



An
Bord
Pleanála

Inspector's Report

ABP-304495-19

Development	Construction of a house, garage/shed and private wastewater treatment system with all associated works.
Location	Pollagh, Co. Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	19289
Applicant(s)	Jonathan O Donnell
Type of Application	Permission.
Planning Authority Decision	Grant Permission subject to conditions
Type of Appeal	Third Party
Appellant(s)	Transport Infrastructure Ireland. TII
Observer(s)	None.
Date of Site Inspection	20 th August 2019.
Inspector	Brid Maxwell

1.0 Site Location and Description

1.1. The appeal site has a stated area of 0.28ha and is located in the rural townland of Pollagh, approximately 2.5km northwest of the Galway City suburbs. The site is approximately 220m south of the N59 National Secondary Route Galway – Moycullen, and is accessed via an existing private access road which serves an existing dwelling, the site of a permitted dwelling and farmland. The access road adjoins another access road immediately to the west serving adjacent residential development. The appeal site comprises woodland and rough agricultural grazing land and adjoins to the west of the established dwelling site. The site is elevated over the N59 and an extensive wooded area adjoins to the south. The area while rural in character displays a substantial level of rural one-off housing development interspersed with farm dwellings and some commercial enterprises.

2.0 Proposed Development

2.1. The development as proposed involves the construction of a two-storey dwelling house, garage / shed and private wastewater treatment system and all associated work and ancillary services. Proposed external finish is in white render and natural stone. Gross floor area of the proposed dwelling is 211.1m² and dwelling extends to ridge height of 7m.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 Following a refusal recommendation by the reporting planner, the Director of Services issued a direction that permission should be granted on the basis of the applicant's long standing personal and family rural links to the area and use of the established access.

3.1.2 By order dated 25/4/2019 Galway County Council issued notification of its decision to grant permission and 14 conditions were attached which included the following:

- Condition 2. Occupancy condition.

- Condition 3. Details of bound macadam surface finish and surface water drainage design in respect to the junction of private access road and N59 to be agreed.
- Condition 14 Development Contribution €3,477.00 in accordance with the Development Contribution Scheme.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

Planner's report recommends refusal on grounds of conflict with policy with respect to road front developments on national secondary roads. Design and elevated location of the site and access arrangements would be detrimental to rural character and landscape.

3.2.2. Other Technical Reports

Roads report. No objection subject to agreement with regard to prevention of loose material and surface water being discharged to the N59.

3.3. **Prescribed Bodies**

Transport Infrastructure Ireland Submission deems the proposal to be at variance with official policy in relation to control of development on / affecting national roads. The proposal by itself or by the precedent which a grant of permission for its would set would adversely affect the operation and safety of the national road network.

3.4. **Third Party Observations**

None

4.0 **Planning History**

There is an extensive planning history within the landholding including the following:

Appeal Site

ABP302652-18 18/382 Application was withdrawn by the first party 25/10/2018.

This decision of Galway County Council to grant permission had been subject to appeal by Transport Infrastructure Ireland.

Adjacent Sites

13/146 Permission granted to Thomas and Jennifer O Donnell for two storey dwelling domestic garage on site sewage treatment system and all associated site works and services. Previous application on this site **12/1443** Withdrawn following request for additional information.

17/1164 Permission granted to Karen Ní Domhnaill to construct a two storey dwellinghouse, domestic garage, septic tank percolation area, associated siteworks and services. Gross floor space of proposed works. 279-25 sq.m.

12/769 Karen Ní Domhnaill Permission granted for extension of duration of permission for change of house type granted under planning ref 07/1434.

10/1089 Permission granted to Karen Ní Domhnaill for change of house type granted under 07/1434.

07/1434 Permission granted to Karen Ní Domhnaill to construct a dwellinghouse, domestic garage access road septic tank percolation area including associated site works and services.

Sites to the north fronting onto the N59

97/3519 J O Donnell Outline permission for dwelling septic tank and road access. Withdrawn.

97/3520 T O Donnell Outline permission for dwelling septic tank and road access. Withdrawn.

97/3521 K O Donnell Outline permission for dwelling septic tank and road access. Withdrawn.

5.0 Policy Context

5.1. Spatial Planning and National Roads Guidelines for Planning Authorities, Department of the Environment Community and Local Government, January 2012.

The guidelines set out planning policy considerations relating to development affecting national roads (including motorways, national primary and national secondary roads) outside the 50/60 kmph speed limit zones for cities, towns and villages. In relation to development plan policy the guidelines require that in relation to lands adjoining National Roads to which speed limits greater than 60kph apply, the policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kmh appl. This provision applies to all categories of development, including individual houses in rural area, regardless of the housing circumstances of the applicant.

5.2. Development Plan

5.2.1 The Galway County Development Plan 2015-2021 refers.

The site is located within Rural Housing Zone 1 Rural Area under Strong Urban Pressure and Zone 4 An Ghaeltacht and Landscape Category 2.

Objective RHO 9 – Design Guidelines

Objective TI 6 Protection of National Routes and Strategically Important Regional Road Networks.

“It is an objective of the Council to provide the capacity and safety of the National road Network and Strategically Important Regional Road network in the County and to ensure compliance with the Spatial Planning and National Roads Planning Guidelines (2012). Galway County Council will not normally permit development proposals for future development that include direct access or intensification of traffic from existing accesses onto ant national primary or secondary road outside the 50-60kph speed limit zone of towns and villages.”

DM Standard 18: Access to National and Other Restricted Roads for Residential Developments. *Housing need Eligibility Residential development along national roads will be restricted outside the 50-60kmp speed zones in accordance with the DoECLG Spatial Planning and National Road Guidelines 2012, Consideration shall be given to the need of farm families to live on the family landholding on a limited basis and a functional need to live at this location must be demonstrated. Where there is an existing access, the combined use of same must be considered and shown to be technically unsuitable before any new access can be considered. Access via local roads shall always be the preferred access.*

5.3. Natural Heritage Designations

5.3.1 The site is not within a designated site. Natura 2000 sites in the vicinity include:

Lough Corrib SAC c.450m to the north,

Lough Corrib SPA 1.3km North East.

Galway Bay Complex SAC 4.6km south

Inner Galway Bay SPA 5.3km South

Connemara Bog Complex SAC 7.4km west

Ross Lake and Woods SAC 7.7km north west

Gortnandarragh Limestone Pavement SAC 11.3km north west.

Connemara Bog Complex SPA 12.4km south-west

Creganna Marsh SPA 14.3km south east,

5.4. EIA Screening

5.4.1 Having regard to the nature and scale of the proposed development and to the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 The appeal is submitted by Transport Infrastructure Ireland TII. Grounds of appeal are summarised as follows:

- The proposed development relies on the use of a shared private access lane directly to the strategic N59, national secondary road, where a 100kph speed limit applies and is at variance with the provisions of official policy.
- The N59 is an important national route in the West Region providing connectivity between Galway City and peripheral coastal locations. The route has an AADT of 7,447 recorded for 2018 and is an important tourist route for the region.
- Provision of house will inevitably bring about additional vehicular movements resulting in intensification of access onto the N59.
- Proposal is at variance with national policy to preserve the level of service, safety and carrying capacity of national roads and to protect public investment in such roads and will set an undesirable precedent for similar such development.
- Inconsistent with Development Plan Policy TI 6 TI 7.
- DM Standard 18 is considered to be at variance with National Roads Guidelines which should be considered to supersede the provision of the Development Plan. In any case it is difficult to ascertain how the proposal satisfies the provisions of DM Standard 18 noting the significant number of planning proposals already granted planning permission on the landholding at this location.
- The recommendation of the Council's Planning Officer to refuse permission was subject to a direction to grant from the Director of Services which made no reference is made within this direction to the provisions of official policy outlined in the DoECLG Spatial Planning and National Roads Guidelines 2012.
- Proposal to close the existing agricultural entrance is noted however no exceptional reason has been put forward to justify a departure from standard policy and road safety considerations particularly having regard to the existing concentration of dwellings accessing the N59 at this location.
- Extensive planning history on landholding and notably TII has no formal record of referral of planning applications 07/1434 and 13/146 from Galway County Council.

- Strategic Outcome 2 of the National Planning Framework includes the objective to maintain the strategic capacity and safety of national Road network. It is also an investment priority of the National Development Plan 2018-2027 to ensure that the extensive transport network which have been greatly enhanced over the last two decades are maintained to a high level to ensure quality levels of service, accessibility and connectivity to transport links.
- The proposed development in conjunction with other development accessing the N59 at this location, by itself and by the precedent that a grant of permission would create, would endanger public safety by reason of traffic hazard due to the additional traffic including turning movements that would be generated onto the national route N59 at a point where a speed limit of 100km/h applies and would interfere with the free-flow of traffic on the road.

6.2. Applicant Response

6.2.1 The response on behalf of the first party by McCarthy Keville O Sullivan, Planning and Environmental Consultants is summarised as follows:

- Proposal is in accordance with the Development Plan and in accordance with the proper planning and sustainable development of the area.
- Applicant owns the land to which the application refers and currently resides with his parents, his wife and children in the family home on the farm holding to the north east of the application site.
- Applicant has ongoing role in the family farm and will inherit the farm holding in its entirety from his father.
- Precedent cases PL07.247556 PL2468744 and 247556 relating to cases in counties Galway, Kilkenny and Offaly
- DM Standard 18 outlines exceptions to the general restrictions for access onto national and other restricted roads.
- There will be no overall increase in traffic onto the N59 as the applicant currently resides with his parents. As the 'intensification of the existing access will be negligible there will be no corollary detrimental impact on the free flow of traffic or on road safety.

- Existing entrance satisfies DM Standard 20 in relation to sight distances required for access onto national, regional and local roads.
- Applicant is willing to close the existing agricultural access located to the north of the site thereby reducing the number of vehicular accesses. Consolidation of entrances will improve road safety, reduce the risk of collision and have no negative impact on the carrying capacity of the national secondary route.
- If permission is refused the applicant would have to reside elsewhere and commute to the location potentially intensifying vehicular movements.

6.3. Planning Authority Response

6.3.1 The Planning Authority did not respond to the grounds of appeal.

7.0 Assessment

7.1 From my review of the file, all relevant documents and inspection of the site and its environs, I consider that the main issues in this appeal can be dealt with under the following broad headings:

- Settlement Strategy
- Road safety
- Wastewater treatment and Impact on rural amenity
- Appropriate Assessment

7.2 Settlement Strategy.

7.2.1 As outlined above, the site falls within an area indicated as an area under strong urban pressure in the Galway County Development Plan and evidence of this pressure is highly visible in terms of the established pattern of settlement in the immediate vicinity. Within the Development Plan it is the Council's policy to facilitate

the rural generated housing requirements of the local rural community whilst also directing urban generated rural housing to areas zoned for new housing development in the city, towns and villages. Objective RHO1 – Rural Housing Zone 1 (Rural Area Under Strong Urban Pressure - GTPS provides at 1(a) “*Those applicants with Rural Links (defined as a person who has strong links to the rural area and wishes to build a dwelling generally within an 8km radius of where the applicant has lived for a substantial continuous part of their life) to the area through long standing existing and immediate family ties seeking to develop their first home on existing family farm holdings*”. The application details indicate that the applicant currently resides in the family home with his parents to the northeast of the appeal site. Documentation provided on the appeal file indicates a strong local connection. The applicant is a self-employed carpenter and is also involved in the day to day running of the family farm and will inherit the farm. Having assessed the submitted details I am not entirely convinced that a functional farming need to reside at this location has been demonstrated. I note that the assessment of rural links and the facilitation of rural housing is in the context of case by case analysis each individual site and the carrying capacity of the area. In this regard I note that the applicant’s brother’s house adjoins and there is an extant permission for a dwelling for the applicant’s sister adjacent.

7.2.2 In terms of the character of the area, it is evident from site visit and reviews of mapping that the appeal site is within an area of sustained pressure for random rural housing development. Whilst the site is essentially rural in nature urban pressures are very visible and as such the restricted policies of the Development Plan are entirely reasonable and consistent with national policy on the basis of the proper planning and sustainable development of the area. In my view the proposed development would exacerbate a pattern of haphazard development and increase the pattern of suburbanisation of this area.

7.3 Road Safety

7.3.1 Traffic and impact on the national road network are key issues in this case. Guidance in this regard is provided by the Spatial Planning and National Roads – Guidelines for Planning Authorities DoECLG 2012. The guidelines clearly state the

“the policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kmh apply. The provision applies to all categories of development including individual houses in rural areas, regardless of the housing circumstances of the applicant.”

7.3.2 Galway County Development Plan provides Objective T16 *“It is an objective of the Council to protect the capacity and safety of the National Road Network and Strategically Important Regional Road network in the county and ensure compliance with the Spatial Planning and National Roads Planning guidelines 2012. Galway County Council will not normally permit development proposals for future development that include direct access or intensification of traffic from existing accesses onto any national primary or secondary road outside the 50-60kph speed limit zone of towns and villages.”* DM Standard 18 refers to consideration of the need to live on the family landholding on a limited basis and the requirement to demonstrate a functional need in terms of locational justification.

7.3.3 The proposed development would clearly conflict with the requirement of national policy to preserve the level of service and carrying capacity of the national road network. I noted that at the time of inspection traffic volumes along the N59 were considerable and speeds were high. As regards the proposal to close the established farm entrance, I would concur with the view of Transport Infrastructure Ireland that this proposal does not create an exceptional reason to justify a departure from policy, particularly in light of the extent of housing development existing and permitted on this relatively small landholding. In my view the additional traffic turning movements arising from the proposed development would adversely affect the use of this national road. I consider that there are no exceptional circumstances which would warrant a deviation from official policy pertaining to development accessed from national roads. Accordingly, I am satisfied that the proposed development would conflict with national and local policy and would interfere with the carrying capacity and free flow of traffic along the N83. As regards precedent cases cited by the first party in respect of developments accessed via National Secondary Roads, I consider that it is appropriate that each case is considered on its merit having regard to the particular circumstances of the case. As regards issues raised by the third party appellant with regard to referral procedures in respect of previous applications

within the landholding I note that such procedural arrangements followed by the local authority are beyond the remit of the Board in terms of determination of the current appeal on its planning merit.

7.4 Wastewater Treatment and Impact on rural amenity

7.4.1 On the issue of wastewater treatment and disposal, it is proposed to provide a septic tank and percolation area. I note that within the trial hole excavated to 2.5m neither water nor bedrock were encountered. The soil profile as described includes a silty gravel with pebbles subsoil. A T value of 7 was recorded. Notwithstanding the apparent suitability of the site to comply with EPA Wastewater Treatment Manuals in terms of ground conditions and separation distances concerns arise regarding that the concentration of individual wastewater treatment systems in this area and potential for prejudice to public health.

7.4.2 As regards visual impact and impact on rural amenity, I consider that the proposal which extends a pattern of ad hoc uncoordinated piecemeal development within an unserviced rural area would be contrary to the sustainable rural housing guidelines and contrary to the proper planning and sustainable development of the area.

7.5 Appropriate Assessment

7.5.1 On the matter of Appropriate Assessment having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans and projects on a European site.

7.6 Recommendation

7.6.1 Having read the submissions on file, visited the site and had due regard to the provisions of the Development Plan and all other matters arising, I recommend that permission be refused for the following reasons and considerations.

Reasons and Considerations

1. The proposed development would result in the intensification of the use of an existing access onto the N59 National Secondary Road at a location where the maximum speed limit applies. The proposed development would be at variance with national policy in relation to the control of development on national roads as set out in the Spatial Planning and National Roads Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in January, 2012, which seeks to secure the efficiency, capacity and safety of the national road network. The proposed development, by itself, or by the precedent which the grant of permission for it would set for other relevant development, would adversely affect the use of a national road by traffic and would be contrary to the proper planning and sustainable development of the area.

2. The site of the proposed development is located within an “Area Under Strong Urban Influence” as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April 2005. Furthermore, the subject site is located in an area that is designated under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to 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. Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need to live in this rural area. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location. The proposed development would, therefore, be contrary to the Ministerial Guidelines and to the over-arching national policy, to the provisions of the current Galway County Development Plan 2015-2021, 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 these Ministerial Guidelines, to national policy and would be contrary to the proper planning and sustainable development of the area.

Bríd Maxwell
Planning Inspector

22 August 2019