



An
Bord
Pleanála

Inspector's Report ABP 305088-19.

Development	Dwelling house, domestic garage, proprietary treatment system, percolation and ancillary site works.
Location	Roo, Gort, Co. Galway.
Planning Authority	Galway County Council.
P.A. Reg. Ref.	19/804.
Applicant	Brendan Cummins
Type of Application	Permission
Decision	Grant Permission.
Type of Appeal	Third Party
Appellant	Michael Carr
Date of Inspection	30 th September, 2019
Inspector	Jane Dennehy

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	3
3.3. Prescribed Bodies	4
3.4. Third Party Observations	4
4.0 Planning History.....	4
5.0 Policy Context.....	4
6.0 The Appeal	5
6.1. Grounds of Appeal	5
6.2. Applicant Response	5
6.3. Planning Authority Response	5
7.0 Assessment.....	5
8.0 Recommendation.....	8
9.0 Reasons and Considerations.....	9
10.0 Conditions	Error! Bookmark not defined.

1.0 Site Location and Description

1.1. The site has a stated area of 400 square metres and is formed from agricultural lands close to the edge of the Burren on the west side of a minor public road and a junction at Roo and Turavaghjla. A ringfort is located on land to the south west of the field boundary and a dwelling and farm complex is located on the opposite, east side of the road.

2.0 Proposed Development

2.1. The application lodged with the planning authority indicates proposals for construction of a single storey dwelling with a stated floor area of 183 square metres and domestic garage with a stated area of sixty square metres, a private effluent treatment and disposal to the groundwater and, sourcing of water from the local ("Roo") group water scheme.

2.2. The application submission includes written consent of the landowner to the lodgement of the application, a specification for a Tricel Novo Package Plant with puraflo tertiary treatment and a completed site characterisation form. Land registry details of the family home and a completed rural housing need application form.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 17th July, 2019, the planning authority decided to grant permission subject to conditions which include an occupancy condition, the requirements of the report of the Department of Culture, Heritage and the Gaeltacht. (See section 3.2.3 below.) and conditions of a standard nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning officer accepted that the applicant has established links to the area to allow for consideration of an application for a dwelling and a recommendation for a grant of permission is indicated.

3.2.2. **Other Technical Reports**

There are no internal technical reports available for the application.

3.3. **Prescribed Bodies**

The report of the Department of Culture, Heritage and the Gaeltacht, (Development Applications Unit - National Monuments) notes the proximity to the zone of archaeological potential for the recorded monument “Enclosure” and indicates no objection subject to inclusion of conditions with a requirement for provision for a twenty-metre buffer zone and archaeological monitoring.

3.4. **Third Party Observations**

A submission was received from the appellant party whose objections are set out in the Appeal. (See section 6 below.)

4.0 **Planning History**

According to the planning officer report, there is no record of a planning history for the site.

5.0 **Policy Context**

5.1.1. The operative development plan is the Galway County Development Plan, 2015-2021 according to which the site location also comes within the area of the Galway Transportation Study Area (GTPS) which is under, “strong urban pressure” to which Rural Development Policy Objective RHO 1 applies. The location also comes within an area designated as a Class 3 rural landscape.

5.1.2. The rural area in which the site is located is under “strong urban influence” according to the *Sustainable Rural Housing: Guidelines for Planning Authorities* issued by the Department of the Environment, Heritage and Local Government in 2005.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was received from Michael Carr of Ballyvoher, Roo on his own behalf on 8th August, 2019 according to which:

- The site is a floodplain and when flooding occurs and water flows across the road onto Mr. Carr's property. An uninhabitable house constructed fifteen years ago in the vicinity floods in winter and the same could occur at the proposed dwelling if constructed.
- An existing local well would be in the front yard of the property and the water sourced from it by the local community could become contaminated.
- The use of the proposed 'V' shaped entrance would lead to traffic hazard. There is insufficient sight in either direction along the public road which is narrow, has many bends and is subject to maximum speed of 80 kph. Vehicles on the road would have insufficient stopping time.
- There is a ringfort in the vicinity which is protected, and which could be destroyed by the proposed development.

6.2. Applicant Response

There is no submission from the applicant available on file.

6.3. Planning Authority Response

There is no submission from the planning authority available on file.

7.0 Assessment

7.1. The appellant's property at Ballyvoher is on lands directly opposite the application site. A private access road serves the dwelling and farm buildings.

7.2. The issues considered central to the determination of the decision and considered below are that of

Potential for flooding,

Potential contamination of local water source
Endangerment of public safety due to traffic hazard
Impact on recorded monument
Other Considerations
Environmental impact assessment
Appropriate assessment.

7.3. **Potential for Flooding.**

7.3.1. With regard to flooding, notwithstanding the geological and hydrological characteristics of the area, there is no documentary evidence, based on consultation of OPW sources that the site location comes within a flood plane or any record of serious flooding event.

7.4. **Potential contamination of local water source**

7.5. Contamination of the water source via the local well should not be anticipated, provided that the effluent treatment and disposal is designed, operated and maintained in a manner that accords with the details in the landscape characterisation form, the proposed design shown in the application submissions and in compliance with the standards within the “*Code of Practice: Wastewater Treatment Systems for Single Houses*, EPA (2010) as supplemented by the “*Code of Practice Clarification*” (20th February, (2012) in respect of the formula for calculation of the gravel and distribution area beneath the ‘puroflo’ facility and, in accordance with the proposals within the application. The lack of bedrock encountered in the trial hole testing is of note in this regard.

7.6. Similarly, with regard to the surface water drainage arrangements application of measures to protect against contamination in accordance with planning authority’s requirements provided for in a standard condition, and maintenance of drainage at standards so that variance with pre development conditions does not occur, there would be an insufficient case within the appeal as to potential risk of contamination of waters sourced from the local well to warrant rejection of the proposed development.

7.7. Endangerment of public safety due to traffic hazard

- 7.7.1. The concerns as to potential for endangerment of public safety by reason of traffic hazard attributable to turning movements at the proposed entrance, exacerbating existing traffic hazards are appreciated. Traffic movements on the third-class road which links Kinvarra and Gort and individual properties and destinations within the immediate vicinity between the two settlements are not insignificant. While the maximum permissible speed is 80 kph the poor alignment serves to reduce attainable speeds but the concerns of the appellant as to insufficient stopping distances for traffic should obstruction be encountered are reasonable.
- 7.7.2. On review of the lodged plans further to inspection of the site, it is accepted that seventy metres sightlines to the edge of the carriageway in each direction from the proposed entrance location can be achieved. The alterations involved to prove for the setback would result in improvements in conditions for traffic on the road as well as for sight for vehicles exiting the site entrance. In so far as the section of the road in the vicinity of the site is concerned, the setbacks should not only provide for adequate sightlines on exiting the proposed entrance within an 80 kph zone but should also address, to some extent the concerns of the appellant as to adequate attainable stopping distances for traffic on the road, including the section in the vicinity of the farm holding and dwelling opposite the application site should obstructions be encountered. The benefits of these improvements may outweigh the impact of the additional traffic movements generated by the proposed development. While interventions to indigenous hedgerow and to drystone stone walling is regrettable, the proposals for the setbacks are sympathetic to the immediate rural environment. The proposed additional dwelling and entrance arrangements are considered acceptable having regard to the capacity of the road and the proposed entrance arrangements.

7.8. Impact on recorded monument

- 7.8.1. There is no dispute as to the special interest and significance of the recorded monument to which reference is made in the appeal. It is considered reasonable and appropriate for there to be reliance on the recommendations for requirements by condition within the report of the Department of Culture, Heritage and the Gaeltacht

further to its assessment of the proposed development, should permission be granted.

7.9. Other considerations.

- 7.9.1. The planning authority's agreement that the applicant satisfies the criteria for the development of a dwelling in the countryside having regard to Rural Housing Policy RHO 1 set out in the CDP is noted and accepted. With regard to the dwelling size and design, which is considered acceptable, it is noted that the landscape is not unduly sensitive being designated as category 3, (within the scale of 1.5) in the landscape character assessment for the county. It is however considered that the size of the proposed detached garage, which has a stated floor area of sixty square metres is excessive for the purposes of domestic use as indicated in the application. If this view is shared, the applicant could be requested to clarify and or reconsider the proposal in this regard.

7.10. Environmental Impact Assessment Screening.

- 7.10.1. Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.11. Appropriate Assessment Screening.

- 7.11.1. Having regard to the nature of the proposed development and, to the brownfield site in a serviced inner suburban area, no appropriate assessment issues proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1.1. In view of the foregoing, it is recommended that the planning authority decision be upheld, and that permission be granted for the proposed development.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the Galway County Development Plan, 2015-2021 according to which the site is within the Galway Transportation Study Area which is a rural area under Strong Urban Pressure for urban generated housing according to the *Sustainable Rural Housing: Guidelines for Planning Authorities* issued by the Department of the Environment, Heritage and Local Government in 2005, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the development objectives for the area would be acceptable in terms of traffic and public safety and convenience, would not be prejudicial to public health, would not adversely affect the integrity of the enclosure on the adjoining lands, (recorded monument GA122-125) and would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The dwelling shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. The applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with this agreement and the date of such occupation.

3. The detached garage shall be used solely for purposes ancillary to the residential use of the dwelling and shall not be used for commercial purposes or human habitation, sublet, sold separately, otherwise transferred or conveyed, except in combination with the dwelling.

Reason: In the interest of clarity, the amenities of the area and the proper planning and sustainable development of the area.

4. Prior to the commencement of the development, the developer shall submit to, and agree in writing with, the planning authority details of all the materials, textures and colours for the external facades including fenestration.

Reason: In the interest of visual and residential amenity.

5. The front boundary wall shall be constructed in local stone which shall not exceed one metre in height when measured from the outer side or in indigenous hedgerow which shall be maintained at a maximum height of one metre.

Reason: In the interest of visual amenity and public safety

6. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, to include use of indigenous species and hedgerow planting along the side and rear boundaries details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Any plants which die, are removed or become seriously damaged or diseased, following the completion of the development, shall be

replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual and rural amenity.

7. The effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on 27th May 2019 and in accordance with the requirements of “*Wastewater Treatment Manual: Treatment Systems for Single Houses, (p.e. less than or equal to 10)*”, published by the EPA in 2010 as supplemented by “*Code of Practice Clarification*” (20th February, (2012). Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of clarity and public health.

8. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. No surface water shall be allowed to discharge onto the public road or adjoining properties.

Reason: In the interest of orderly development and public health.

9. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Jane Dennehy
Senior Planning Inspector
4th December, 2019.