely zone of impact as they are within the same groundwater body as the development site. It is noted there is no potential for direct effects on the qualifying interests of these sites and that potential indirect effects include discharges to groundwater. It is noted that a wastewater treatment plant and polishing filter is provided and that the soil conditions on site are suitable for the operation of such a system and discharges will be of treated effluent in accordance

with the requirements of the EPA code of practice. The report also examines other plans and projects in the area and concludes that the proposal either individually or in combination with other plans or projects, will not adversely affect the integrity of any European Site.

7.6.4 It is noted that the works proposed will not result in the loss or deterioration of habitats or species, which define the status of any of the Natura 2000 sites within 15km of the appeal site. The proposal is modest in scale and provide for the discharge of treated effluent and subject to compliance the EPA guidance for wastewater treatment system the proposal would have no significant effect on any Natura 2000 site in the vicinity. I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a screening assessment that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of any European Site in the vicinity of the appeal site.

8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the design and scale of the proposed development, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the visual amenities of the area or impact on the integrity or architectural character of the adjoining protected structure, would not seriously injure the amenities of adjoining property, would be satisfactory in regard to public health, and traffic safety and convenience. The proposed development 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 on the 14th day of December 2018, 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 and the Ardrahan Group Water Scheme for such works and services.

Reason: In the interest of public health.

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

Reason: In the interest of visual amenity.

4. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or Public Holidays. Deviation from these times shall 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.

5.

(a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 14th day of December, 2018, and in accordance with the requirements of the document "Treatment Systems for Small Communities, Business, Leisure Centres and Hotels", Environmental Protection Agency (current

edition). Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

6.

(a) All groundworks associated with the proposed development shall be monitored by a suitably qualified archaeologist.

(b) Should archaeological material be found during the course of works, the work on the site shall be stopped pending a decision as to how best to deal with the material/ The developer shall be prepared to be advised by the National Monuments Service section of the Department of Culture, Heritage, and the Gaeltacht with regard to any necessary mitigating action (e.g. preservation in situ, or excavation) and should facilitate the archaeologist in recording any material found.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

7. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Colin McBride
Planning Inspector

18th June 2019