



An
Bord
Pleanála

Inspector's Report ABP-306003-19

Development	Alterations to 2 no. dwellings on revised site boundaries to previously granted Ref: 05/861 & Ref: 06/5187
Location	Dungory West, Kinvarra, Co.Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	191403
Applicant(s)	Liadain O Donovan.
Type of Application	Permission.
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Jean & Anne Bacqueyrisses.
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 .0085 hectares is 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 is occupied by 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. In essence the site includes a traditional thatched dwelling which has been extended and former outbuildings which have been converted to residential use. The easternmost structure (indicated as house 1) is located on the roadside with its unrelieved gable end facing the road. It extends to an area of 41m² and in terms internal layout provides a living area, bedroom ensuite and utility. The structure indicated as house 2, (the extended thatched cottage) has a floor area of 112.5m² and is L shaped with gable end immediately adjacent to the roadside / footpath towards the western end of the site. In terms of internal layout this is laid out with bedroom, living room kitchen and a studio. A hard-surfaced amenity area is provided to the front of the main dwelling and an elevating paved and grassed garden to the rear. The site is adjoined by residential estates Cuan an Oir to the south and Dungalra 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 south (part of the curtilage of the appeal dwelling) which seeks permission for “Construction of dwellings on revised site boundaries to previously granted ref 18/1205”.

2.0 Proposed Development

- 2.1. The application seeks permission for retention of alterations to two existing dwelling houses on revised site boundaries to that previously granted under planning reference numbers 05/861 and 06/5187. (see Planning history Section 4.0 below)

3.0 Planning Authority Decision

3.1. Decision

3.1.1 By order dated 30th October 2019 Galway County council decided to grant permission and 4 conditions were attached which included:

Condition 2. Surface water to be disposed within the site to soakaways.

Condition 3. Existing road surface water drainage to be maintained.

Condition 4. Sight distance triangles to be maintained.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner's report recommended 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 Air BnB rental.

4.0 Planning History

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.

05/861 Permission for extension to dwelling, Gross floor space 24.11 sq.m. ¹

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. ²

18/1205 Permission granted 2/4/2019 to construct a new single storey dwelling site entrance and all ancillary site works.³

ABP306002 19/1402 Concurrent appeal. Permission sought for construction of dwelling on revised site boundaries to previously granted ref 18/1205. ⁴

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.

¹ Area now indicated as kitchen / dining area house 2.

² It would appear that while the shed conversion was carried out the extension was not.

³ I note that site of permission 18/1205 did not incorporate any road frontage and the revised redline boundary proposed in ABP306002-19 19/1402 seeks to address this issue by incorporating part of the parking area serving the existing dwelling within the site frontage.

⁴ See 3 above

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

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

6.1.1 The appeal is submitted by Jean and Anne Bacqueyrisses, of 4 Cuan an Oir, Dungory West Kinvara.

- Site notices invalid. Incorrectly located on site. Confusion arising from two concurrent applications.
- “Sent for decision date” referenced on the Planner’s report is 25th October and yet site inspected on 26th October. – Decision is invalid.
- Lack of parking will result in traffic hazard.
- Property is rented on AirBnB despite location of Kinvara in a designated rent pressure zone. Use is in breach of condition 3 of 00/295.
- Designated parking are shown on planning application 06/5187 has never been constructed.
- Site has a temporary connection to a wastewater treatment system which has now been decommissioned.
- Proposal is over intensification on a small 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 alterations to the existing houses.
- 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. Adequate parking and turning areas are provided.
- Use of the property ref 06/5187 for Airbnb. There was no restriction attached to the grant of permission.
- Planning ref 00/295 refers to the main house only.
- The development was previously connected to an adjoining private wastewater treatment system and is now connected to the public sewer.
- Site within the village of Kinvara where the speed limit is restricted.

6.3 Planning Authority Response

The Planning Authority did not respond to the grounds of appeal

6.4 Observations

None

7 Assessment

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

- Procedural Matters & Nature of development proposed for retention
- Appropriate Assessment.
- Traffic and servicing & Other Matters

7.2 Procedural Matters & Precise nature of development proposed for retention

- 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 306002 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 concurrent appeal ABP306002 was located on the gateway in front of the established dwellinghouse. The third-party appellant suggests that the site notice in respect of the current appeal ABP306003 was located on the wall adjacent to the parking area. 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 10/9/2019. 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.
- 7.2.3 The appellant questions the validity of the Council's decision on the basis of an apparent contradiction arising from the "sent for decision date" as noted on the Planner's report Friday 25th October 2019" which predated the date of site inspection Saturday 26th October 2019. This anomaly adds weight to the possibility that the site visit date Saturday 26th October 2019 may be a 'typo'. It is in any case evident that

the Manager's Order, signed by the Director of Services, is dated 30th October 2019 therefore the decision was made on that date.

7.2.4 As regards the wording of the application and the public notices I consider that this gives rise to a significant degree of confusion. I note the development description as outlined in the newspaper notice is as follows:

“ Permission is being sought to retain alterations to two existing dwellinghouses on revised site boundaries to that previously granted under planning reference numbers 05/861 and 06/5187 at Dungory West Kinvara.”

7.2.5 The site notice wording is largely consistent with this in terms of the development description. I consider that the wording is somewhat misleading for a number of reasons. Firstly, the wording suggests that there are two existing dwellings on the site. Having reviewed the planning history and noting the apparent use of the site as a single dwelling, it is not evident that there are in fact two dwellings on the site. Also, as the extension authorised by 06/5487 was not constructed the permission was not implemented in accordance with the relevant terms and conditions and the question arises as to whether the planning permission for conversion of the shed was lawfully implemented. I also note that as outlined in the third-party submission it is alleged that the cottage is used for Airbnb rental. The documentation submitted by the third party appellant and also information from currently advertisement online indicates that the cottage (indicated as house 2) is available from March to September

https://www.airbnb.ie/rooms/6209518?source_impression_id=p3_1580999396_iruncHikR5UKVLin

In contrast and to add to the uncertainty surrounding the appeal I note that the submission by Brendan Slevin and Associates Chartered Engineers, in response to the grounds of appeal, suggests that Airbnb use refers to the converted shed permitted under 06/5187. (House 1). The application per se makes no reference to Airbnb use. I note that matters pertaining to enforcement are not within the remit of the Board and are matters for the local authority, however it is my view that the application as set out is entirely unclear with regard to the nature of the development proposed for retention.

7.2.6 Having regard to the forgoing I consider that the application is poorly made and it is my view that the Board should request further information to clarify the precise nature of development proposed for retention. Revised public notices accordingly should also be requested. The matters to be addressed should include:

- Detailed and accurate description of the development proposed for retention.
- Having regard to the planning history on the site and to the apparent current use as a single dwelling unit the Board is not satisfied that the description of the development which refers to two existing dwelling houses is accurate.
- Noting that the extension authorised by 06/5187 was not implemented submissions are invited to address the authorisation of the conversion of the shed area to dwelling use.
- Clarify the nature of the use(s) on the site including any intended seasonal commercial use.
- If two separate dwellings are to be provided on the site provide a schedule to demonstrate compliance with relevant internal space standards and private amenity area standards in accordance with the Galway County Development Plan and 2007 Quality Housing for Sustainable Communities Best Practice Design Guidelines. Parking provision and bin stores.

7.3 Traffic Servicing and Other Matters

7.3.1 As regards traffic and parking, having regard to the limited level of accommodation on the appeal site and location within the built-up speed restricted area it is not considered that traffic and parking would impede development on the site.

7.3.2 The appeal site is connected to the public water supply and public sewer.

7.4 Appropriate Assessment

7.4.1 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.

7.5 Recommendation

7.5.1 In light of the foregoing it is recommended that the Board request clarification with regard to the precise detail of development proposed for retention as follows:

- Detailed and accurate description of the development proposed for retention.
- Having regard to the planning history on the site and to the apparent current use as a single dwelling unit the Board is not satisfied that the description of the development which refers to two existing dwellinghouses is accurate.
- Noting that the extension authorised by 06/5187 was not implemented submissions are invited which address the authorisation of the conversion of the shed area to dwelling use.
- Clarify the nature of the use(s) on the site including any intended seasonal commercial use.
- If two separate dwellings are to be provided on the site provide a schedule to demonstrate compliance with relevant internal space standards and private amenity area standards in accordance with the Galway County Development Plan and 2007 Quality Housing for Sustainable Communities Best Practice Design Guidelines. Parking provision and bin stores should also be addressed.
- Revised site notices in accordance with Articles 19 and 20 of the Planning and Development Regulations 2001 as amended.

Bríd Maxwell
Planning Inspector

6th February 2020