



An
Bord
Pleanála

Inspector's Report ABP-304079-19

Development	Construction of two houses with garages, treatment units and all associated services.
Location	Rindifin, Co Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	1922
Applicant(s)	Caroline Glynn
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Caroline Glynn.
Observer(s)	None
Date of Site Inspection	04/06/19
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1. The subject site is located on the outskirts of Gort town in County Galway. The site is located on either side of a narrow cul-de-sac on the eastern side of the town. The cul-de-sac is accessed from a series of narrow residential roads, to the north of Gort Community School and sport fields.
- 1.2. The cul-de-sac has detached housing on both north and south sides and terminates at a detached dwelling. Some plots are undeveloped, one has an allotment and one has horses. The area has a distinctly rural feel, despite the proximity to the town centre.
- 1.3. The subject site straddles the unsurfaced cul-de-sac with a smaller section on the northern side and a larger plot to the south – currently housing horses. Both plots are grassed and fenced.

2.0 Proposed Development

- 2.1. On the 10th January 2019 planning permission was sought for the construction of two dwelling houses (236sq.m. and 121sq.m.) and two detached garages (40sq.m. and 27.6sq.m.) on a site of 0.4233ha.
- 2.2. The application was accompanied by a Site Characterisation Report.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 5th March 2019 the Planning Authority issued a notification of their intention to refuse permission for the following two reasons:
 - 1 The proposed development of two dwelling houses on one site which is divided by a public road is considered to be haphazard and disorderly development, which would compromise the residential amenity associated with the dwelling houses, would be out of character with the pattern of development in the area, and therefore if permitted as proposed would be contrary to the proper planning and sustainable development of the area.
 - 2 The proposed development of two number dwelling houses on a restricted site with limited private open space would result in a substandard form of development. It is considered that the proposed development would constitute

overdevelopment of the site and to permit the proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

- 3.2.1. **Planning Report:** Site zoned residential. Proposed development is haphazard. Treatment unit for proposed single storey dwelling is across a public road. Proposed single storey dwelling is limited private open space. Proposed development is substandard form of development. Recommendation to refuse permission.

3.3. **Prescribed Bodies**

- 3.3.1. None on file

3.4. **Third Party Observations**

- 3.4.1. One objection to the proposed development raised concerns that the changes in ground level could result in surface water draining on to the lower site. Also concerned regarding the location of the septic tank in relation to her garden.

4.0 **Planning History**

- 4.1.1. Planning Authority reg. ref. 11/902: Planning permission granted for dwelling house.

5.0 **Policy and Context**

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

- 5.1.1. Gort is designated a 'Key Town' in the settlement strategy of the development plan. The plan states that these towns provide an extensive range of services including health, community, financial, employment and retail. Many have a strong historical identity as market towns and in most cases have a relatively well-developed infrastructure. Sustained growth in these settlements is required to achieve their potential as self-sustaining towns in their own right. **Section 2.6.5** of the plan states that key towns have a high degree of self-sufficiency, reduce the demand for travel and provide a good quality of life for residents. Self-sufficiency refers to where a large proportion of the population, living in the town or surrounding area, are able to live, work, shop, go to school and enjoy recreation without the need for constant travel.

- 5.1.2. **Objective SS 5** – Development of Key Towns: Support the development of the key towns of the County as outlined in the Core Strategy and Settlement Strategy in order to sustain strong, vibrant urban centres which act as important drivers for the local economies, reduces travel demand and supports a large rural hinterland, while providing a complementary role to the hub town of Tuam and the smaller towns and villages in the County.
- 5.1.3. Of relevance to the subject application is the Core Strategy, of which **Objective CS 5** refers to the Phasing of Development of Lands. It states that the zoning of residential zoned lands within the urban areas shall be based on a phased, sequential approach as set out within the Local Area Plans, with a strong emphasis placed on consolidating existing patterns of development, encouraging infill opportunities and promoting sustainable transport options.

5.2. **Gort LAP 2013-2019**

- 5.2.1. The subject site is Zoned R Phase 2 in the Gort LAP. Residential use (non-apartment) is permitted in principle subject to policy RD1 and Objective RD1
- 5.2.2. **Objective RD1** – Phased Residential Development (refer to Maps 1A/1B): Support the development of lands designated as Residential (Phase 1) within the lifetime of the Local Area Plan, subject to normal planning, access and servicing requirements, and reserve the lands designated as Residential (Phase 2) for the longer-term growth needs of the town. Lands that have been designated as Phase 1 shall be reviewed for the next Plan having regard to development proposals or otherwise in the interim. Residential (Phase 2) lands are generally not developable within the lifetime of this Plan, with the exception of the following developments, which may be considered by the Planning Authority within the lifetime of this Local Area Plan subject to a suitable case being made for the proposal: a) Single house developments for family members on family owned lands. b) Non-residential developments that are appropriate to the site context, any existing residential amenity and the existing pattern of development in the area. c) Where it is apparent that Residential (Phase 1) lands cannot or will not be developed within the plan period, residential development may be considered in a phased manner on some Residential (Phase 2) lands. The above exceptions will be subject to compliance with the Core Strategy in the Galway County Development Plan, the policies and

objectives in this Local Area Plan, the principles of proper planning and sustainable development and to meeting normal planning, access and servicing requirements. Developments will only be permitted where a substantiated case has been made to the satisfaction of the Planning Authority and the development will not prejudice the future use of the lands for the longer-term growth needs of the town.

- 5.2.3. **Objective LU2** – Residential (R) (refer to Maps 1A/1B and Objective RD1): 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. A phasing scheme will apply to residential uses on Residential (R) zoned lands, as set out under Objective RD1 in Section 3.2.2.
- 5.2.4. **Objective LU12** – Development Densities (refer to DM Guideline LU1): Ensure that the density of new development is appropriate to the land use zone and site context, is in keeping with the development pattern of the area, does not unduly impact on the amenities of the area and that it results in a positive relationship between new developments and any adjoining public spaces. Promote the development of higher density development in appropriate locations, such as suitable sites within the town centre and adjacent to public transport facilities, where such development is compatible with built and natural heritage and urban design objectives and infrastructure capacity. The density of developments will generally be in accordance with the guidance set out under DM Guideline LU1, although the planning authority may consider higher density developments where this is considered appropriate to secure the urban design or other objectives of the Plan.
- 5.2.5. **Objective LU13** – Residential Densities (refer to DM Guideline LU1): Promote a range of residential densities within the Plan Area appropriate to the prevailing development pattern, supporting infrastructure, urban character and heritage resources in accordance with the guidance in the Sustainable Residential Development in Urban Areas Guidelines 2009 (or any updated/superseding

document). Higher residential densities should be encouraged at locations where it is appropriate to the existing context and density of the Plan Area, for example around the town centre and within convenient walking distance of public transport facilities, and where it will not unduly impact on built or natural heritage or impact adversely on the integrity of European sites that form part of the Natura 2000 network. The density of residential developments will generally be in accordance with the guidance set out under DM Guideline LU1, although the planning authority may consider higher residential densities where this is considered appropriate to the context and necessary to secure the urban design or other objectives of the Plan. Development will only be permitted where adequate infrastructural capacity and services can be provided.

- 5.2.6. **DM Guideline LU1 – Development Densities:** The development of higher densities will need to be appropriate to the context and will be assessed based on the merits of the proposal and subject to good design, compliance with both qualitative and quantitative standards, location, capacity of the site and infrastructure to absorb development, existing character of the area, established densities on adjoining sites, protection of residential amenities, proximity to public transport, etc. The Planning Authority may use its discretion in varying these density standards. The development density guidance in the tables below indicate the range of densities generally considered appropriate in the various land use zones and in different residential locations within the Plan Area
- 5.2.7. For Zone R, the recommended plot ratio is 0.10 to 0.5, 50% site coverage and a minimum of 15% public open space.

5.3. **Natural Heritage Designations**

- 5.3.1. The subject site is 2km from the Coole-Garryland Complex SAC and SPA, 2.6km from Lough Cutra SPA and SAC, 3.4km from the East Burren Complex SAC and 4.2km from the Slieve Aughty Mountains SPA.

5.4. **EIA Screening**

- 5.4.1. Having regard to nature and scale of the development and the built-up edge-of town location of the site 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. An agent for the first party has appealed the decision of the Planning Authority to refuse permission. It is submitted that the application was not assessed fairly and that the following are the grounds of appeal:

- The site is divided into two sites. The larger site of $\frac{3}{4}$ acre easily complies with density standards. The smaller site of $\frac{1}{4}$ acre and a proposed dwelling of 148.6sq.m. has a plot ratio of 0.144 and site coverage of 17% which complies with DM Guideline LU1.
- As the subject site is not serviced the proposed density of 2-6 dwellings per acre is acceptable and complies with DM Guideline LU1.
- The Planning Authority assessment did not reference the above standards.
- 750sq.m. of private open space is proposed for the smaller dwelling. This far exceeds the usual 84sq.m. of semi-detached houses in Gort.
- The subject site is within walking distance of the town, playground, schools and community centre – closer than 4 other housing estates (Rinn Dúin 32 houses, Burren View 84 houses, The Punchbowl 60 house and Sliabh Carron 110 houses).
- The Planning Authority report is incorrect. The proposed treatment unit is not 'across the road' but beside the proposed dwelling. Only the soil polishing filter is across the road. The EPA site characterisation report shows that the conditions for same are excellent. A wayleave will provide access.
- The second dwellings soil polishing filter will be underground and grassed over and will cover 1.5% of the area.
- The 3m wide minor road serving the site ends in a cul-de-sac with two houses further. A 50mm pipe to the soil polishing filter is not major work and can be installed with a road opening licence or horizontal drilling.

- The neighbours concerns regarding run-off are unfounded as can be seen in the Site Characterisation report. All surface water will discharge to a soak pit to BER standards.
- Gort is recognised in the NPF as being in the commuter belt of Galway City. The subject site is zoned and will fulfil a demand. The principle of having a pipe cross the road is not unusual and not unworkable.
- The Board is requested to grant permission.

6.2. Planning Authority Response

6.2.1. None on file

6.3. Observations

6.3.1. None on file

7.0 Assessment

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties 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
- Development Management

7.2. Principle of the Proposed Development

7.2.1. The subject site is located within the development boundary of Gort, on lands zoned for residential development and therefore the principle of development is acceptable, subject to normal planning considerations.

7.2.2. The subject site is identified as being suitable for phase 2 residential zoning. Objective RD1 of the Gort LAP states that phase 1 lands shall be delivered within the lifetime of the plan, with phase 2 lands being for the longer-term growth needs of the town. Phase 2 lands, according to the objective, are generally not developable within the lifetime of the LAP. This raises two issues, the first of which is the lifetime of the plan. The lifetime of the plan was intended to be 2013 to 2019. The document refers

to the settlement strategy and population predictions for 2015. The LAP, however was extended in 2018 without amendment, until 2023. This leads to the second issue that neither the LAP nor the County Development Plan provide up-to-date information on the progress of developing phase 1 lands. I note that the Planning Authority's planning report is also silent on the status of phase 1 lands. This results in the situation that the originally intended lifetime of the LAP has passed, and therefore the 'general' ban on phase 2 lands being developed no longer applies. Further, without evidence to the contrary reading the development of phase 1 lands, and noting the policies of the development plan that support the consolidation of Key Towns, there appears no inherent objection to the development of the subject site.

7.2.3. In balance, given the lack of detail in the LAP and the primacy of the County Development Plan, I am minded to consider Objective SS5 which seeks to support the development of key towns in order to sustain strong, vibrant urban centres which act as important drivers for the local economies. The development plan (section 2.6.5 refers) notes the advantages of ensuring self-sufficiency in key towns, thereby proving a good quality of life for travel and reducing the demand for travel.

7.2.4. The subject site is zoned for residential development, is within the development boundary of a key town and therefore the principle of the proposed development is acceptable.

7.3. Development Management

7.3.1. The Planning Authority's first reason for refusal refers to the public road dividing the subject site, thereby disrupting the pattern of development in the area and creating a haphazard and disorderly development. I do not accept this reasoning, noting that if the site were subject to two separate planning applications, the charge of disorderly development would not apply. I fail to see how a continuation of the pattern of detached one-off dwellings on both side of the road can be considered to be out of character with the area.

7.3.2. The proposed dwellings comply with development plan requirements for density, plot ratio, site coverage, and private open space. I do not agree that the provision of private open space is limited. That the soil polishing filter for the northern dwelling is located on the southern plot, is somewhat unusual but it is not so significant as to generate a refusal of permission.

7.4. **Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the proposed development, within the development boundary of an established town, it is considered that no appropriate assessment issues arise, and 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.

8.0 **Recommendation**

- 8.1. I recommend permission be GRANTED subject to the following reasons and considerations

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 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 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 and to ensure a proper standard of development.

- 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 amenities of property in the vicinity.

- 4 All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

- 5 The site development works, and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development

6. 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.

Gillian Kane
Senior Planning Inspector

13 June 2019