



An
Bord
Pleanála

Inspector's Report

ABP-306002-19

Development	Construction of dwelling on revised site boundaries to previously granted ref: 18/1205.
Location	Dungory West, Kinvarra, Co. Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	191402
Applicant(s)	Liadain O Donovan.
Type of Application	Permission.
Planning Authority Decision	Grant Permission subject to conditions
Type of Appeal	Third Party
Appellant(s)	Jean & Anne Bacqueyriss.
Observer(s)	None.
Date of Site Inspection	31 st January 2020.
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. The appeal site 0.12ha comprises the grassed area part of the rear garden of an established dwelling house located on the southern side of the N67 within the eastern side of the village of Kinvara, Co Galway. The site overlooks Galway Harbour to the north and elevates southwards. The dwelling to the north comprises an amalgamation of single storey vernacular structures with a mix of thatched, slated and tiled roofs with a parking area towards the eastern end of the site. The appeal site is elevated over the dwelling to the north. The site is adjoined by residential estates Cuan an Oir to the south and Dungalair Haven to the west.
- 1.2. I note that this application should be considered in conjunction with concurrent application and appeal ABP306002-19 on adjoining site to the north which seeks permission for “ Alterations to 2 no dwellings on revised site boundaries to previously granted ref 05/861 and Ref 06/5187”.

2.0 Proposed Development

- 2.1. The proposal as set out in public notices involves permission for construction of a dwellinghouse on revised site boundaries to that previously granted under planning reference number 18/1205.
- 2.2. In essence the proposal is identical in all respects to 18/1205 save for alteration of red line boundary to incorporate the use of the existing entrance serving the dwelling to the north of the public road.

3.0 Planning Authority Decision

3.1. Decision

By order dated 30th October 2019 Galway County Council decided to grant permission subject to 7 largely standard conditions including the following:

Condition 7 Development Contribution €3,352.00.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

Planner's report recommends permission subject to conditions.

3.2.2. Other Technical Reports

None

3.3. **Prescribed Bodies**

3.3.1 Transport Infrastructure Ireland TII submission indicates no observations.

3.4. **Third Party Observations**

3.4.1 Submissions from a number of local residents of Cuan an Oir object on grounds of overdevelopment, traffic hazard. Inadequate separation in terms of wastewater infrastructure. Despite location within rent pressure zone property being used for Airbnb rental. Site notice invalid.

4.0 **Planning History**

18/1205 Permission granted 2/4/2019 to construct a new single storey dwelling site entrance and all ancillary site works.¹

Adjoining site to the north.

ABP306003 19/1402 Concurrent appeal. Permission sought for alterations to 2 no dwellings on revised site boundaries to previously granted ref 05/861 and 06/5187.

00295 – Outline permission granted 22/3/2000 to construct and extension to an existing dwellinghouse and permission to retain shed converted to habitable area with a proposed thatched roof. Condition 3 required that the extension and converted habitable area together with the existing dwellinghouse shall be used solely as a single dwelling unit.

¹ The current proposal is identical in terms of layout and design and the only alteration relates to the inclusion within the red line boundary of the entrance from the public road

05/861 Permission for extension to dwelling, Gross floor space 24.11 sq.m.

06/5187 Permission for conversion and extension of existing shed for use as a dwelling and connection of the foul drain to previously approved foul treatment system on adjacent development 05/1410. Granted subject to 9 conditions including Condition 4. Connection to treatment plant on temporary basis.

5.0 Policy Context

5.1. Development Plan

5.1.1 The Galway County Development Plan 2015-2021 refers.

Chapter 3 relates to urban and rural housing. Section 3.3.1 relates to housing location/design and densities in urban areas. It notes that appropriate locations for new residential developments include towns and villages with populations ranging from 400 to 2,000 persons. It is noted that there are a number of villages within the County that did not have local areas plans (including Kinvara) and therefore it is important that the County Development Plan address the main facets of urban housing/design. The Council's primary aim in relation to residential development is to deliver high quality sustainable living environments which are attractive, safe, vibrant and meet the needs of residents and the community.

In terms of housing density, regard will be had to the Departmental Guidelines for Sustainable Residential Development in Urban Areas (2009) and also the Design Manual for Urban Roads and Streets. It is stated that higher densities will be encouraged at appropriate locations. However, in order to attract development back to towns and villages, lower densities will be permitted in instances where it can be demonstrated that development can provide an attractive living environment especially in town centres and areas comprehensively serviced by public transport subject to appropriate design and amenity standards.

Section 3.4 sets out details of locations for appropriate new residential development in urban areas. Section 3.4.3 makes reference to infill development/subdivision of

individual sites and town centre and brownfield sites. Centrally located sites within small towns and villages are also noted. The emphasis on design in such locations should be on achieving a good mix and quality of development that reinforces the existing urban form.

5.2 Guidelines for Planning Authorities on the Sustainable Residential Development in Urban Areas

Chapter 6 of this document sets out guidelines in relation to small towns and villages defined of those with a population range from 400 to 5,000 persons. The general advice is to seek that new development shall contribute to compact towns and villages. It is stated that higher densities are appropriate in certain locations provided they contribute to the enhancement of the town or village. The guidelines also note that in some limited circumstances, notably where pressure for development for single homes in rural areas is high, proposals for lower densities of development may be considered acceptable at locations on serviced lands within the environs of the town or village in order to offer people, who would otherwise seek to develop a house in an unserviced rural area. The option to develop in a small town or village where services are available and within walking and cycling distance is promoted. The guidelines also state that the scale of new residential schemes for development should be proportional to the pattern and grain of existing development.

5.3 Natural Heritage Designations

The site is immediately adjacent to the Galway Bay Complex SAC and Inner Galway Bay SPA.

5.4 EIA Screening

5.4.1 Having regard to the nature of the development it is reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the proposed development and that an environmental impact assessment is not required.

6 The Appeal

6.1 Grounds of Appeal

- The site notice is invalid as it refers to an application on the adjoining property 19/1403. (ABP306003-19)
- Additional traffic movements will endanger public safety by reason of traffic hazard
- Proposal is backland development on a site overlooking an special area of Conservation (Galway Bay Complex)
- Increased use of AirBnB
- Backland development.
- Excessive density of development on the overall site.

6.2 Applicant Response

6.2.1 The response by Brendan Slevin And Associates Chartered Engineers on behalf of the first party are summarised as follows:

- Assertions of Site notices being invalid are not substantiated.
- The application involves minor change to site boundaries of a previously permitted development
- TII had no comment on the application
- Given location within the village backland development does not arise
- Extension permitted under 06/5187 was never constructed therefore the requirement to relocate parking area never arose.
- Application does not interfere with existing parking arrangements or site entrance.

6.3 Planning Authority Response

The Planning Authority did not respond to the grounds of appeal

7 Assessment

7.2 I consider that the appeal can be assessed under the following broad headings:

- Procedural Matters
- Nature of amendment, traffic and servicing & other matters
- Appropriate Assessment.

7.2 Procedural Matters

7.2.1 The third-party appellants question the validity of the application on the basis that the site notices for this application and concurrent appeal 306003 were incorrectly located. It would appear based on the submitted photograph indicated as appendix A to third party appeal that the site notice in respect of the current appeal was located on the gateway in front of the established dwellinghouse to the west of the appeal site (the intended location for site notice 306003) while the third-party appellant suggests that the site notice in respect of the ABP306003 was located on the wall adjacent to the parking area (the intended location for the current appeal site notice). In essence it is contended that the site notices were mixed up. I note that the County Council Planner's report provides photographs (unclear to read the text) to demonstrate the location and display both site notices. I note that both applications were submitted and site notices erected on the same day 11/09/2019 & 10/9/2019 respectively. I note that the Planner's reports for both applications indicate that Site visit was conducted for ABP306002 on Thursday 26th September 2019 and Site visit for ABP306003 on Saturday 26th October 2019. However, the same set of photographs displaying both site notices is attached to both planning reports. This may suggest that the latter site visit date may be a 'typo'.

7.2.2 Whilst I cannot verify the circumstances of the public notices retrospectively it would appear to me to be most unlikely that anyone was materially misled or disadvantaged in respect of the location of the site notices. The Planning and

Development Regulations are prescriptive in respect of the display of the site notices. Such regulation is necessary in order that the public can be fully informed and involved in the decision making process and as both site notices were displayed and visible from the public road I do not consider that interested third parties were disadvantaged in terms of the ability to inform themselves with regard to the nature of the applications and the ability to make submissions to the Planning Authority.

7.2 Nature of amendment to previously permitted development, traffic servicing and Other Matters

7.2.1 I note the nature of the application which involves an amendment to redline site boundary of development permitted by 18/1205. I note that the only change relates to the enlargement of the site at its northern extremity to include access from the public road within the red line boundary. The proposal now incorporates the existing entrance which serves as access to the existing cottage to the north and is in all respects consistent with the development permitted by 18/1205. Having regard to the established nature of the entrance, location within the existing built up and speed restricted area and likely level of traffic arising from a single house, I do not consider that the proposal will give rise to any traffic safety issues. Connections are available to public water supply and public sewer. As regards design and layout, I note that the proposal is consistent with the previously permitted development. As regards third party concerns regarding excessive density of development given the serviced location of the site this is not the case. Given the nature of the proposal backland development does not arise and rather the proposal would be viewed as urban infill. As regards allegations regarding potential for future Airbnb use this is conjecture and matters raised with regard to such use on the adjoining site to the north is not relevant to the consideration of the current appeal on its planning merit.

7.3 Appropriate Assessment

7.3.1 On the issue of Appropriate Assessment, I note that having regard to the scale of the development on the site and fully serviced location no appropriate assessment

issued 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 Recommendation

- 8.1 On the basis of the foregoing assessment I recommend that the Board confirm the decision of Galway County Council to grant permission subject to the following.

Reasons and Considerations

Having regard to the planning history on the site in particular grant of permission 18/1205 and to the prevailing character and form of established and permitted development in the vicinity, it is considered that subject to compliance with the conditions as set out below the proposed development would form an acceptable development on the site, would not seriously injure the visual amenities of the area, would comply with the policies and objectives of the Galway County Development Plan and would be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be 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 and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Detail of the materials, colours and textures of all external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

5. The site shall be landscaped in accordance with a comprehensive scheme of landscaping details of which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. The scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

- (i) The species, variety, number, size and locations of all proposed trees and shrubs [which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder] {which shall not include *prunus* species}
- (ii) Details of screen planting [which shall not include *cupressocyparis x leylandii*]
- (iii) A timescale for implementation

All planting shall be adequately protected from damage until established.

Reason: In the interest of residential and visual amenity.

6. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

7. 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.

Bríd Maxwell
Planning Inspector

6th February 2020