



An
Bord
Pleanála

Inspector's Report

ABP-306460-20

Development	Change of house type B at site 2 previously granted planning permission under P.L. ref 10/212 & 16/109 & associated garage store.
Location	Ros Odhrain, Rosshill Road, Roscam, Galway.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	19291
Applicant(s)	Colm Hickey
Type of Application	Permission
Planning Authority Decision	Galway City Council
Type of Appeal	Third Party
Appellant(s)	Martin J. Fahy
Observer(s)	None
Date of Site Inspection	23 rd March 2020
Inspector	Irené McCormack

1.0 Site Location and Description

- 1.1. The subject site is located on the southern side of Rosshill Road in the Galway village of Roscam. The village reads as a series of one-off dwellings rather than a defined settlement. The area is rural, with narrow country roads and dwellings on large plots with no uniformity of design.
- 1.2. The subject site relates to an internal plot site “B” forming part of a larger development of four individual sites. The site is accessed via an internal service road serving the development. The internal road has not been surfaced dressed but a concrete footpath and narrow landscaping strip service the site. To date no dwellings have been constructed within the wider development site.
- 1.3. The site is bound to the north and west by the rear boundaries of adjoining dwellings, to the south by a further development plot and to the east by the public open space associated with the overall development. The site is 0.194ha. in area.

2.0 Proposed Development

- 2.1. The development comprises:
 - a change of house type B at site no. 2, from that previously granted permission under PL 10/212 and 16/109 and associated garage store.
- 2.2. The proposed dwelling has a gross floor area of 241sqm.

3.0 Planning Authority Decision

3.1. Decision

On the 16th December 2019, the Planning Authority issued a notification of their decision to GRANT permission subject to seven conditions.

Condition no. 3 requires details external finishes to be agreed

Condition no. 4 requires that all site boundary treatments be in accordance with the parent permission 10/212 and 16/109.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning officers report notes that the proposed house type change is in keeping with the character of the permitted and surrounding development and would not impinge on the residential amenities of adjoining properties

3.2.2. Other Technical Reports

Environment Department – Report dated 18th November 2019 sets out no objection subject to conditions,

3.3. Prescribed Bodies

None

3.4. Third Party Observations

One no. third party submission was made in relation to the development. A brief summary of the issues raised in the submission to the Planning Authority are set out below:

- The development is invalid as it is not in accordance with pl. 10/212 and 16/109
- The development does not comply with the EPA Code of Practice
- The site does not comply with the water framework directive on account of the Roscam Kart Spring
- Appropriate Assessment - Proximity to Galway Bay SAC and Inner Galway Bay SPA
- Requirement for EIA due to proximity to EU protected sites
- Not in keep with the character of the area.
- Insufficient details regarding finishes

4.0 Planning History

Site

Planning Authority reg. ref. **16/109**: Extension of time granted to ref. no. 10/212

Planning Authority reg. ref. **10/212**: Planning permission granted for the construction of 4 no. dwellings

Site A (north of site)

ABP-3053477 - Permission granted for 2020 for Change of house type to residential dwelling & garden shed.

ABP-302635-18: Permission was GRANTED for the retention of changes to the vehicle and pedestrian layout and REFUSED for the change of house type for reason of the suburban design.

5.0 Policy Context

5.1. Development Plan

5.1.1. Galway City Development Plan 2017-2023

5.1.2. The site is located on lands zoned as Low Density Residential (LDR) where it is an objective "To provide for low-density residential development which will ensure the protection of existing residential amenity." Residential use is permitted in principle in such areas.

5.1.3. Policy 2.9 Low Density Residential Areas (LDR) seeks to Protect the character of these areas by ensuring new development has regard to the prevailing pattern, form and density of these areas and Protect the characteristics of these areas through development standards and guidelines.

5.2. Natural Heritage Designations

5.2.1. The site is located 300m east of the Galway Bay Complex SAC (site code 00268) and the Inner Galway SPA (site code 04031).

5.3. EIA Screening

5.3.1. Having regard to nature of the development comprising change of house type only 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. A third-party appeal against the decision of the Planning Authority to grant permission has been submitted to the Board by Martin J. Fahy of Rosshill Road, Roscam. The grounds of the appeal can be summarised as follows:

- Taken in combination with existing dwellings (53) within a c. 800m radius the development will result in an excessive concentration of development serviced by wastewater treatment systems in a sensitive water environment close to the Galway Bay Complex SAC and the Inner Galway SPA.
- The proximity of the subject site to 11 no. EU protected sites, particularly the Galway Bay Complex SAC. The proposed development must comply with the Habitats Directive and relevant CJEU case law
- Reference is made to previous planning applications to the Board namely ABP 302635-18 and ABP 305377-19 which screened out EIA and the requirement for NIS. It is set out that the appellant disagrees with the previous assessments. It is also noted that Galway City Council required a full NIS for the second phase of the development (Reg. Ref. 18/233) and this application was subsequently withdrawn.
- The principle of planning established under 10/212 and 16/109 was in error and failed to consider the relevant Habitat Directives and EPA standards. The principle of a dwelling in the site remains subject to the EIA directive. AA screening and / or an NIS are required.
- The approval for change of house type cannot be separated from the failures of the original application to meet EPA requirements. The subject and adjoining sites have karstic limestone outcrops throughout. Previous applications on the site failed to disclose the presence of the Roscam karst spring and the direct ecological link to the protected sites. The site was not subject to geo-technical or hydrological investigations.

- The proposed house type B is not in keeping with the character and nature of development permitted under 10/212 and 16/109.
- The development should be deemed invalid on the basis that the principle is not in accordance with 10/212 and 16/109 in terms of access road and traffic calming.

6.2. Applicant Response

The response of the Applicant can be summarised as follows:

- The principle of a house on the site was established under PI. Ref. 10/212 and 16/2019 and the house is in keeping in terms of mirroring the shape and features of the approved planning.
- The planning authority are satisfied that the increase in habitable space is limited.
- Claims in relation to breaches of previous planning permissions are unfounded.
- The site is 300m from the Galway Bay complex SAC and as per previous An Bord Pleanala assessments the development is not considered to require an EIS or NIS.
- The Galway City Development Plan was subject to a Strategic Environmental Assessment and a Natura Impact Report which set out that the Development Plan is not likely to have a significant adverse effect on European sites.
- Wastewater treatment systems installed and operated correctly are acceptable methods of disposing of wastewater and minimising risk to public health and water quality. There is no karst limestone on site.
- The water quality and ecological status of the European Sites will be protected by means of appropriate surface water disposal and effluent disposal. The proposed development will not have an adverse impact on any European site

6.3. Planning Authority Response

The response of the Planning Authority can be summarised as follows:

- The principle of a dwelling on this site has been established.
- The water quality and ecological status of potential reception European Site of Galway Bay is protected by a surface water system and proposed wastewater treatment system which adhere to EPA CoP.
- It is set out that the land use zoning policies and objectives of the Development Plan were subject to a comprehensive Environmental Assessment and Appropriate Assessment process.
- The site is compatible with the low-density residential zoning.
- The point raised regarding development of access road and traffic calming is a matter for planning enforcement.
- As per the previous An Bord Pleanála assessment (ABP 305377-19) the principle of a dwelling has been established and the current application is for a change of house type only.

7.0 **Assessment**

Introduction

- 7.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. The issues raised by the third-party appellant regarding breaches of previous planning permissions are not matters for the Board.
- 7.1.2. The application presented to the Board relates to a change of house type only. The principle of a dwelling house and associated infrastructure at this location has previously been assessed and determined to be in accordance with proper planning and development.
- 7.1.3. The main issues in the assessment of the proposed development are as follows:
- Change of House Type
 - Appropriate Assessment

7.2. **Change of House Type**

- 7.2.1. The appellant contends that the proposed house type B is not in keeping with the character and nature of development permitted under reg. ref. GCC 10/212 and reg. ref. GCC 16/109.
- 7.2.2. Under planning reg. ref. GCC10/212 as extended under reg. ref. GCC 16/109 permission was granted on the appeal site for a contemporary three-bedroom L-shape dwelling stepping from dormer to single storey with a floor area of 180.4sqm and a maximum ridge height of 6.857m.
- 7.2.3. The proposed dwelling provides for a contemporary design proposal reflecting a larger three-bedroom two storey dwelling with stepped dormer element. The floor area of the proposed dwelling is 241sqm finished in a plaster render with central projecting entrance door and a projecting two storey element on the to the south-eastern corner both finished in stone. It is proposed to finish the box dormers on the front elevation in either hardwood sheeting or zinc. The general area is characterised by large detached dwellings reflecting a mx of design types and finishes. Therefore, I am satisfied that the design, scale and finishes proposed are acceptable at this location.
- 7.2.4. The layout provides for adequate separation distance from all adjoining site boundaries such that no overlooking will occur.
- 7.2.5. Furthermore, the revised design provides for three bedrooms only as per the original proposal and therefore there is no increase in population equivalent in terms of the capacity of the permitted wastewater treatment system to accommodate the development in accordance with the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009).
- 7.2.6. In conclusion, I am satisfied that the **design and layout** of the development will not detract from the character of the area and is in accordance with the proper planning and sustainable development of the area.

7.3. **Appropriate Assessment**

- 7.3.1. The proposed development is not directly connected with or necessary to the management of any European site.
- 7.3.2. The site is located 300m from of the Galway Bay Complex SAC (site code 00268) and the Inner Galway SPA (site code 04031). The Galway Bay Complex is a very

large (14,408.98ha) marine dominated, made up of subsidiary bays, inlets and islands. The Inner Galway Bay SPA is a very large, marine dominated, site which supports internationally important wintering populations.

- 7.3.3. Having regard to the location of the site on zoned lands and given the nature of the proposed development which is a change of house type and the nature of the receiving environment which is a built-up residential area, no appropriate assessment issues arise and it is considered that the 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

It is recommended that permission be granted subject to conditions for the reasons and considerations set out below

9.0 Reasons and Considerations

Having regard to the zoning objective of the area, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development for which permission is sought would, therefore, 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.

Reason: In the interest of clarity.

2. The development shall comply with the relevant conditions attached to the permission granted under planning register reference numbers 10/212 and 16/109, except as amended in order to comply with the conditions attached to this permission.

Reason: in the interest of clarity.

3. Water supply and drainage arrangements, including the 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 and to ensure a proper standard of development.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Classes 1, 3 and 5 of Schedule 2, Part 1 to those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.

Reason: In the interest of orderly development, and to allow the planning authority to assess the impact of any such development on the amenities of the area through the statutory planning process

Irené McCormack
Planning Inspector

9th April 2020