



An
Bord
Pleanála

Inspector's Report

ABP-304736-19

Development	Demolition of a house and the construction of 30 no. houses.
Location	Lakeview, Claregalway, Co. Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	19481
Applicant(s)	DWK Ltd
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	Third Party
Appellant(s)	DWK Ltd
Observer(s)	(1) Peadar & Bernadette Conroy. (2) Paul Harty. (3) Hubert Newell. (4) Lakeview Residents Association. (5) Claregalway Community Centre.
Date of Site Inspection	20 th September 2019

Inspector

Colin McBride

1.0 Site Location and Description

- 1.1 The appeal site, which has a stated area of 2.082 hectares, is located at Lakeview to the south east of Claregalway village centre. Claregalway or Baile Chláir is located approximately 10 kilometres northeast of Galway City, within the County Galway Gaeltacht. The village is situated where the N83 (formerly N17 Galway to Sligo Collooney) crosses the River Clare and is also at the junction with the R381 (formerly N18) Galway to Limerick. The village takes a linear form stretching from north of the Clare River to south of the N83/R381 junction. Claregalway in the past twenty years has seen notable flooding from the River Clare, Recent works by the OPW included drainage works to alleviate flooding including a new bridge. The northern extremity of the village comprises an ecclesiastical cluster with the castle and the remains of the Franciscan friary, a graveyard and the remains of the medieval parish church providing an impressive backdrop for the village on the banks of the Clare River.
- 1.2. The appeal site comprises a single dwelling house site, occupied by a bungalow type dwelling and adjoining lands to the rear. According to the application details these undeveloped lands to the rear were formerly used as a soccer pitch and latterly were partly occupied by a sewage treatment plant and raised percolation area serving the Cúirt na hAbhainn estate. The systems were decommissioned when the Cúirt na hAbhainn development connected to the upgraded foul sewer. Site boundaries are defined by a mix of walling, fencing and block and stone walling with a high ball net located adjacent to the southwestern boundary and there are also a number of spoil heaps on the site. Vegetation on the northern part of the site is indicative of wet conditions / flooding. A gateway access to the lands is provided from Lakeview road to the southeast. Topographical survey of the site shows the ground levels of the site to be typically 9.75 to 13.75mOD falling from southeast to northwest.
- 1.3. The Cúirt na hAbhainn housing development adjoins to the northwest of the appeal site whilst low density single dwelling sites back onto the appeal site from the

southeast with a dwelling and farm buildings to the north east of the Lakeview road frontage of the site. The grounds of Claregalway GAA club and Claregalway Community Centre are located to the west and southwest respectively. Within the wider area, the recently constructed Coláiste Baile Chláir Post Primary School is located to the southwest and the Claregalway Business Park, to the south-west of this. Notably Lakeview Road in the vicinity of the school site has been subject to significant road improvements with a signal controlled junction with the R381 and footpath and cycle lanes.

2.0 Proposed Development

2.1. Permission is sought for the demolition of 1 no. single-storey house and the construction of 30 no. two-storey houses consisting of:

20 no. four bedroom semi-detached houses, 2 no. three bedroom detached houses, and 1 no. two bedroom mid-terrace houses together with associated landscaping, site works and services. Vehicular access to the proposed development will be via Lakeview Road.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on two reasons...

1. The site is located in an area zoned R-Residential Phase 2 in Variation No. 2(b) in the Galway County Development Plan 2015-2021 Gaeltacht Plan. It is an objective of Development Plan UHO 10-Sequential Development to endeavour to promote the orderly and phased development of residential lands in accordance with the principles of the sequential approach and as set out in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) May 2009. This shall include a positive presumption in favour of the sequential development of suitable serviced (Phase 1) lands in zoned towns and villages. Furthermore, on the basis of information included with the planning

application, the proposed development of new housing on Residential (Phase 2) lands in Claregalway would be contrary to Objective DO 1 of the Gaeltacht Plan. It is considered the proposed development would be contrary to the said objectives, and to the Core Strategy, would set an undesirable precedent for similar development in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Development of the type and scale proposed would be premature pending the upgrading of the road network, in particular the L71109, in the immediate area to serve the proposed development, which is currently deficient in terms of its width and alignment, rendering it unsuitable to carry the increased road and pedestrian traffic likely to result from the proposed development. The proposed development would, therefore, be contrary to the proper planning and development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (24/05/19): The proposal was contrary to the Development Plan policy and the sequential approach to developing residential zoned lands and the Core Strategy under the County Development Plan. The public road providing access to the site was considered to be deficient in terms of width and alignment and the development premature pending its upgrade. Permission was refused based on the reasons outlined above.

3.3. Third Party Observations

20 submissions were received. The issues raised in these submissions can be summarised as follows...

- Premature due to location on Residential Phase 2 Lands, inappropriate pattern and scale of development, traffic impact, flooding impact.

4.0 Planning History

4.1 ABP-300252-17(17/1082): Permission refused to demolish 1 no. existing single-storey house and construct 31 no. 2-storey houses with associated landscaping, site works & services. Refused based on one reason...

1. The site is located in an area zoned R – Residential Phase 2 in Variation No. 2(b) in the Galway County Development Plan 2015-2021 Gaeltacht Plan. It is an objective of the Development Plan UHO 10 – Sequential Development to endeavour to promote the orderly and phased development of residential lands in accordance with the principles of the sequential approach and as set out in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) May 2009. This shall include a positive presumption in favour of the sequential development of suitable serviced (Phase 1) lands in zoned towns and villages. This objective is considered reasonable. It is considered that the proposed development would be contrary to the said objective, and to the Core Strategy, would set an undesirable precedent for similar development in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

4.2 15/1168 Application for residential development of 31 houses accessed through the Cúirt na hAbhainn development. Withdrawn prior to determination.

4.3 98/4294 Refusal 30th January 2001 of permission for 42 dwelling houses including roads and all services. Two main grounds for refusal were as follows:

“The site is located along and takes its access from a minor public roadway which has limited width and capacity and which serves a community centre and a number of residences, and the traffic which would be generated by the development would create serious traffic congestion and would injure the residential amenity of houses in the vicinity. The proposed development would therefore be contrary to the proper planning and development of the area.

The proposed development would be premature pending the completion of an Action Area Plan for Claregalway Village.”

Site in the vicinity.

- 4.4 ABP300328 (17/1038) Permission granted for A) a new 2 storey 3,889 sq.m extension to the existing post primary school, Coláiste Bhaile Chláir including a 2 classroom special needs unit and sports hall with ancillary pupil and staff facilities, B) a new Claregalway Educated Together National School consisting a new 2 storey 16 classroom 3, 064 sq.m primary school with a 2 classroom special needs unit including all ancillary courts and hard and soft play areas.

5.0 Policy Context

5.1. Development Plan

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

The Galway County Development Plan 2015-2021 refers. Claregalway (Baile Chláir) is designated as a Tier 5 settlement within the settlement strategy.

- The Core Strategy in tabulated format on p45 sets out population growth allocation 2015-2021 wherein Claregalway has a projection of 245 persons.
- Variation no 2(b) to the Galway County Development Plan 2015-2021 – Gaeltacht Plan which includes the Settlements of An Cheatruú Rua, An Spidéal and Baile Chláir. The Claregalway Local Area Plan 2005-2011 had expired and at the time of the decision of Galway County Council. The land use zoning objective pertaining to the main body of the site is R – Residential (Phase 2) with northern strip zoned Open Space Recreation and Amenity.

R2: Phase 2 Residential - Objective is *“to protect, provide and improve residential amenity areas.”*

“To facilitate for the provision of high quality new residential development at appropriate densities with layout and design well linked to the village centre and community facilities. Phase 2 residential is generally not developable during the lifetime of this plan subject to the provisions below

- Single house developments for family members on family home lands

- *Non-residential developments that are appropriate to the site context, any existing residential amenity and the existing pattern of development in the area;*
- *Where it is apparent that R-Residential (Phase 1) lands cannot or will not be developed within the plan period, residential development maybe considered in a phased manner on some residential (Phase 2 lands)”*

Objective UHO10 – Sequential Development notes “a positive presumption in favour of the sequential development of suitably serviced Residential (Phase 1) lands in zoned towns and villages.... Regarding phasing of undeveloped residential zoned land, development on Residential – Phase 2 lands will normally only be considered where 50% of the lands in Residential Phase 1 are committed to development.”

- Flood Risk Management Map indicates that the main body of the site is located in Flood Zone C with a small northern part of the site located within Indicative Flood Zone B.
- DM Guidelines CSB 2 – Development Densities. Within Zone R Plot Area Ratio 0.10 to 0.50 PAR, Maximum Site Coverage of 50% and Minimum Public open space 15%. Low residential density 5-15 units / ha identified as possibly appropriate on urban periphery, outlying lands, areas with capacity / environmental constraints.
- DM Guideline CSB 233 – Flood Zones and Appropriate Land Uses.

Objective DO 2-Language Enurement Clause for Two or More Houses in An Cheathrú Rua, An Spidéal and Baile Chláir

(b) A Language Enurement Clause will be applied on a portion of residential units in development of two or more units in Baile Chláir. The proportion of homes to which a language enurement clause will be a minimum of 20% or to the proportion of persons using Irish Language on a daily basis, in accordance with the latest published Census whichever is greater.

5.2. Natural Heritage Designations

Designated sites in the vicinity include:

- Lough Corrib SAC 280m to the north and east of the site.

- Lough Corrib SPA 5km.
- Galway Bay Complex SAC 6.5km.
- Inner Galway Bay SPA 7km.
- Creganna Marsh SPA 9km.

5.3. EIA Screening

5.3.1 Having regard to nature of the development comprising of the construction of 30 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 McCarthy Keville O'Sullivan Ltd on behalf of DWK Ltd. The grounds of appeal are as follows...

- It is noted under Objective DO 1 there are exceptions for the development of Residential Phase 2 Lands including where Residential Phase 1 lands cannot or will not be developed. The appellants have carried out an assessment of Residential Phase 1 lands in the current Gaeltacht Plan. The appellant identified five sites with 3 having constraints such as access and the other two having no planning history.
- It is noted there is an identified need for 100 dwellings in Claregalway for the period of 2015-2021 with no dwellings provided to date on the lands zoned Residential Phase 1. It is noted that national and regional policy (National

Planning Framework Draft Regional Spatial and Economic Strategy for Northern and Western Regional Assembly) identified the Galway Metropolitan Area (including Clargalway) as having increased population projections and that the current Core Strategy is at variance with national regional policy.

- It is noted that there is a probability that no housing development will take place on the Residential Phase 1 Lands during the life of the Development Plan and that development of the Phase 2 Lands should be considered. It is also noted that Claregalway has existing wastewater treatment facilities with sufficient capacity.
- It is noted that L71109 is a semi-rural cul-de-sac and is low speed environment with low traffic movements. It is considered that a shared surface approach with appropriate signage should be considered and would be in accordance with Traffic Management Guidelines and DMURS.
- Sightline availability is in accordance with the recommendations of DMURS. A Stage 1 Road Safety Audit has been submitted.
- A Traffic and Transport Report has been submitted in support of the appeal.

6.2. Planning Authority Response

No response.

6.3. Observations

Observation has been submitted by...

Peadar & Bernadette Conroy, Lakeview Village, Claregalway, Co. Galway.

Paul Harty, Woodbury, Lakeview, Clareglaway, Co. Galway.

Hubert Newell, Lakeview, Claregalway, Co. Galway.

Lakeview Residents Association.

Claregalway Community Centre.

The issues raised in the observations are similar in nature and can summarised as follows...

- Previous refusal for similar development on site in recent past with no change in circumstances that would merit a change in approach to proposed development on site.
- The site is unsuitable for residential development and is subject to flood risk.
- The existing public road is deficient in terms of width and pedestrian facilities to cater for the increase in traffic proposed in addition to the additional traffic generated by the existing school and its future school development.
- The site is zoned Phase 2 Residential with land zoned Phase 1 residential undeveloped in the area and would be contrary Development Plan policy.

7.0 Assessment

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

Development plan policy.

Design, scale, layout, development control objectives.

Flood risk.

7.2 Development Plan policy:

7.2.1 The appeal site is located in Claregalway, which is a tier 5 note settlement. The settlement is one of the settlements in the Gaeltacht Plan includes Ceathrú Rua, An Spidéal and Baile Chláir which has been adopted as variation 2(b) to the Galway County Development Plan 2015-2021. The Galway County Development Plan places a significant emphasis on phased sequential development to address overzoning and environmental constraints. Objective UHO10 – Sequential Development notes “a positive presumption in favour of the sequential development of suitably serviced Residential (Phase 1) lands in zoned towns and villages....

Regarding phasing of undeveloped residential zoned land, development on Residential – Phase 2 lands will normally only be considered where 50% of the lands in Residential Phase 1 are committed to development.”

7.2.2 At 2.2 of Variation No 2 Land Use Zones it is stated that “Phase 2 residential is generally not developable during the lifetime of this plan subject to the provisions below

- *Single house developments for family members on family home lands*
- *Non-residential developments that are appropriate to the site context, any existing residential amenity and the existing pattern of development in the area;*
- *Where it is apparent that R-Residential (Phase 1) lands cannot or will not be developed within the plan period, residential development may be considered in a phased manner on some residential (Phase 2 lands)”*

7.2.3 Permission was previously refused for 31 dwellings on this site under ref no. ABP-300252-17 on the basis that there was no justification for an advance on Phase 2 lands. In this case the proposal is for similar development albeit reduced to 30 dwellings. The appellants have provided an analysis of Phase 1 residential lands within the settlement and have identified 5 sites. It is noted that none of the Phase 1 lands identified have been developed with three of the site constrained by access restrictions and no proposals forthcoming on the other two. The appellants are of the view that exceptional circumstances do exist on the basis of the constraints on the existing Residential Phase 1 Land noting the last provision of 2.2 of Variation No 2 Land Use Zones.

7.2.4 I do not consider that the exceptional provisions arise in the current appeal with a significant level of Phase 1 lands still available for development. The applicant has indicated that some of these lands have constraints to their future development, however have not ruled out the ability of all of such lands to facilitate future residential development. Given the adoption of variation no 2 and the significant amount of phase 2 lands in Claregalway (Residential Phase 2 lands 24ha

Residential Phase 1 7.12ha), I consider that a grant of permission would be contrary to the sequential approach and the core strategy, would set an undesirable precedent undermining the phasing provisions as set out in the Development Plan. In this regard I consider that the proposal would materially contravene the objectives of the Development Plan and would be contrary to the proper planning and sustainable development of the area.

7.3 Design, scale, layout, development control objectives:

7.3.1 The proposal entails demolition of an existing dwelling which is of no particular architectural merit. The demolition of such to facilitate the development of the lands for residential purposes is acceptable. As regards density, the proposal equates to 15 units per hectare which would be considered low however in the context of the character of development in the vicinity and having regard to the environmental and site constraints posed particularly in terms of the location of a portion of northern part of the site within flood zones A and B a lower density approach would be considered appropriate.

7.3.2 The proposed development is for 30 no. two-storey dwellings, which are mainly semi-detached dwellings apart from 3 no. detached dwellings and 3 no. terraced dwellings. The overall layout is determined by the fact that the northern portion of the site is located within Flood Zones A and B. The overall design and layout is a fairly typical suburban layout and would not be out of character or context alongside existing suburban development within this settlement. The proposed development would also meet all development control standards set down under the County Development Plan for public open space, private open space and car parking. There is landscaping plan for the open space area and the provision of a 2m wide footpath and cycle path linking the development to the Cuir Na hAbhann development located to the north. The lack of detail regarding landscaping and the linkages to adjoining development/permeability were criticisms of the previous proposal on site under ref no. ABP-300252-17.

7.3.3 I would consider that subject to adequate landscaping provisions that the proposal is acceptable in regards to its visual impact and is acceptable in regards to overall design and quality in terms of development control standards and residential amenity.

7.4 Traffic:

7.4.1 Permission was refused on the basis that the proposed development would be premature pending the upgrading of the road network, in particular the L71109, in the immediate area to serve the proposed development, which is currently deficient in terms of its width and alignment, rendering it unsuitable to carry the increased road and pedestrian traffic likely to result from the proposed development. I note that the Road Safety Audit was submitted and identified three key problems namely the absence of public lighting in the pedestrian only link to the housing estate to the north, provision of visibility splays at the public road access on the cul de sac which are commensurate with the operational speed of the road and the safety of pedestrians on the cul de sac given the absence of separate cycle lanes / footpaths. The designer's response indicates the intention to provide for public lighting and to provide sightlines compliant with DMURS to exceed the operational speed of the road which is in the order of 30kph. It is noted that a sight distance in the order of 50 metres is readily achievable.

7.4.2 A Traffic and Transportation Assessment was submitted which includes details of traffic surveys, trip generation, junction capacity assessment and modelling. The assessment relates to the junction of N18 and Lakeview Road west of the site). It is noted that development traffic will make up less than 1% of traffic passing through the N18 junction with Lakeview Road. It is noted that the road serving the site is a low speed environment with a design speed of 30kph and that sightlines in compliance with DMURS (50m) are available). It is concluded that traffic levels generated by the proposed development would have negligible impact in terms of traffic safety.

7.4.3 As regards traffic on the Lakeview Road cul de sac, the low volume of vehicular traffic is noted and hence it is asserted that the risk to pedestrians and vulnerable road users is low. I would accept these arguments regarding the low speed environment and low traffic volumes and I consider it reasonable to conclude that the risk is low. It should be noted that the Lakeview Road has been recently significantly improved in the vicinity of Coláiste Baile Chlair and these road improvements including carriageway resurfacing, the provision of footpaths and cycle lanes and the application of a 60kph zone provides significant benefit to the wider area.

7.4.4 As regards the impact of the proposal on the local road network, I consider that it has been demonstrated based on the scale of the proposal that the impact associated with the development based traffic will be negligible. The current proposal includes a footpath/cycleway link between the development and adjoining housing development to the north, which aids permeability and linkages to the centre of the village. I would note that the previous proposal (ABP-300252-17) on site was refused purely on the grounds of its status as Phase 2 residential lands and the sequential approach and was not ruled out on the basis of traffic grounds. I can see no reason to assess the current proposal differently in regards to traffic impact.

7.5 Flood risk:

7.5.1 The Flood Risk Assessment Study completed by Hydro Environmental Ltd. which accompanied the planning application considered potential sources of flood risk to the subject site being fluvial flooding from the Clare River and potentially groundwater from two turloughs that form in the Lakeview / Cúirt na hAbhainn area and Corporate Park which can under extreme flood conditions, brought about by high flood waters in the River Clare, inundate these lands. The higher turlough in the corporate park drains to the lower turlough via a narrow neck located at the GAA pitch. CFRAM mapping shows the site to be generally in flood zone C whilst the northern part of the site is within flood zone A and B. It is noted that a flood relief scheme for Claregalway has been recently completed.

7.5.2 The majority of the development site and in particular the area for the residential units and the internal roads are within flood zone C (low probability of flooding). The majority of the open space area to the north and the majority of footpath/cycleway connecting to Cúirt na hAbhainn are located within Flood Zone A and B. Regarding the portion of the proposed green space areas in flood zone A and B it is asserted that such features are less vulnerable development and water compatible. It is noted that the green space is generally of a higher elevation than the neighbouring Cúirt na hAbhainn estate road and path levels and will function as usable green space.

7.5.3 As regards the justification test it is noted that the proposed development footprint site lands are zoned residential (phase 2) in the adopted Variation 2b to the Galway County Development Plan Gaeltacht Plan. I note that a strategic Flood Risk Assessment was undertaken alongside the preparation of the variation in accordance with “The Planning System and Flood Risk Management Guidelines for Planning Authorities” ((DEHLG and OPW 2009).

7.5.4 The Flood risk assessment asserts that the proposed finished floor level of 12m OD provides a minimum freeboard of 700mm over the estimated 1000-year flood level which represents the future 100 year plus climate change allowance. Unlike the previous proposal on site the estate road does not encroach into Flood Zone B and is in entirety in Flood Zone C.

7.5.5 On the basis of the mitigation outlined it is asserted that the proposed development will not exacerbate flooding elsewhere and will not require any significant infill of flood plain lands and will not obstruct any potential flood pathway or access to any flood defences or drainage features. It is noted that the flood relief scheme for the area is now complete and such was not completed at time of the previous application on site. On the basis of the details submitted, I consider that the design measures outlined appropriately mitigate flood risk.

7.6 Appropriate Assessment:

7.6.1 An AA Screening Report prepared by Eire Ecology identifies the Natura 2000 sites potentially affected. The Lough Corrib SAC (Site Code 00297) is located approximately 280m to the east of the site. No direct impacts arise. Any significant change in river quality of the River Clare and Lough Corrib (8km downstream) either alone or in combination with other project or plans because of indirect pollution of groundwater is unlikely given the distance and lack of source pathway receptor. Other Natura 2000 sites including the Lough Corrib SPA, Galway Bay Complex SAC, The Inner Galway Bay SPA and Creganna Marsh SPA are screened out based on distance and lack of source pathway receptor. It is reasonable to conclude that on this basis of the information on the file, which I consider adequate to issue a screening determination that the proposed development, individually or in combination other pans or projects is not likely to have significant effect on the Lough Corrib SAC or any other European sites in view of the site's conservation objectives and a Stage 2 Appropriate Assessment and submission of an NIS is not therefore required

8.0 Recommendation

8.1. I recommend refusal based on the following reason.

9.0 Reasons and Considerations

1. The site is located in an area zoned R – Residential Phase 2 in the Galway County Development Plan 2015-2021 Variation No 2b Gaeltacht Plan. It is an objective of the Development Plan UHO 10 – Sequential Development to endeavour to promote the orderly and phased development of residential lands in accordance with the principles of the sequential approach and as set out in the Sustainable Residential Development in Urban Areas (Cities Towns and Villages) Guidelines 2009. This shall include a positive presumption in favour of the sequential development of suitable serviced (Phase 1) lands in zoned towns and villages. This objective is considered reasonable. It is considered that the proposed development would be contrary to the said objective, and contrary to the Core Strategy, would set an undesirable precedent for similar such development in the vicinity and would thus be contrary to the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

20th September 2019