



An
Bord
Pleanála

Inspector's Report ABP 305157-19.

Development	House, detached garage, treatment system with percolation area and associated site works.
Location	Tynagh, Tynagh, Loughrea, Co. Galway.
Planning Authority	Galway County Council
P. A. Reg. Ref.	19/808
Applicant	John and Emma Shiel.
Type of Application	Permission
Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Jonathon Corban.
Date of Site Inspection	30 th September, 2019
Inspector	Jane Dennehy.

1.0 Site Location and Description

- 1.1.1. The site has a stated area of 2,670 square metres and is formed from agricultural lands at the north western edge of the village of Tynagh and is adjacent to the lands of a church and graveyard (formerly that of a Glebe) where there are recorded monuments. The level falls slightly away from the level of the road at the site frontage along which there is stone walling and an entrance.

2.0 Proposed Development

- 2.1.1. The application lodged with the planning authority indicates proposals for construction of a single storey dwelling with a stated floor area of 249 square metres and domestic garage with a stated area of sixty square metres, private effluent treatment and disposal to the groundwater and, sourcing of water from the local public mains serving the area.
- 2.1.2. The application submission includes an archaeological testing and assessment report a soil suitability assessment report and completed site characterisation form and proposals for installation of a packaged wastewater treatment system and polishing filter.

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, the requirements of the report of the Department of Culture, Heritage and the Gaeltacht. (See section 3.2.3 below.) along with conditions of a standard nature.

3.2. Planning Authority Reports

- 3.2.1. The **planning officer** in his report indicated a recommendation for a grant of permission
- 3.2.2. There are no **internal technical reports** available for the application.

3.2.3. The report of the **Department of Culture, Heritage and the Gaeltacht**, (Development Applications Unit - National Monuments) notes the site location within the zone of archaeological potential for the recorded monuments GA 166-120 Church, GA 12001 Graveyard and Monument and GA 116-120002 “ecclesiastical site” included on the Record of Monuments and Places. It is stated that there is concurrence with the findings and recommendations within the submitted report on the archaeological testing and assessment which include a requirement for thorough archaeological investigation of an archaeological feature indicated as being present in the test excavation. Inclusion of an archaeological monitoring condition to include preparation of a report is also recommended.

3.2.4. **A Third-Party Observation** was received from the appellant party whose objections are set out in the Appeal. (See section 6 below.)

4.0 **Planning History**

There is no record of planning history for the application site.

5.0 **Policy Context**

The operative development plan is the Galway County Development Plan, 2015-2021. Within the Settlement Strategy, the village of Tynagh comes within the tier for ‘Other Settlement and the Countryside’ in respect of which policies and objectives are set out in para 2.6.7 and provide for sustaining and providing for balanced growth in rural settlements and communities.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

An appeal was received from Jonathon Corban on 13th August, 2019 the contents of which are outlined below:

- A left turn on exiting the proposed entrance is hazardous because the sightline is compromised by the rise and fall in the gradient and a bend in the road. Photographs provided at application stage show this whereas those of

the planning authority taken from the opposite side of the road do not show this.

- The site is too close to the recorded monuments subject to statutory protection for development to be permitted.

6.2. Applicant Response

A submission was received from the applicant on 4th September, 2019 according to which:

- The site lands are in the ownership of applicant's facility ab within an area subject to a maximum speed limit of 50 kph and therefore a maximum sightline of 70 metres is applicable for the entrance. This has been achieved to the satisfaction of the planning authority.
- Investigations were conducted by a licensed archaeologist the report on which was lodged with the application. The conditions recommended in the report of the Department of Culture, Heritage and the Gaeltacht were attached to the decision to grant permission.

6.3. Planning Authority Response

There is no submission on file from the planning authority.

7.0 Assessment

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

Endangerment of public safety due to traffic hazard

Impact on recorded monuments

Environmental impact assessment

Appropriate assessment.

7.2. Endangerment of public safety due to traffic hazard

- 7.2.1. It is fully agreed that there is an incline and decline in the level of the public road a short distance to the left of the proposed entrance to the site. However, further to inspection at the proposed entrance and the public road at and in the environs of the site location, at the edge of the settlement where the maximum speed limit of 50 kph applies it has been concluded that the sightlines as shown on the application drawings are adequate and sufficient to ensure that no undue risk of obstruction of other road users and endangerment of public safety by reason of hazard and endangerment of public safety.

7.3. Impact on recorded monuments

- 7.3.1. The site of the proposed development comes within the zone of archaeological potential for the recorded monuments GA 166-120 Church, GA 12001 Graveyard and Monument and GA 116-120002 "ecclesiastical site" on the Record of Monuments and Places. While the significance of these monuments and the sensitivity of the site is considerable, as indicated in the appeal, it is noted that it is confirmed in the report of the Department of Culture, Heritage and the Gaeltacht that there is concurrence with the assessment of the archaeological testing, desk research and recommendations within the archaeological report submitted with the application. The requirements of the recommended condition which are to be implemented under the direction of a licensed archaeologist are comprehensive and considerable.
- 7.3.2. It is therefore considered that development as proposed, subject to implementation in accordance with the proposals provided in the documentation accompanying the application and the requirements of the recommended condition should not adversely affect the integrity of the recorded monuments or above or below surface materials encountered.
- 7.3.3. In addition, it is considered that the visual context and integrity of the existing church and graveyard and associated stand of trees would be unaffected. They are on the adjoining lands and would be clearly separate and distinct within the historic landscape from the proposed dwelling and garage and driveway from the public road.

7.4. Environmental Impact Assessment Screening.

- 7.4.1. 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.

7.5. Appropriate Assessment Screening.

- 7.5.1. 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. 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

Having regard to the Galway County Development Plan, 2015-2021 according to which the site is at the edge of Tynagh, which is included among the other settlements and countryside within the settlement strategy, 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 adversely affect the integrity of the recorded monuments GA 166-120 Church, GA 12001 Graveyard and Monument and, GA 116-120002 "ecclesiastical site" 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 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 carry out full excavation of the archaeological feature uncovered during archaeological testing of the site. The surrounding area shall be fully stripped of topsoil to ensure that any associated features are fully resolved.

The appointed archaeologist shall fully monitor ground works, and should material be encountered, shall stop works pending resolution of arrangement, shall provide arrangements, acceptable to the planning authority, for mitigation either by preservation in situ or excavation and in the recording and for the removal of any archaeological material

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.

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. A parking space, not less than fifteen metres and length and here metres in width shall be provided adjacent to the edge of the public road to the satisfaction of the planning authority.

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

6. Any new construction for the front boundary wall shall be constructed in local stone which shall not exceed one metre in height when measured from the outer side and any indigenous hedgerow planting shall be maintained at a height of one metre.

Reason: In the interest of visual amenity and public safety

7. 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.

8. 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.

9. 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.

10. 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.

11. 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
6th December, 2019.