



An
Bord
Pleanála

Inspector's Report

ABP-306482-20

Development	Construction of a house, detached garage, treatment plant and percolation area.
Location	Lackalea, Co Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	191108
Applicant(s)	E. Irish and G.O Malley.
Type of Application	Permission.
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	John Dillon.
Observer(s)	None.
Date of Site Inspection	11 th March 2020.
Inspector	Paul Caprani

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	6
3.4. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations	8
5.3. EIA Screening	8
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Applicant Response	9
6.3. Planning Authority Response	9
6.4. Observations	9
6.5. Further Responses.....	10
7.0 Assessment.....	10
8.0 Recommendation.....	14
9.0 Reasons and Considerations.....	14
10.0 Conditions	Error! Bookmark not defined.

1.0 Site Location and Description

- 1.1. The Townland of Lackalea is located approximately 4 km north of the Town of Loughrea in east Galway. It is a rural area comprising of pastoral farmland interspersed with farmsteads and rural housing. The site is located approximately 1.2 km to the east of the N65 National Secondary Route linking Loughrea with the M6 Dublin to Galway Motorway 3.5 Km to the north.
- 1.2. The site is located midway on the eastern side of a local road which runs in an north-south direction and ends in a cul-de-sac at its northern end. The local road is relatively straight and is 3m to 3.5m in width. Hedgerows and mature trees run along the edge of the roadway. There are two clusters of linear-type ribbon development along the local road. The larger cluster comprising of 8 dwellings are located on the western side of the road approximately 200m to the south of the site. A smaller cluster of 3 dwellings are located on the eastern side of the road to the immediate north of the site.¹
- 1.3. The site itself comprises of a large field under grass, the northern section of which is to be cordoned off to accommodate the proposed dwelling and garage. The site has a depth of just less than 105m and a road frontage of c41 m. The total site area is calculated at 0.405 ha.
- 1.4. It is a relatively flat site surrounded by relatively low hedgerows. The soil appears to be relatively well drained with no evidence of ponding or rushes on site. A dormer bungalow of recent construction is located on lands to the south of the field that accommodates the subject site. This dwelling is located approximately 45 m to the south of the subject site. The dwelling to the immediate north of the site comprises of a bungalow and the common boundary between the two sites comprises of a low timber post fence. The window serving the kitchen area faces southwards on to the subject site.

2.0 Proposed Development

- 2.1. Planning permission is sought for a part two storey / part single storey L-shaped dwelling on the subject site. The two-storey element is located closest to the

¹ The most southerly dwelling in the contiguous cluster is the appellants house.

northern boundary and accommodates the kitchen, utility TV and study at ground floor level and four bedrooms and a bathroom at first floor level. The single storey element accommodates the entrance hall and dining / living area. The dwelling has a gross floor area of 257 sq.m and incorporates a natural limestone cladding on the two storey element and a nap plaster finish on the single storey element. The northern elevation of the dwelling is to be located c14m from the northern boundary of the site and c.17m from the southern elevation of the adjacent dwelling to the north. It is also proposed to construct a single storey garage to the rear (north-east of the dwelling). The garage has a gross floor area of 60 sq.m. The dwelling is to be served by an on-site WWTS to the rear of the house and 54 sq.m polishing filter. Planting and perimeter landscaping is also proposed including 1.5m high beech hedging along the northern boundary.

3.0 Planning Authority Decision

3.1. Decision

Galway Co Council granted permission for the dwelling subject to 16 conditions.

3.2. Documentation Submitted with the Application

3.3. The application was accompanied by a letter of consent from the owner of the lands and a completed site characterisation form. This form notes that the site is located above a regionally important aquifer and has a groundwater protection response of R2². The trial hole was excavated to a depth of 1.5m and rock was encountered at a depth of 0.6m². A T-value of 17 was recorded. It is proposed to provide a package WWTS and polishing filter with 1.2m between the lowest invert of the percolation trench and the underlying bedrock at 0.6m.

3.4. Also submitted as unsolicited additional information is a report from MCA Design providing details of water supply tests and water test analysis as it is stated that there is no public water supply available so the applicants proposed to drill a well.

² The characterisation form indicates that loose rock and sand were encountered beneath the rock

3.5. Planning Authority Report (Further Information Request)

3.5.1. The initial Planning report prepared recommended additional information in relation to the following:

- Please submit a specific flood risk in relation to the site.
- Further details in relation to the relocation of the soakaway away from the site boundary.
- Further details of test results in relation to the method of proposed water supply.
- Further details in relation to percolation test to be carried out on site specifically in relation to P-tests.
- Further details with regard to the location of the dwelling within the site and the reduction of ridge height of the dwelling.

3.6. Further Information Submission

Further information was submitted on 27th of November it contains the following information:

- The flood risk analysis reports that there is a low risk flooding on the site.
- Attached are the water quality test results for the subject site. Site layout map indicates that the borehole is to be located to the front on the proposed dwelling on site.
- A revised site characterisation form was submitted with P-tests. P Percolation tests yielded a percolation value of 11.5.
- The dwelling has been relocated within the site to reflect the existing building lines of the houses to the north.
- The design of the dwelling has been revised to incorporate a more traditional farmhouse style, with a larger single-storey element to reflect the bungalows to the north. The dwelling had also been moved further away from the bungalow to the north.

3.7. Further Assessment by the Planning Authority

A further planning report was prepared which expresses general satisfaction with the additional information submitted and considers that the proposed development would not seriously injure the amenities of the area or property in the vicinity and would therefore be in accordance with the proper planning and development of the area. Galway Co Council granted permission for the proposed development.

3.7.1. Other Technical Reports

- None

3.8. Prescribed Bodies

- None

3.9. Third Party Observations

A number of letters of objection were submitted the content of which have been read and noted.

4.0 Planning History

No appeal files are attached. Relevant planning history is referred to in the planner's report. Three applications on the subject site were withdrawn (03/7178, 03/7174 and 03/ 5706).

5.0 Policy Context

5.1. Development Plan

5.2. The appeal site is not governed by any land use zoning provision. The site is located on the boundary of the Galway Transportation Planning Study Area and therefore may or may not be categorised as an area under strong urban influence in terms of

the application of criteria under rural housing guidelines³. Policies in relation to rural housing are set out in Section 3.7 of the Galway County Development Plan 2015 – 2021. Under Rural Housing Policy Objective RHO1 it is stated that it is an objective of the Council to facilitate rural housing in the open countryside subject to the following criteria:

- (a) Those applicants with rural links to the area through longstanding existing and intermediate family ties seeking to develop their first home on existing family farm holdings. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and it will be assessed on a case by case basis.
- (b) Those applicants who have no family lands but wish to build their first home within the community in which they have longstanding rural links and where they have spent a substantial continuous part of their lives i.e. of growing up in the area, schooled in the area and have immediate family connections in the area i.e. son or daughter of longstanding residence in the area. Consideration shall be given to special circumstances where a landowner has no immediate family and wishes to accommodate a niece or nephew on family lands. Having established a substantiated rural housing need, such persons making an application on a site within an 8 kilometre radius of their original family home will be accommodated, subject to normal development management criteria and provided the site does not encroach into the urban fringe of the towns of Gort, Loughrea, Athenry or Tuam. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis.

Objective RHO 2 - Rural Housing Zone 2 (Structurally Weak Area)

It is an objective of the Council to facilitate the development of individual houses in the open countryside in "Structurally Weak Areas" subject to compliance with normal planning and environmental criteria and the Development Management Standards and Guidelines outlined in Chapter 13 and other applicable standards with the

³ Map RH 2 of on p59 of the County Development Plan is not to scale and in my opinion it is impossible to state categorically whether the subject site lies within or just outside the GTPS boundary (Area under strong urban influence or the Urban fringe boundary).

exception of those lands contained in Landscape Categories 3, 4 and 5 where objective RHO3 applies.

The site is also located in an area that is designated as Landscape Category 2 where one is the least sensitive and 5 is the most sensitive. No visual impact assessment is required.

The site is located within c.85 metres of an area that is identified in the OPW Flooding Mapping for Groundwater Flooding.

5.3. Natural Heritage Designations

5.4. The subject site is not located within or adjacent to a Natura 2000 site, a Natural Heritage Area or a proposed Natural Heritage Area. The nearest Natura 2000 sites are located are Loughrea SPA (Site Code: 004134) and SAC (Site Code: 000304) approximately 4 kilometres to the south.

5.5. EIA Screening

5.6. Having regard to the nature of the development comprising of a single dwelling in an rural area it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can, therefore, be excluded by way of preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

The appellant lives in the adjacent dwelling house to the immediate north of the appeal site. The issues raised in the appeal are set out below:

- It is suggested but some of the changes made by way of additional information increase the negative impact of the development on the appellants amenity. The relocation of the house no switch off the site results finish being closer to the appellants dwelling and results in a greater level of overlooking.

- The proposed dwelling house will result in direct overlooking the appellant kitchen. This would negatively impact on the appellants privacy.
- In order to address the issue of overlooking the applicants proposed to incorporate 1.5 m hedging along the common boundary between the sites. This vegetation will result in overshadowing of the appellant's kitchen.
- It is stated that during a 2009 flood event the three bungalows to the north of the site were cut off. It remains a concern that the proposal would increase surface water run-off in the area and would increase flooding to an even greater extent.
- Water supply is sourced from a local well, as is the case with the three bungalows to the north of the site. No confirmed private well has been identified for the site. The greater demand in terms of water supply has placed considerable pressure on the local water supply source. Concern is expressed that the increased demand will compromise the existing water source.
- The road accessing the site is a single lane with a number of blind corners and an additional dwelling increases pressure on the inadequate road infrastructure even further.

6.2. Applicant Response

- It appears that the applicant has not submitted a response to the grounds of appeal.

6.3. Planning Authority Response

- It appears that the planning authority has not submitted a response to the grounds of appeal.

6.4. Observations

- There are no observations on file.

6.5. Further Responses

None

7.0 Assessment

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Compliance with House Need Criteria – (New Issue).
- Residential Amenity Issues
- Water Supply Arrangements
- Flood Risk
- Access Arrangements

7.1. Compliance with Residential Housing Need Criteria - (New Issue)

- 7.1.1. I refer the Board to the Rural Area Types Maps (RH01) on page 57 of the development plan and the Rural Housing Policy Map (RH02) on page p.59 of the said Plan. It is not altogether clear from this Maps, but it would appear that the subject site is located within or on the boundary of the Galway Transportation Planning Study, and therefore is within or on the boundary of a Rural Area under Strong Urban Pressure. If the Board agree with this contention, the policies contained in the Development Plan, Rural Housing Objective R01 would apply and the application should be assessed in the context of this policy.
- 7.1.2. The Site would also appear to be located within the confines of the Loughrea 'Urban Fringe' as defined in the plan. Applicants whose family home is located within the urban fringe will be requested to establish a substantiated Rural Housing Need and only this category of persons will be allowed to construct a dwelling in this area.

7.1.3. The fact that the site is located c.4 km north of Loughrea on a road which currently accommodates rows of suburban type ribbon development suggests that the area is experiencing pressure for urban generated-type housing within the vicinity of Loughrea.

7.1.4. In this basis I would recommend that the Board, if minded to great permission, should consider requesting further information from the applicant regarding their compliance with the Rural Housing Need criteria set out in the development plan.

7.2. Residential Amenity Issues

7.2.1. The grounds of appeal argue that the location of the proposed housing, particularly on foot of its relocation within the site by way of a further information request, would have an adverse impact on the amenity of the adjoining house to the north by way of overlooking and overshadowing. The appellants kitchen window faces directly onto the subject site.

7.2.2. The separation distance between the appellants dwelling and the northern gable of the proposed dwelling is c17.5 metres. Which in my view is generally adequate to ensure that excessive overlooking does not occur. Perhaps more importantly, there are no windows serving habitable rooms on the northern gable of the proposed dwelling which directly face onto the appellants house. At ground floor level only a W.C. window and utility window face towards the appellants dwelling. While at first floor level two bathroom windows face north onto the appellants site. A condition can be attached requiring the windows serving the bathrooms and toilets to incorporate obscure glazing, thereby preventing direct overlooking, should the Board consider it appropriate to grant permission.

7.2.3. With regard to overshadowing, I would again consider that the separation distance between both dwellings would be adequate to ensure that no material, or indeed any overshadowing would take place. While the largest element of the proposed house is located closest to the northern boundary, the ridge height of the two storey element of the proposed dwelling rises to 7 metres, the 17.5 separation distance will ensure that no overshadowing occurs during the months outside winter time. If any

overshadowing does occur during mid-winter the impact will be minimal. The fact that the proposed dwelling is located due south of the appellants house means that the sun will be at its highest point in the azimuth when directly behind the appellants house thereby minimising the amount of overshadowing which will occur. I am satisfied therefore that impact in terms of overshadowing is acceptable and does not constitute reasonable grounds for refusal.

- 7.2.4. With regard to the planting of trees along the common boundary, the applicant is entitled to landscape within the confines of as he so chooses. It is acknowledged that any dense planting along the common boundary could result in additional overshadowing of the appellants kitchen.

7.3. Water Supply Arrangements

- 7.3.1. Concern is expressed in the grounds of appeal, that the additional demand in terms of water supply arising from the additional dwelling, could result in a diminution of water supply and water pressure in the area.
- 7.3.2. The applicants have submitted details of water supply tests which indicated that the water is of sufficient quality and quantity to serve a dwelling in the area. However, I would have concerns regarding the overall density of housing in the area which are reliant on septic tanks and proprietary treatment systems and the fact that the same houses are reliant on on-site boreholes as the source of water supply including drinking water.
- 7.3.3. In the case of the application before the Board the site layout plan indicates that the borehole is to be located near the front boundary of the site and the on-site treatment system to the rear. The direction of groundwater flow is northwest in the general direction of the borehole and towards the row of bungalows to the north which, it appears are also dependent on boreholes for the water supply. The high concentration of on-site WWTS and on-site boreholes in such close proximity would in my view give rise to potential public health concerns. The fact that the soil is relatively free draining would allow for faster movements of potential pathogens and contaminants below ground level and this coupled with wider cones of depression

through increased drawdowns from on-site wells could accentuate the threat to public health. It is questionable in my view therefore to permit further concentrations of one-off housing in this area in the absence of public water and wastewater infrastructure. This in my view constitutes reasonable grounds for refusal.

- 7.3.4. The proposal also gives rise to ribbon development, accentuating the line of linear development along the eastern side to the road serving the subject site. Section 3.4.5 of the development plan seeks to discourage the ribbon development in the open countryside and on the approaches to towns and villages. The access road leading north to the subject site is characterised by ribbon development on both sides of its alignment. I note that this would constitute a new issue, and the Board may wish to seek the views of the parties on this issue should it be minded to grant planning permission.

7.4. Flood Risk

- 7.4.1. The grounds of appeal suggest that the general area is prone to flooding due to a turlough to the south of the site and the development of a house in this area will exacerbate the problem of flooding in the area. This issue was raised by the planning authority in its request for further information and in response the applicant submitted a flood impact assessment. Despite what is suggested in the appeal, the OPW Mapping does not record any flood events in the vicinity of the site and this point is noted in the risk assessment submitted. The assessment also notes that there are no karst features in the vicinity that could give rise to groundwater flooding. Having consulted the Flood Risk Assessment submitted and the OPW Flood Maps, I am satisfied that the potential for flood risk is low.

7.5. Access Arrangements

- 7.5.1. The grounds of appeal express concerns regarding the proposed access arrangements serving the site. The road is narrow, c.3.5 meters in width along its alignment. However the alignment is straight and good sightlines are afforded in both directions and the proposed entrance. The fact that the access roads ends in a cul-de-sac results in no through traffic using the road and there are numerous lay-by /

passing areas along the alignment. For these reasons I don't believe that the provision of an additional dwelling will result in a traffic hazard.

8.0 Appropriate Assessment

9.0 Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity to the nearest European site, which is in excess of 4 km to the south, no Appropriate Assessment issues 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.

10.0 Recommendation

10.1. Arsing from my assessment above I recommend that the Board overturn the decision of the planning authority and refuse planning permission on the basis that the density of dwellings in the area that are relying in on-site WWTS and local boreholes for water supply, may be prejudicial to public health. I would also consider that prior to determining the application, where the Board are minded to grant permission, that it seek further information regarding the applicants compliance with the local housing need criteria and it may also wish to seek views with regard to settlement pattern and ribbon development. However, these are new issues and the Board may wish to seek the views of the parties regarding these issues. However, having regard to the other substantive reason for refusal set out below, it may not be considered necessary to pursue the matter.

11.0 Reasons and Considerations

11.1. The proposed development would constitute random housing development in a rural area lacking certain public services and community facilities and therefore may be prejudicial to public health. The proposed development would, therefore, give rise to demands for the provision of further public services and community facilities and

accordingly would be contrary to the proper planning and sustainable development of the area.

Paul Caprani
Senior Planning Inspector

April 2020