



An
Bord
Pleanála

Inspector's Report ABP-304112-19

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| Development | Construction of a house, garage, two horse stables and proprietary treatment system. |
| Location | Magheranearla , Co Galway |
| Planning Authority | Galway County Council |
| Planning Authority Reg. Ref. | 18801 |
| Applicant(s) | Tom Duffy |
| Type of Application | Outline |
| Planning Authority Decision | Grant |
| Type of Appeal | Third Party |
| Appellant(s) | Henry Howard |
| Observer(s) | None |
| Date of Site Inspection | 04/06/2019 |
| Inspector | Gillian Kane |

1.0 Site Location and Description

- 1.1. The subject site is located on the southern side of the regional road R356 running between Eyrecourt and Killimor in East Galway. The narrow country road accommodates a small number of one-off rural dwellings, but the wider area is mostly in agricultural use. The subject site comprises a plot of a larger field in agricultural use, with a standard agricultural gate forming the northern boundary. The eastern and southern boundaries of the site are open to the field and the western boundary is formed by a post and wire fence.

2.0 Proposed Development

- 2.1.1. On the 14th June 2018 outline planning permission was sought for the construction of dwelling domestic garage, two horse stables and a proprietary waste treatment system on a site of 0.204ha. The entire built development is stated to be 200sq.m. with no breakdown between the three proposed buildings. The application was accompanied by a Site Suitability Assessment report.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 8th March 2019, the Planning Authority issued a notification of their intention to GRANT outline permission subject to 14 no. conditions. Condition no. 3 requires the proposed house to reflect the best principles of traditional design.

3.2. Planning Authority Reports

- 3.2.1. **Planning Report:** Further information required regarding private well test results, lands outlined in blue, 120m sightlines, no. of animals to be housed and suitability / availability of lands for spreading of effluent from proposed stables.
- 3.2.2. **Further information** requested in August 2018. On the 11th February 2019, the applicant responded to the FI request.
- 3.2.3. **Planning Report:** Having regard to the site-specific traffic audit report and the evidence that the site can dispose of effluent satisfactorily, recommendation to grant outline permission.

3.3. **Third Party Observations**

- 3.3.1. One objection to the proposed development was submitted to the Planning Authority. The objector is the same as the third-party appellant and the issues raised mirror those of the appeal, as discussed in section 6 below.
- 3.3.2. The Applicant responded to the third-party objection, stating that as the planning application is for outline planning permission details regarding the storage of manure etc at the stables would be provided at consequent stage. The applicant's agent stated that the site characterisation assessment was carried out in December 2017 and that "Well 2" was not present. It is stated that the proposed treatment system has a PE of 9 which is sufficient to deal with any electric power failures.

4.0 **Planning History**

- 4.1.1. Planning Authority reg. ref. **12/540**: Planning permission granted to Tom Duffy for the construction of an agricultural entrance.

5.0 **Policy and Context**

5.1. **National Planning Framework, (2018)**

- 5.2. The government published the **National Planning Framework** in February 2018. Objective 3c is to deliver at least 50% of new houses in the city/suburbs of Dublin, Cork, Galway, Limerick and Waterford. Objective 11 is to favour development that can encourage more people to live or work in existing settlements.

National Policy Objective 15: Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

- 5.2.1. **National 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.

5.3. Sustainable Rural Housing Guidelines for Planning Authorities

5.3.1. The guidelines refer to criteria for managing rural housing requirements whilst achieving sustainable development. Among the policy aims identified for sustainable rural housing are;

- Ensuring that the needs of rural communities are identified in the development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated.
- Managing pressure for overspill development from urban areas in the rural areas closest to the main cities and towns such as the gateways, hubs and other large towns.
- The planning authority should establish if the proposal is intended to meet a genuine rural housing need.

5.3.2. According to Map 1 Indicative Outline of NSS Rural Area Types the subject site is located in an area which is classified as being a **Structurally Weak Area**. The Guidelines state the key development plan objective in these areas should refer to the need to accommodate any demand for permanent residential development as it arises subject to good practice in matters such as design, location and the protection of important landscapes and any environmentally sensitive areas. In addition, policies will normally include references to:

- Identifying potential development areas such as crossroad type settlements or population decline blackspots where appropriately located and designed clustered development will be both encouraged and accommodated,

- Linkage to other policies aimed at enhancing development potential and availability of indigenous employment in weaker areas, for example by identifying potential for development of local enterprise, agri-tourism, waterway related development, tourist accommodation and renewable energy as some examples, and
- Monitoring the operation of settlement policies on an ongoing basis in structurally weak areas to avoid excessive levels of or inappropriately located development.

5.3.3. The Guidelines require that new houses in rural areas are sited and designed to integrate well with their physical surroundings and generally be compatible with:

- the protection of water quality in the arrangement made for onsite wastewater disposal facilities
- the provision of a safe means of access in relation to road and public safety and
- the conservation of sensitive areas such as natural habitats, the environs of protected structures and other aspects of heritage.

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

5.4.1. The subject site is located in an unzoned rural area which is designated in the development plan as being a Structurally Weaker Rural Area.

5.4.2. Section 2.6.7 of the development plan states that development in the un-serviced countryside requires careful management, in order to balance the need to revitalise and support communities, while ensuring the overall sustainable development of these areas.

5.4.3. **Objective SS8** refers to the Development of Rural Communities and states that Galway County Council shall recognise the important role of rural communities to the sustainable development of County Galway and shall ensure the careful management of development in these areas, having due regard to the relevant policies and objectives set out elsewhere in the plan.

5.4.4. Section 3.8.2 states the key objectives of the Council in structurally weak areas 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.

- 5.4.5. **Objective RHO 2 - Rural Housing Zone 2** (Structurally Weak Area) states that 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.
- 5.4.6. **Objective RHO 9 - Design Guidelines:** It is an objective of the Council to have regard to Galway County Council's Design Guidelines for the Single Rural House with specific reference to the following: a) It is an objective to encourage new dwelling house design that respects the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape; b) It is an objective to promote sustainable approaches to dwelling house design and encouraging proposals to be energy efficient in their design and layout; c) It is an objective to require the appropriate landscaping and screen planting of proposed developments by using predominately indigenous/local species and groupings.
- 5.4.7. **DM Standard 20:** Sight Distances Required for Access onto National, Regional & Local Roads: Vehicular entrances and exit points must be designed by the developer as part of a planning application with adequate provision for visibility so that drivers emerging from the access can enjoy good visibility of oncoming vehicles, cyclists and pedestrians. Where a new entrance onto a public road is proposed, the Planning Authority must consider traffic conditions and available sight lines. Road junction visibility requirements shall comply with Geometric Design of Major/Minor Priority Junctions and Vehicular Access to National Roads, Volume 6, Section 2, Part 6, NRA TD 41-42/11, November 2011 (including any updated/ superseding document).

5.5. Natural Heritage Designations

- 5.5.1. The subject site is located 2.5km east of the Ardgraique Bog SAC (002356).

5.6. EIA Screening

- 5.6.1. Having regard to nature and scale of the development and the 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 appeal against the decision of the Planning Authority to grant permission has been received from Henry Howard of Magheranearla, Galway. The grounds of the appeal can be summarised as follows:
- Appellant operates a business from the farmyard adjoining the appeal site and submits that the proposed development will inhibit the future operation of the farm.
 - The applicant owns a house and farm in close proximity to the subject site. Planning Authority reg. ref 99/5485 refers.
 - The subject site is located on a structurally weak area, within which housing must be controlled.
 - It is submitted that there is an inherent conflict in the development plan as it states that there is a presumption against unnecessary rural dwellings but also provides that residential development will be accommodated as it arises.
 - It is submitted that residential development must be for the applicants use, otherwise all lands outside the GTPS area would be subject to unchecked speculative development.
 - The applicant has no housing need, the proposed dwelling is not necessary and therefore must be refused.
 - As there is no intended owner of the proposed dwelling, there is no basis on which to determine housing need. Housing need is a determining factor, even in structurally weak areas.
 - The inclusion of a small stable block is used to show housing need but there is no basis for determining rural housing need where the owner is not known.

- The applicant has no demand for a permanent residential dwelling and the decision of the Planning Authority does not ensure that the proposed development is rurally generated.
- The decision of the Planning Authority does not accord with the key objective of the development plan to direct urban generated housing into existing towns and villages.
- As required by the Sustainable Rural Housing Guidelines, there is no demand for permanent residential development on the subject site.
- The subject site is for sale and the subject application is speculative.
- The appellants farmyard was not indicated on the site location map lodged with the application.
- It is submitted that the applicant has shown his intention to sell the site and this is contrary to the principles of proper planning and sustainable development.
- The premise of the Rural Housing Guidelines is that new rural housing development should be located as close as possible to essential local services and community facilities.
- Sightlines on the R356 at the proposed entrance are deficient. The development plan requires that road junction visibility requirements comply with 'Geometric Design of Major / Minor Priority Junctions and Vehicular Access to National Roads'. The 2017 updated document requires a desirable setback of 3m or a relaxed setback of 2m. with an unobstructed sightline in each direction of 160m.
- The proposed development cannot meet this requirement without impeding on third-party lands. Permission should be refused on the grounds of traffic hazard.
- It is submitted that the speculative nature of the proposed application is to add additional value to lands that are for sale.
- The Board is requested to refuse permission.

6.2. Applicant Response

6.2.1. The applicant's response to the third-party appeal can be summarised as follows:

- The applicant does have a house in close proximity to the site. The Planning Authority decided that there was no contravention of the development plan.
- The site is outside the GTPS in a "Structurally Weak Area" where evidence of a housing need is not required.
- The application is speculative in nature. The land will be sold to finance the applicants farm.
- In response to the Planning Authority's request for further information, the applicant submitted a Traffic Assessment which included a speed analysis report. This showed the recorded 85th percentile speed was 68.4kmh in both directions. Stopping sight distances were calculated as 87m in both directions. This is achievable without impeding on third-party lands.

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
- Traffic
- Site Suitability

7.2. Principle of Development

7.2.1. The subject site is located in an area designated as being structurally weak. The appellant submits that as the subject application is for outline planning permission, the housing need of the future resident cannot be determined. He states that residential development must be for the applicants use otherwise all lands outside the GTPS would be subject to unchecked speculative development. The applicant responding to the appeal, acknowledges that the proposed development is speculative, but that housing need is not required in structurally weak areas.

- 7.2.2. The question of “need” for a dwelling is not removed from structurally weak areas – only the assessment of where the need generates from is removed. Applications do not require a statement of whether need is urban or rurally generated, but a need must still be demonstrated. I agree with the appellants suggestion that unchecked speculative development on all structurally weak lands is not the intent of the development plan or any other policy document. The Sustainable Rural Housing Guidelines are clear that persons who are part of the rural community should be facilitated by the planning system, in all areas. For areas that experience substantial and persistent decline, the Guidelines provide that new development contributes by delivering social and economic benefits, but that these benefits are maximised where such development is located “as closely as conveniently possible to essential local services and community facilities”.
- 7.2.3. The Applicant has acknowledged that he does not have a housing need for a dwelling at this location. Therefore, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines for a house at this location.

7.3. **Traffic**

- 7.3.1. The applicant submitted a Speed Survey Analysis report with the application and then again with the appeal.
- 7.3.2. The R356 onto which the proposed dwelling will exit has a speed limit of 80kph. Table 13.3 of the development plan requires a sight distance of 160m in either direction. DM Standard 20 of the development plan requires that where a new entrance onto a public road is proposed, the Planning Authority must consider traffic conditions and available sight lines. Road junction visibility requirements shall comply with Geometric Design of Major/Minor Priority Junctions and Vehicular Access to National Roads. The Applicants report states that the guidelines referred to in DM Standard 20 have been superseded by the TII Geometric Design of Junctions.
- 7.3.3. The report states that the development plan (table 13.4) does not accord with the design speeds of the 2011 document. A survey undertaken at the subject site from the 14th to the 21st December 2018 found that ‘stopping sight distances’ (SSD)

would be 87m in both directions. The report states that this would comply with the requirements of the prevailing County Development Plan.

- 7.3.4. I do not agree. The development plan clearly states that where a new entrance on to a public road is proposed the Planning Authority must consider available sightlines (DM Standard 20 refers). The TII publication Rural Road Link Design (DN-GEO-03031) provides for stopping sight distance as a parameter for design. The applicant may make the case that the development plan does not use prevailing standards (namely stopping sight distance over sight lines) but the fact remains that the development plan requires that traffic conditions are assessed first and only then is road junction visibility to comply with the TII publication.
- 7.3.5. The applicant has acknowledged that the required 160m sightlines are not available to the east and west of the proposed entrance. I am not satisfied that it has been demonstrated that the proposed development will not cause a traffic hazard.

7.4. Site Suitability

- 7.4.1. A site characterisation form was submitted with the application. The report states that the site is located in an area identified as being high vulnerability on the GSI groundwater maps and over a locally important aquifer. This requires a GWP response of R2¹ under the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009) (Annex B2).
- 7.4.2. The trial hole assessment submitted by the applicant encountered bedrock at a depth of 1.10m. 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.
- 7.4.3. The report states that the percolation “T” test was undertaken for “deep subsoils”, with the result of the T test being 19.86minutes. The report concludes that the site is suitable to treat wastewater.
- 7.4.4. The Percolation “P” test for shallow soil was not undertaken, as is required by the site characterisation form. Further, I note that the trial hole was dug outside the subject site. The EPA Code of Practice is clear that the objective of a site characterisation is to obtain sufficient information from an in-situ assessment of the

site. A trial hole dug, inspected and assessed outside the site boundaries cannot be accepted as indicative of site suitability.

- 7.4.5. It is considered that the applicant has not demonstrated that the proposed development would not give rise to a significant risk of ground water pollution on the site.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and small scale of the proposed development, 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. It is recommended that the proposed development is refused for the reasons and considerations as set out below.

8.2.

9.0 **Reasons and Considerations**

- 1 Having regard to the location of the site within a structurally weak area as identified in Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and having regard to the absence of a housing need, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines for a house at this location. The proposed development, in the absence of any identified need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 2 The site is located within an area identified as a locally important aquifer with an "extreme" vulnerability classification. The trial holes were located outside the site, at a depth of 1.81 metres and not 2.1 metres, and were not subject to the correct percolation tests, as required in the Environmental Protection Agency

Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009). The Board is not satisfied that effluent from the proposed 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.

- 3 It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a substandard road at a point where sightlines are restricted in an easterly and westerly direction.

Gillian Kane
Senior Planning Inspector

12 July 2019