



An
Bord
Pleanála

Inspector's Report

ABP-304935-19

Development	Construction of a single-storey dwelling, septic tank, and treatment system
Location	Drumacoo, Kilcolgan, Co Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	19652
Applicant(s)	Mairead Collins
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Mairead Collins
Observer(s)	None
Date of Site Inspection	25/09/2019
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1.1. The subject site is located on the northern side of a narrow country road, approx. 3km west of the south Galway village of Kilcolgan. The wider area is very rural, with agricultural land & farmhouses and one-off-housing. The lane is approx. 3m wide and is bound on both side by hedgerows. To the immediate east of the subject site is a farmhouse and farm yard.

2.0 Proposed Development

- 2.1. On the 13th May 2019, planning permission was sought for the construction of a single storey dwelling of (111.6sq.m.) served by a septic tank treatment system, on a site of 0.28ha. The application was accompanied by a site characterisation form and a rural housing needs application form.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 24th June 2019, the Planning Authority issued a notification of their intention to REFUSE permission for the following reason:
- 1 The site is located in a rural area within a Class 3 landscape category area of the County and which is subject to strong urban influence as identified in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage, and Local Government in April 2005. Furthermore, Objective RHO3 of the 2015-2021 Galway County Development Plan sets out qualifying criteria for those with a genuine rural generated housing need seeking to construct a house within this area. In this instance, the documentation submitted with the planning application is insufficient and tenuous in terms of satisfying the housing need criteria set out in the Galway County Development Plan or Sustainable Rural Housing Guidelines for a house at this location. The proposed development would therefore if permitted, exacerbate and contribute to the pattern of haphazard, one-off urban-generated housing in the vicinity of the site, contrary to the provisions of the Guidelines, would lead to demands for the uneconomic provision of further public services and community facilities in the area. Accordingly, to grant the proposed development would contravene materially

an objective contained in the County Development Plan, would be contrary to Ministerial Guidelines issued to the Planning Authorities under section 28 of the Planning and Development Act 2000, as amended and the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

- 3.2.1. **Planning Report:** Sightlines available. Site suitable for drainage. Design of proposed dwelling is in accordance with Galway rural design guidelines. Applicant owns a dwelling in Drumacoo Kilcolgan. Existing dwelling house to the immediate east shows Mairead Collins (applicant) of 8 Gaelcarrig Park, Newcastle, Galway to be the joint owner. Applicant does not comply with Objective RHO3. Permission should be refused.

3.3. **Third Party Observations**

- 3.3.1. An observation was made to the Planning Authority by the owner of the “farmyard adjacent to the wall of the site”.

4.0 **Planning History**

- 4.1.1. Planning Authority reg. ref. 00/2312: Outline planning permission granted to Margaret Forde for dwellinghouse and septic tank.

5.0 **Policy Context**

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

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

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

5.2.1. **National Policy Objective 19:** Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.3. **Sustainable Rural Housing Guidelines for Planning Authorities**

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

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

5.3.2. According to Map 1 Indicative Outline of NSS Rural Area Types the subject site is located in an area which is classified as being an **Area under Strong Urban Influence**.

5.3.3. The guidelines stress that development driven by cities and larger towns should generally take place within their built-up areas or in areas identified for new development through the planning process. Appendix 3 of the Guidelines state that the key development plan objectives in these areas should be on the one hand to facilitate the housing requirements of the rural community as identified by the planning authority in the light of local conditions while on the other hand directing urban generated development to areas zoned for new housing development in cities, towns and villages in the area of the development plan. In addition, policies will also normally include references to:

- The types of situations considered as constituting rural generated housing,
- Measures that will be put in place to facilitate the availability of an appropriate level of housing options in smaller settlements for other housing requirements,
- The criteria that will be applied by the planning authority generally in assessing rural generated housing proposals e.g. in relation to evidence of an applicant's links to the area in question, and
- The measures to be adopted to ensure that development permitted to meet the requirements of those with links to the rural community continues to meet the requirements for which it was permitted.

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

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

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

5.4.1. The subject site is located in an unzoned rural area which is designated in the development plan as being a Rural Area under Strong Urban Influence. Section 2.6.7 of the plan states that such areas exhibit characteristics such as proximity to the immediate environs or close commuting catchment of Galway City, rising

population, evidence of considerable planning pressure for development of housing due to proximity to such urban areas or to major transport corridors with ready access to the urban area, and pressures on infrastructure such as the local road network.

- 5.4.2. Section 2.6.7 of the development plan states that development in the un-serviced countryside requires careful management, in order to balance the need to revitalise and support communities, while ensuring the overall sustainable development of these areas.
- 5.4.3. **Objective SS8** refers to the Development of Rural Communities and states that Galway County Council shall recognise the important role of rural communities to the sustainable development of County Galway and shall ensure the careful management of development in these areas, having due regard to the relevant policies and objectives set out elsewhere in the plan.
- 5.4.4. With regard to rural housing, the development plan states that it is important to distinguish between rural generated housing and urban generated housing demand. Rural generated housing is defined by the NSS, as housing needed in rural areas within the established rural community by people living and working in rural areas or nearby urban areas. Urban generated housing demand is defined as housing in rural locations sought by people living and working in urban areas, including second homes. With regard to urban generated housing demand in the open countryside, the NSS indicates that development driven by urban areas should take place, as a general principle, within the built-up areas and on lands zoned through the Local Area Plan process, for integrated, serviced and sustainable development. The NSS also acknowledges that some persons from urban areas seek a rural lifestyle with the option of working in or travelling to and from, nearby larger cities and towns. Smaller towns and villages are seen as having a key role in catering for these types of housing demand in a more sustainable manner. These distinctions are necessary to ensure that first and foremost the housing requirements of persons with roots or links in rural areas are facilitated and that objectives respond to local circumstances whether these relate to areas experiencing economic and population decline or to areas under substantial urban generated pressure for housing. The Galway County Development Plan requires applicants in the GTPS area to submit housing

and local need criteria.

5.4.5. Section 3.8.1 of the development plan states that the key objectives of the Council are: • To facilitate the genuine housing requirements of the local rural community (rural generated housing), subject to satisfactory site suitability and technical considerations; • To direct urban generated development to areas for new housing development in the adjoining urban centres, town and villages as identified in the County Settlement/Core Strategies; • To accommodate residential development proposals in accordance with Chapter 13 (Development Management Standards and Guidelines).

5.4.6. **Objective RHO 3-**

5.4.7. **Objective RHO 1 - Rural Housing Zone 1** (Rural Area Under Strong Urban Pressure-GTPS). It is an objective of the Council to facilitate Rural Housing in the open countryside subject to the following criteria:

1.(a) Those applicants with Rural Links* to the area through long standing existing and immediate family ties seeking to develop their first home on existing family farm holdings. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis.

OR 1.(b) Those applicants who have no family lands but who wish to build their first home within the community in which they have long standing Rural links* and where they have spent a substantial, continuous part of their lives i.e. have grown up in the area, schooled in the area and have immediate family connections in the area e.g. son or daughter of longstanding residents of the area. Consideration shall be given to special circumstances where a landowner has no immediate family and wishes to accommodate a niece or nephew on family lands. Having established a substantiated Rural Housing Need*, such persons making an application on a site within a 8km radius of their original family home will be accommodated, subject to normal development management criteria and provided the site does not encroach into the Urban Fringe* of the towns of Gort, Loughrea, Athenry or Tuam.

Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis. OR 1.(c) Those applicants who can satisfy to the Planning Authority that they are functionally dependent on the immediate rural areas in which they are seeking to develop a

single house as their principal family residence in the countryside. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis. OR 1.(d) Where applicants can supply land registry or folio details that demonstrate that the lands on which they are seeking to build their first home, as their permanent residence, in the area have been in family ownership for a period of 20 years or more, their eligibility will be considered. Where this has been established to the satisfaction of the Planning Authority, additional intrinsic links will not have to be demonstrated. OR 1.(e) In cases where all sites on the family lands are in a designated area, family members will be considered subject to the requirements of the Habitat's Directive and normal planning considerations 2.(a) Those applicants who lived for substantial periods of their lives in the rural area, then moved away and who now wish to return and build their first house as their permanent residence, in this local area. Special consideration will be given to one member of the immediate family of emigrants returning to this local area to live near their immediate family. Documentary evidence shall be submitted to the Planning Authority to illustrate their links to the area in order to justify the proposed development and it will be assessed on a case by case basis. 2.(b) To recognise that exceptional health circumstances, supported by relevant documentation from a registered medical practitioner and disability organisation, may require a person to live in a particular environment or close to family support. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis. 3. An Enurement condition shall apply for a period of 7 years, after the date that the house is first occupied by the person or persons to whom the enurement clause applies.

5.4.8. Objective RHO 3 - Rural Housing Zone 3 (Landscape Category 3, 4 and 5)

Those applicants seeking to construct individual houses in the open countryside in areas located in Landscape Categories 3, 4 and 5 are required to demonstrate their Rural Links* to the area and are required to submit a Substantiated Rural Housing Need*. In addition an Applicant may be required to submit a visual impact assessment of their development, where the proposal is located in an area identified as "Focal Points/Views" in the Landscape Character Assessment of the County or in Class 4 and 5 designated landscape areas. Documentary evidence shall be

submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis. An Enurement condition shall apply for a period of 7 years, after the date that the house is first occupied by the person or persons to whom the enurement clause applies.

***Rural Links:** For the purpose of the above is 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.

***Substantiated Rural Housing Need:** Is defined as supportive evidence for a person to live in this particular area and who does not or has not ever owned a house/received planning permission for a single rural house or built a house (except in exceptional circumstances) in the area concerned and has a need for a dwelling for their own permanent occupation. In addition the applicants will also have to demonstrate their rural links as outlined above

- 5.4.9. **Objective RHO 9 - Design Guidelines:** It is an objective of the Council to have regard to Galway County Council's Design Guidelines for the Single Rural House with specific reference to the following: a) It is an objective to encourage new dwelling house design that respects the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape; b) It is an objective to promote sustainable approaches to dwelling house design and encouraging proposals to be energy efficient in their design and layout; c) It is an objective to require the appropriate landscaping and screen planting of proposed developments by using predominately indigenous/local species and groupings.

5.5. **Natural Heritage Designations**

- 5.5.1. The subject site is less than 2km from the Inner Galway Bay SPA, the Galway Bay Complex SAC and the Lough Fingall Complex SAC.

5.6. **EIA Screening**

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

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An agent on behalf of the applicant has submitted an appeal against the decision of the Planning Authority to refuse permission. The grounds of the appeal can be summarised as follows:

- The applicant meets the criteria in Objective RHO3, as someone with a genuine rural generated housing need.
- The qualifying criteria is to have family links to the area. The applicant has submitted birth and death certificates for parents and grandparents from the nearest church in Ballindereen. The applicant went to the school in the area. This shows that contrary to the Planning Authority's reason for refusal, the family have a long-standing presence in the area.
- The applicants father has a medical need for a bungalow on thus land, the family farm. Evidence of such need is submitted in the form of a letter from his doctor.
- It is submitted that the proposed development would not materially contravene the development plan.
- The appeal is accompanied by a number of personal documents outlining the applicants link to the area.

6.2. Planning Authority Response

6.2.1. None on file.

7.0 Assessment

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the single issue raised is the principle of the proposed development.

7.2. Principle of Development

7.3. National Policy Objective 19 of the National Planning Framework (NPF) issued by the Department of Housing, Planning and Local Government in February 2018 which, for rural areas under urban influence, seeks 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.

- 7.3.1. The subject site is located within the GTPS area of Galway, but also within Landscape Category 3. This leads to a scenario where applicants could be subject to both Objectives RHO 1 and RHO 3. The Planning Authority have chosen to assess the application under Objective RHO and given their detailed understanding of the geographical boundary and / or overlap between the two areas, I am satisfied to accept their submission of Objective RHO 3 being the most appropriate.
- 7.3.2. Another area of ambiguity is the actual applicant for the proposed dwelling. The application is made in the name of Mairead Collins, yet the appeal refers to the housing need of the applicant's father Bartley Forde. Both Ms. Collins and Mr Forde are stated to be living in Newcastle Co. Galway. Whilst Ms. Collins owns a dwelling in Drumcoo, Kilcolgan. Further Ms Collins states that she works in the city of Galway, a 20-minute walk from her current home, a 1 hour thirty minute journey from the subject site.
- 7.3.3. The subject site is located in an area designated as being under Strong Urban Influence in the Sustainable Rural Housing Guidelines for Planning Authorities. This national guidance on rural housing the states that in areas under a strong urban influence the key objective should be to facilitate the housing requirements of the rural community whilst directing urban generated development to cities towns and villages. Rural generated housing is defined as being housing needed in rural areas within the established rural community by persons working in rural areas or in nearby urban areas. Urban generated housing is defined as housing sought by persons living and working in urban areas. The Applicant has not provided details of a need to live in this area. That she has long-standing links to the area has been established. However, both national and local policy are clear, one-off housing in an area under strong urban influence must be where the applicant has an established housing need and a rurally generated housing need. The applicant, with a dwelling in Kilcolgan and perhaps also in Newcastle and working in Galway city, has demonstrated neither a housing need or a rurally generated housing need. I am satisfied that the Applicant has not demonstrated compliance with national or local policy on residential development in un-zoned rural areas under strong urban influence.

8.0 Recommendation

8.1. I recommend permission be REFUSED for the following reasons and considerations:

9.0 Reasons and Considerations

- 1 The site of the proposed development is in a rural location in an area under strong urban pressure, in an area where housing policy Objective RHO3 applies and identified as such in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2005 where it is national policy to distinguish between urban generated and rural generated housing need. On the basis of the documentation submitted with the planning application and the appeal, it is considered that the applicant does not come within the scope of the criteria for a housing need necessitating a dwelling at this rural location in an Area Under Strong Urban Pressure. The proposed development would, therefore, be contrary to the provisions of the Ministerial guidelines and be contrary to the policy of the planning authority. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Gillian Kane
Senior Planning Inspector

30 September 2019