



An
Bord
Pleanála

Inspector's Report ABP-304725-19

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| Development | Construction of 8 houses with treatment units and all site works. |
| Location | Kilcolgan, Co. Galway. |
| Planning Authority | Galway County Council |
| Planning Authority Reg. Ref. | 1918 |
| Applicant(s) | DNCF |
| Type of Application | Permission |
| Planning Authority Decision | Grant |
| Type of Appeal | Third Party |
| Appellant(s) | Stephen O'Sullivan |
| Date of Site Inspection | 19 th September 2019 |
| Inspector | Colin McBride |

1.0 Site Location and Description

1.1 The appeal site, which has a stated area of 1.17 hectares is located in the village of Kilcolgan. Kilcolgan is located to the south east of Galway City on the N67. The site has direct road frontage on the N67, west of its junction with the N18. The site is bounded to the north and west by agricultural land. To the south is the public road (N67), beyond which is more agricultural land. To the east the site is bounded by a residential property in the south-east (appellant property, also fronting the N67) and a commercial complex comprising a restaurant, petrol filling station, retail convenience store and services, and a small business centre. This complex of premises mainly fronts the N18 public road. The site is a partly excavated area of former agricultural land, with an original field access to/from the N67 Road. The northern, western and southern boundaries of the appeal site comprise mainly low stone walls within naturally occurring hedges. The eastern boundary is less clearly defined adjoining the commercial lands, but comprises partly low block walling, some hedging and some stock piles of rubble partly obscuring the historic site boundary.

2.0 Proposed Development

2.1. Permission is sought for the construction of 8 no. two-storey dwellings with individual treatment units and percolation area, all site access roadways/footpaths and parking, site services, lighting, landscaping and a vehicular main site entrance off the N67 and all associated site works. The dwellings are two-storey detached dwellings and all approximately 213sqm in floor area. There are five house types however the designs of such are similar in all cases. The external finishes of the dwellings are a nap plaster finish on the walls with a portion of the dwellings in limestone and blue/black roof slates.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 16 conditions. The conditions are standard in nature.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

Planning report (28/02/19): Further information required including submission of an archaeological impact assessment.

Planning report (No date): The proposal was considered acceptable in the context of the proper planning and sustainable development of the area. A grant of permission was recommended based on the conditions outlined above.

3.3. **Prescribed Bodies**

TII (01/02/19): No observations to make.

Development of Culture Heritage and the Gaeltacht (11/02/19): Further information including submission of an archaeological impact assessment.

Development of Culture Heritage and the Gaeltacht (22/05/19): The archaeological impact assessment submitted was noted and it was confirmed that there were no other archaeological requirements.

3.4. **Third Party Observations**

Three submissions were received. The issues raised in the submissions can be summarised as follows...

- The issues raised included traffic impact, wastewater treatment, boundary treatment and inappropriate form of development.

4.0 **Planning History**

4.1 PL07.239559: Permission granted for a primary school, crèche, offices and medical centre with vehicular access from the N67 and pedestrian/cycle access from the N18 and all associated site services and works. This application is on the same site but included a small section of to the east to facilitate a pedestrian access from the N67

to the east of the site. This development was to be serviced from an existing wastewater treatment plant located to the east of the site.

5.0 Policy Context

5.1. Development Plan

5.1.1 The relevant Development Plan is the Galway County Development Plan 2015-2021.

Settlement Strategy is outlined under Section 2.6 of the Plan.

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

"These settlements have a population of less than 1500 persons and provide a more limited range of services to smaller hinterlands than the key towns.

Service provision often includes a range of retail and educational services but limited financial, health and community services".

5.1.2 Section 2.7 Settlement Strategy Objectives

Objective SS 6 – Development of Other Villages

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

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

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

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

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

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

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

Permit development in un-serviced areas only where it is demonstrated to the satisfaction of the Planning Authority that the proposed wastewater treatment system is in accordance with the *Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses EPA (2009)/ EPA Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels (1999) (or any superseding documents)* and subject to complying with the provisions and objectives of the EU Water Framework Directive.

5.2. **Natural Heritage Designations**

None in the vicinity.

5.3. **EIA Screening**

5.3.1 Having regard to nature of the development comprising of the construction of 8 no. dwellings and associated site works, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A third party appeal has been lodged by James Roche Consulting Engineer on behalf of Stephen O'Sullivan, Kilcolgan, Co. Galway. The grounds of appeal are as follows...

- The access to the lands in question are a traffic hazard. There is a lack of footpath linkage to the village and the traffic generated during construction and occupation would interfere with access to the appellant's property.
- The type of development proposed is not suitable at this location.
- There has been a lack of consultation regarding construction of a new boundary wall to the rear of sites no.s 6 and 7, which would impact the appellant's property.
- The appellant notes that the appeal site has been subject to poor quality fill material with a question mark regarding its suitability for the proposed 8 no. wastewater treatment system. There are existing concerns regarding overflow from an adjoining wastewater treatment system onto site no 3.
- There is a previous permission granted for the same site (larger site incorporating the appeal site) under ref no. PL07.239559 and included community development using an existing wastewater treatment plants on lands to the east. This was a more appropriate form of development and did not necessitate the need for 8 no. individual treatment plants.

6.2. Applicant Response

6.2.1 Response by the applicant DNCF Ltd.

- The level of traffic likely to be generated by the 8 houses would not create a traffic hazard and the sightline requirement of the planning authority was met (70m). The proposal would not interfere with access to the appellant's property. It is also noted that permission was previously granted on site under PL07.239559 that would generate significantly more traffic.

- The appellant does not live in a property that bounds the site and therefore there is no issue regarding a boundary wall along the appellant's property.
- There is a detailed assessment of ground conditions on the appeal site and such were deemed to be acceptable for the operation of the proposed wastewater treatment systems. The appellant is making assumptions that is not based on any technical evidence. It is note that issue of overflow from a wastewater treatment system on an adjoining site is not an issue with the ground conditions on site but the maintenance and operation of the wastewater treatment system in question.
- It is noted that the option of connecting to the existing communal wastewater treatment system is not an option. It is noted that the Council does not permit the use of such a system for residential development and that the existing wastewater treatment system adjoining the site is not currently in compliance with its discharge licence.
- The site is an appropriate location for such development and such is confirmed by the settlement strategy under the County Development Plan. The site is in close proximity to existing services within the village. The proposal is not piecemeal development and is located within an existing settlement.

6.3. **Planning Authority Response**

6.3.1 No response.

7.0 **Assessment**

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

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

Design, scale, pattern of development

Traffic

Public Health

Appropriate Assessment

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

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

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

7.3 Design, scale, pattern of development:

7.3.1 The proposal is for 8 no. detached dwellings within an existing settlement. The existing settlement is defined by existing commercial development on either side of the N67. Residential development is mainly one-off development. The appeal site is reasonably close to the core of the village and is of a scale and pattern of development that would be an acceptable expansion of the existing pattern of development of the village. Development Plan policy is supportive of additional residential development and the number and density (7 units per hectare) development would be an acceptable scale and level of development in the context of the expansion of the existing settlement.

7.3.2 The dwellings are two-storey dwellings with a pitched roof. They are located on a flat site and are in close proximity to the existing development defining the village core. I would consider the overall design and scale of the proposed dwellings would be acceptable in the context of visual amenities of the area and are of reasonable quality in terms of overall visual impact at this location.

7.3.3 Adjoining development includes commercial development to the east that fronts onto the N67 and the village core, to the south east of the site are 3 no. detached dwellings with two of these dwellings adjoining the site boundaries. The proposed dwellings are located on sizeable plots and there is sufficient separation distance between the proposed dwellings and dwellings on adjoining sites to the south east so as to have no adverse impact on the residential amenities of these existing properties.

7.3.4 The proposed development is compliant with development plan standards with each dwelling have sufficient private open space, off-street car parking and sufficient public open space on site. I would consider the design and layout of an acceptable standard in regards to the residential amenities of future residents and in context of Development Plan standards.

7.4 Traffic:

7.4.1 There is an existing vehicular access to the site off the N67 to the south of the site. It is proposed to upgrade this entrance to provide access to the 8 no. dwellings. The appeal site is just inside the 60kph urban speed limit zone for the village. This fact taken in conjunction with the available sightlines in either direction (at least 70m) would provide a satisfactory standard and be acceptable in the context of traffic safety. I am satisfied that the provisions of vehicular access at this location would have no adverse impact or obstruct the use of the appellant's entrance or any other entrance for that matter. There has been a previous proposal permitted on site (PL07.239559), for a use that would generate significantly more traffic movements than that sought in this case which entailed vehicular access from the same location. As noted above there is a sufficient level of parking provided for the dwellings on site. I am satisfied that the proposed development would be acceptable in the context of traffic safety and convenience.

7.5 Public Health:

7.5.1 It is proposed to service the proposed development with 8 no. individual wastewater treatment systems and percolation areas. There are no public sewerage facilities available in the Kilcolgan. It is notable that the previous permission granted on site under ref no. PL07.239559 proposed connection to an existing wastewater treatment system located to the east. It is noted by the applicant that this is not an option as the wastewater treatment system in question is not up to standard and that the Council favours individual wastewater treatment systems for dwellings rather than a communal system.

7.5.2 Site charcateristaion was carried out for each of the 8 dwelling sites. The appeal site is underlain by regionally important aquifer with a groundwater vulnerability of extreme. The test results for each of the 8 dwellings indicate that the water table was not detected in the trial holes (2.4m) depth. The results of T tests carried out using the standard method indicates that soil conditions on site are suitable for the

operation of the proposed wastewater treatment systems. I would note that the drawings submitted are deficient in that they fail to show wastewater treatment systems on adjoining sites. Notwithstanding such the size of the overall site and size of the individual plots and the proposed layout of the wastewater treatment system is likely to provide adequate separation distances in accordance with the EPA Code of Practice.

7.5.3 The Development Plan settlement strategy and designation of settlements such as this for additional housing is to provide an alternative to rural housing. The existing settlement is deficient in wastewater treatment facilities and the connection to an existing system on adjoining lands does not appear feasible as it was in the case of previously permitted development on the site. Development Plan policy does allow for the provision of wastewater facilities serving residential development in settlements such as this. Notwithstanding this fact, the proposal entails the provision of 8 no. individual wastewater treatment systems. I would consider that the provision of this level of individual wastewater treatment systems would give rise to an over proliferation of such systems at this location and would be undesirable arrangement that fails to provide a viable urban alternative to rural housing which is also dependent on individual wastewater treatment systems. I would consider that the over proliferation of such wastewater treatment systems would be prejudicial to public health and be contrary to the proper planning and sustainable development of the area.

7.6 Appropriate Assessment:

7.6.1 Having regard to the nature and scale of the proposed development and its 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 or projects on a European site.

8.0 Recommendation

8.1. I recommend a refusal of permission based on the following reasons.

9.0 Reasons and Considerations

1. The proposal entails development within a settlement that is deficient in term of public wastewater treatment facilities with the proposal providing for 8 no. individual wastewater treatment systems and associated percolation areas. The provision of this level of individual wastewater treatment systems would give rise to an over proliferation of such systems at this location and would be an undesirable arrangement. The over proliferation of such wastewater treatment systems would be prejudicial to public health and be contrary to the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

23rd September 2019