



An
Bord
Pleanála

Inspector's Report ABP304607-19

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| Development | Change of uses of an existing boat storage shed to a domestic house, construction of a sunroom, front porch and new on-site wastewater treatment system. |
| Location | Caoran Beag, Carraroe, County Galway. |
| Planning Authority | Galway County Council. |
| Planning Authority Reg. Ref. | 19/511. |
| Applicants | M. O'Domhnaill and R. De Paor. |
| Type of Application | Permission. |
| Planning Authority Decision | Refuse. |
| Type of Appeal | First Party -v- Refusal. |
| Appellants | M. O'Domhnaill and R. De Paor. |
| Observers | None. |
| Date of Site Inspection | 6 th August, 2019. |
| Inspector | Paul Caprani. |

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1.0 Introduction

ABP304607-19 relates to a first party appeal against the decision of Galway County Council to refuse planning permission for a change of use of an existing boat storage shed to a domestic dwellinghouse together with the construction of a sunroom, front porch and new effluent treatment system on the subject site. Galway County Council refused planning permission for one reason which made reference to the backland siting of the proposed development, the congested arrangement of the development in the context of adjacent buildings, the landlocked nature of the proposal and the overlapping nature of curtilages associated with adjoining development. The single reason for refusal also made reference to the contravention of a previous condition attached to An Bord Pleanála Ref. 300108-17 and non-compliance with Objective RHO9. The appeal site is located to the south of the village of Carraroe in West County Galway.

2.0 Site Location and Description

- 2.1. The appeal site is located on the western side of a local narrow road which runs southwards from the village of Carraroe towards the coast. The site is located within the townland of Caoran Beag approximately 2.5 kilometres to the south of the village of Carraroe. Intensive ribbon development is located on both sides of the roadway in the wider area surrounding the site. The local roadway serving the site is relatively narrow but on the whole, is capable of accommodating two vehicles passing each other in opposite directions.
- 2.2. The overall site accommodates a bungalow which is the main dwelling on the subject site. To the immediate south-west of the bungalow separate living accommodation is provided in the form of a converted outhouse which appears to accommodate a one-bedroomed apartment with a small utility room and storage area to the rear.
- 2.3. Also to the rear of the existing bungalow (west) is a rectangular single-storey structure which is currently used as a boat storage shed. The boat shed is located adjacent to the rear boundary of the site and is served by a separate vehicular access which runs along the northern boundary of the site. The access serving the

existing dwellinghouse and separate one-bedroom living accommodation to the rear is located near the south-eastern corner of the subject site.

- 2.4. The boathouse to the rear is approximately 16 metres in length and just less than 10 metres in depth. It incorporates a pitched roof which rises to a ridge height of 6.65 metres. It incorporates a render finish and a tiled roof. It is this structure which is the subject of the current appeal.
- 2.5. The overall site incorporates a notable downward slope to the access route to the east. The lands to the immediate south and north of the subject site are undeveloped. There is an existing dwellinghouse directly opposite the site on the eastern side of the road.

3.0 Proposed Development

- 3.1. Planning permission is sought for a change of use from use as a boat shed to use as a domestic dwellinghouse. It is also proposed to incorporate a small sunroom on the northern elevation and a new entrance door and porch on the eastern elevation facing towards the rear of the existing bungalow on the subject site.
- 3.2. At ground floor level it is proposed to provide the main living accommodation and a one bedroom. It is also proposed to incorporate an additional floor within the attic space and this floor is to accommodate an additional three-bedrooms including a master bedroom, with en-suite and a separate bathroom. The total floor area of the dwellinghouse is estimated to be approximately 260 square metres.
- 3.3. It is proposed to provide a separate septic tank within the garden of the existing bungalow on site. The portion of the garden to the immediate north of the main dwellinghouse on site is to be cordoned off to provide a separate garden for the proposed dwelling.

4.0 Planning Authority's Decision

Galway County Council issued notification to refuse planning permission for a single reason which is set out in full below.

1. *Having regard to the following:*

- *The backland siting of the proposed residential entity.*

- *The congested arrangement of the development relative to its overall configuration with the built environment in the immediate vicinity.*
- *The landlocked nature of the proposal from a vehicular access perspective.*
- *The overlapping nature of the site with the curtilage associated with the existing adjoining development to the immediate south-west.*

It is considered that the proposed development would constitute an undesirable arrangement that does not comply with Objective RHO9 of the Galway County Development Plan 2015-2021 and which would materially contravene Conditions 1 and 4 of An Bord Pleanála permission 300108-17. The development therefore, if permitted, would constitute a disorderly and backland development, would set an undesirable precedent for similar future developments in a rural unserviced area, would seriously injure the visual amenities of the area, depreciate the value of property in the vicinity and be contrary to the proper planning and sustainable development of the area.

4.1. Documentation Submitted with the Planning Application

4.1.1. The planning application was accompanied by a completed planning application form, drawings, planning application fee etc. It is also accompanied by supporting documentation including:

- A letter stating that the applicant went to the local primary school.
- A letter from a solicitor stating that it is the applicants' intention to split the property and give the lands accommodating the dwelling in question to the applicants' son.
- Letters from local community schools stating that both applicants attended local schools.
- A letter from Goodmar Construction and the Connemara Seed Company both stating that the applicants are employed in the area.
- Details of birth certificates and details of land register portfolios.

Also submitted was a site suitability assessment and Site Characterisation Form for the location of a on-site wastewater treatment plant. It states that the site yielded T values of 19.49. It notes that an elevated bedrock level was encountered on site and therefore a raised polishing filter for the percolation area would be required. Bedrock was encountered at 1.2 metres below existing ground level.

4.2. Planning Authority's Assessment

- 4.2.1. The planner's report notes that the site is not located within a flood risk area and that due to the separation distance it is unlikely that any works carried out at the subject site would adversely affect the integrity of a European site.
- 4.2.2. In relation to sightlines, the report notes that technically the vehicular access to serve the development is unauthorised as it was not referenced in the public notice of the recent application. Nor is any access at this location apparent under this historical permission associated with the site. It is therefore considered that the proposed development is "landlocked". It notes that the proposal consumes amenity space associated with the development permitted by An Bord Pleanála.
- 4.2.3. It is acknowledged that the applicant is deemed to have intrinsic ties with the locality.
- 4.2.4. It is stated that the proposed development materially contravenes Conditions Nos. 1 and 4 of 300108-17 (see planning history below). The Planning Authority consider that the proposed development constitutes backland development and would set a poor precedent for wider residential amenity. It is on the above basis that it is recommended that planning permission be refused for the proposed development.

5.0 Planning History

- 5.1. One appeal file is attached. Under **Reg. Ref. 300108-17** planning permission was sought for the retention of a dwellinghouse, chalet and boat shed on the subject site. Galway County Council issued notification to refuse retention of planning permission for the buildings on the basis that the three outbuildings by reason of their combined size, height and design are not considered ancillary to the main dwelling on site and would therefore set an undesirable precedent for similar developments in the area.

5.2. It is also noted that the unauthorised detached structure is located in an area subject to strong urban influence which is contrary to Development Management Standard 4 in the Galway County Development Plan and to permit the same in the absence of a wastewater treatment system would seriously injure the amenities or depreciate the value of property in the vicinity and would set an undesirable precedent for similar type developments. This decision was subject to a first party appeal. The Board in its decision overruled the Planning Authority and granted planning permission for the proposed development subject to five conditions.

Condition No. 1 stated that *“the development to be retained shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by further plans and particulars submitted on 28th day of August 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 within the Planning Authority prior to commencement of development and shall be carried out and completed in accordance with the agreed particulars”*.

Condition No. 2 specifically related to the provision of a septic tank on site.

Condition No. 3 required that the chalet shall be used as ancillary accommodation in conjunction with the use of the main dwelling on site.

Reason: In the interest of clarity.

Condition No. 4 states that *“the permission is for the retention of the existing dwellinghouse, chalet and boat storage shed. This order shall not be construed as granting permission for any use other than boat storage for the said shed”*.

Reason: In the interest of clarity.

Condition No. 5 related to exempted development and stated that no development falling within Class 1 or Class 3 of Schedule 2, Part 1 for those Regulations shall be erected on site within the rear garden without a prior grant of planning permission.

Reason: In the interest of amenities of the area.

5.3. The planner’s report also notes that under **Reg. Ref. 18/1404** planning permission was refused to the current applicants for a change of use of the existing boat storage

shed and to convert it into a domestic dwellinghouse together with a new on-site wastewater treatment plant.

6.0 Grounds of Appeal

The decision was subject of a first party appeal. The grounds of appeal are outlined below.

It is considered that the Planning Authority have not considered the needs of the applicants being a young couple with a baby due in a few months. It is stated that the storage shed has been on site for nearly 20 years and therefore cannot be reasonably argued that the in-situ structure will change the landscape. It is also stated that there is over 15 metres between the main bungalow on site and the boatshed in question and this is considered to be acceptable. The building has its own access road and this is clearly shown on the site layout. The applicants are utilising an existing building to create a home for their family. The building will remain the same with the exception of the addition of a small sunroom and small front porch. The applicants will be utilising the same access which has been on-site for 20 years. The applicants have also committed to landscaping.

It is considered that the on-site wastewater treatment plant has met all EPA Guidelines.

It is stated that the applicant's father has gifted the family home to the applicant's elder brother and has left the applicant the large boathouse to convert. It is stated that there are no sites or houses for sale available and it is difficult to get planning permission for a dwellinghouse in Galway having regard to the rural housing policy. The applicant should be permitted to convert the existing building on family lands in order to address the present housing crisis. The proposal provides an opportunity to stay close to family and local areas of work etc. The applicants were born and raised in the local community.

Details of the proposed planning application form together with letters supporting the local housing need has been submitted with the grounds of appeal.

7.0 Appeal Responses

Galway County Council have not submitted a response to the grounds of appeal.

7.1. Observations

There are no observations on file.

8.0 Development Plan Provision

- 8.1. The site is governed by the policies and provisions contained in the Galway County Development Plan 2015-2021. The area is designated as an 'Area Under Strong Urban Pressure' (as per the Galway Transportation and Planning Study).
- 8.2. Carraroe and its environs are located in an area with a designated landscape value rating as 'high'. The landscape sensitivity is classed as 3 – 'medium'.
- 8.3. Development Management Standard 4 relates to family granny flats (in urban and rural areas).
- 8.4. Section 3.8.1 relates to rural areas under strong urban pressure. The key objectives of the Council is to facilitate genuine housing requirements in local rural communities subject to satisfactory site suitability and technical considerations. The plan also seeks to direct urban generated development to areas for new housing development in the adjoining urban centres (towns and villages as identified in the County Settlement/Core Strategies).
- 8.5. Objective RHO9 states that it is an objective of the Council to have regard to the Council's Design Guidelines for Single Rural Houses with specific reference to the following:
 - (a) It is an objective to encourage new dwellinghouse 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 dwellinghouse design and encouraging proposals to be energy efficient in the design and layout.

(c) It is an objective to require the appropriate landscaping and screen planting of proposed developments by using predominantly indigenous/local species and groupings.

8.6. Objective RHO11 states that it is the objective of the Council to preserve and protect the open character of transitional lands outside settlements in order to maintain a clear demarcation and distinction between urban areas and the countryside.

8.7. DM Standard 7 relates to site size for single houses using on-site wastewater treatment systems. A minimum site size of 2,000 square metres is generally required for a single house so as to provide adequate effluent treatment, parking, landscaping, open space and maintenance of rural amenity. For house sizes greater than 200 square metres, the site size shall be increased by 10 square metres for each square metre above the house area above 200 square metres. Special consideration will be given to existing houses and to proposed developments who can demonstrate rural housing need and comply with EPA Guidelines where minimum site size is not totally achievable.

9.0 **EIAR Screening Determination**

The proposed change of use does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations.

10.0 **Planning Assessment**

I have read the entire contents of the file, visited the subject site and its surroundings, have had particular regard to the planning history relating to the site, the Planning Authority's reason for refusal and the information contained in the grounds of appeal. I consider the following issues to be pertinent in determining the current application and appeal before the Board.

- Planning History
- Haphazard Backland Development
- Vehicular Access Arrangements
- Contrary to Policy RHO9

- Other Issues

10.1. Planning History

- 10.1.1. It is clear from the grounds of appeal and the planning history associated with the site that the applicant's father has gifted the main house to one son and the boat shed to the other son. All structures on site were the subject of a separate planning application for retention of planning permission under 300108-17. The application for retention of planning permission originally refused by Galway County Council and this decision was overturned by An Bord Pleanála on appeal.
- 10.1.2. The previous decision by An Bord Pleanála was explicit and unambiguous in stating in Condition No. 4 that "*this permission is for the retention of the existing dwellinghouse, chalet and boat storage shed. This order shall not be construed as granting planning permission for any use other than boat storage for the said shed*".
- 10.1.3. It is clear therefore that the Board, in overturning the previous decision of Galway County Council and granting retention of planning permission, that the grant was on the premise and proviso that the living accommodation would be restricted to the main bungalow and chalet and that the boat shed would remain as a shed and would not form part of the living accommodation. This in my view is a very reasonable stance taken by the Board for reasons which are elaborated upon below.

10.2. Haphazard Backland Development

- 10.2.1. I would fully agree with the Planning Authority that a change of use of the boat shed to living accommodation would result in disorderly backland and haphazard development. The layout, location and design of the structures which exist on site do to in my opinion lend themselves for the provision of separate living accommodation. The separation distance between the boat shed and the rear of the main dwelling at its closest point is less than 15 metres. Both structures incorporate large windows that face directly onto each other and would give rise to significant levels of overlooking. While it is proposed in the immediate term that the boat shed would accommodate a member of the landowner's family, in the longer term the residential use bestowed on the structure by way of a grant of planning permission, could be sold on to third parties where the degree of overlooking which would arise between the two buildings, would in my view be unacceptable, particularly in a rural area.

- 10.2.2. Furthermore, there is no clear demarcation between the building plots accommodating the boat shed and the existing residential bungalow. While I acknowledge that it is proposed to recreate two separate plots as defined by the red line boundary contained in the planning application, the demarcation of the separate plots would result in a very modest depth of rear garden for the existing bungalow.
- 10.2.3. Notwithstanding its overall size, it is in my view apparent that the boat shed was constructed as an ancillary and subordinate structure to the main dwellinghouse. The structure is located to the rear of the main dwelling and was constructed for the purposes of storage. The incremental change of use of outdoor storage sheds to residential accommodation would in my opinion result in haphazard residential development and would set an undesirable precedent for similar type conversions in the wider area which would in the long term give rise to significant adverse residential amenity problems.

10.3. **Vehicular Access Arrangements**

The Planning Authority have also made reference to the landlocked nature of the proposal. The vehicular access serving the dwelling comprises of a scarified track overlaid by hardcore accessing the public road at the north-eastern boundary of the site. There was no reference to the retention of the said access in the public notice in either the current case before the Board or the previous application on site (Reg. Ref. 300108-17). On the basis that the proposed entrance to serve the boathouse may be unauthorised, as suggested in the planner's report it would be appropriate in my opinion that, were the Board minded to grant planning permission for the proposed change of use, the applicant would be requested to readvertise the application specifically stating that a new access onto the public road is proposed as part of the planning application.

10.4. **Contrary to Policy RHO9**

- 10.4.1. Objective RHO9 relates to design guidelines. It states that it is an objective of the Council to have regard to Galway County Council's Design Guide for Single Rural Houses with specific reference to the following:
- (a) It is an objective to encourage new dwellinghouse design that respects the character, pattern and tradition of existing places, materials and built form and fits appropriately into the landscape.

- (b) It is an objective to promote sustainable approaches to dwellinghouse design and encouraging proposals to be energy efficient in the design and layout.
- (c) It is an objective to require appropriate landscaping and screen planting of proposed developments by using predominantly indigenous/local species and groupings.

10.4.2. Having regard to the fact that the structure is already in situ and located to the rear of the existing dwellinghouse and that the current application primarily relates to a change of use of the existing structure (with the exception of a small sunroom and porch area) I do not consider that the proposals under the current application would result in a contravention of Objective RHO9. The Board will note that the existing structures already in place and that the change of use sought under the current application will not have any material impact on the landscape. The modifications proposed under the current application in the form of an additional porch area and sunroom will not significantly impact on the character, pattern and tradition of the existing environment and will not alter the building to the extent that it does not fit appropriately into the landscape. The impact on the additional sunroom and porch on the existing structure will have a negligible impact on the character of the landscape.

10.5. **Other Issues**

10.5.1. The planner's report makes reference to the fact that the proprietary wastewater treatment plant consumes the amenity space associated with the development permitted. I note from the site characterisation form that bedrock was encountered approximately 1.2 metres below ground level. The applicant proposes to address this issue by creating a mounded polishing filter. The construction of a mounded polishing filter on a sloping site is questionable in my view particularly where there is a high concentration of septic tanks including a septic tank within the garden serving the existing dwelling and chalet. Furthermore, the planning application form states that the area of the site is 0.21 hectares whereas the gross floor area of the proposed dwelling is c.260 square metres in size according to the drawings submitted.

10.5.2. DM Standard 7 in the development plan states that the minimum site size of 0.2 hectares is generally required for a single house. For house sizes greater than 200

square metres the site size shall be increased by 10 square metres for each square metre of the house area above 200 square metres. On this basis it would appear that the site in question at 0.2 hectares would be inadequate to cater for a dwelling of the size proposed.

10.5.3. Therefore, having regard to the modest depth of soil on site, the presence of rock outcrops in the vicinity of the site, the concentration of septic tanks in the vicinity of the site and the overall size of the site which is below the requirements set out in the development plan to cater for a proprietary wastewater treatment system, I consider that the provision of an additional septic tank on the subject site could give rise to water pollution problems. I fully accept that this may constitute a new issue and therefore if the Board are minded to include it as a reason for refusal it may wish to raise the issue with the parties concerned. This this reason I have not included this issue as a reason for refusal.

11.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development which involves a change of use from a boat shed to a residential development and the nature of the receiving environment together with the proximity to the nearest European site which is located in excess of 2 kilometres away (Kilkieran Bay and Islands SAC) 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 or projects on a European site.

12.0 Conclusions and Recommendation

Arising from the assessment above I consider that the Board should uphold the decision of the Planning Authority and refuse planning permission for the proposed development based on the reasons and considerations set out below.

13.0 Reasons and Considerations

1. Taking in conjunction with existing and permitted development in the vicinity it is considered that the proposed development would give rise to random housing development and would result in an excessive density of development in a rural area lacking certain public services and community facilities. The proposed development would therefore give rise to demands for the provision of further public services and community facilities and would, therefore, be contrary to the proper planning and sustainable development of the area.

Paul Caprani,
Senior Planning Inspector.

26th August, 2019.