



An
Bord
Pleanála

Inspector's Report ABP-307750-20.

Development	Permission for house.
Location	Truscai Thoir Barna , Co Galway.
Planning Authority	Galway County Council.
Planning Authority Reg. Ref.	20/491.
Applicant(s)	Fainse Ni Ceidigh.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Fainse Ni Ceidigh.
Observer(s)	None.
Date of Site Inspection	13 th October 2020.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located to the north of the village of Bearna, Co. Galway, a village which is located approximately 6.5km to the west of Galway City on the R336 regional road. The site is located approximately 100m to the north of the zoned development boundary of Bearna. The narrow access road, which runs north from Bearna has experienced significant development pressure for one-off houses with a ribbon of development, on both sides of the road.
- 1.2. The site has a stated area of 0.5538ha. The site comprises part of a larger field, and a smaller field to the roadside with the proposed house to be set back from the public road, to the rear of an existing house. The site is accessed via an agricultural entrance, with 10m road frontage, reducing to approximately 3.7m at a pinch point before reaching the larger field. This entrance is located between two houses.
- 1.3. The site rises from the public road and is undulating with stone wall field boundaries and rock outcrop evident. The wider area includes a variety of house types.
- 1.4. The Board will note that the subject site lies within the 50km/p/h speed limit of the Ann Gibbins Road and the roadside boundary overlaps with the development fence line of the N6 Galway City Ring Road. The western area of the site therefore overlaps the Protected Road Scheme CPO, PRS plot reference 186.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for the construction of a single storey dwelling house garage, wastewater treatment system and percolation area and all associated site works. Gross floor space of proposed works, 264sqm, all at Truscai Thoir Barna, Co Galway.
- 2.2. The application included a number of supporting documents including as follows:
 - Plans, particulars and completed planning application form
 - Planning Report
 - Rural Housing Need details
 - Site Characterisation form

- Site Suitability Assessment Report

2.3. The house design proposes a modern single storey dwelling with a monopitch roof and a floor area of 264m² and a detached garage with a floor area of 60.67m². The house will rise to 5.782m at its highest point and includes 4 double bedrooms, large kitchen, dining room and sitting area. The section through the site suggests that significant excavation and ground works are proposed to accommodate the house. A proposed wastewater treatment system is proposed to serve the dwelling.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse planning permission for the proposed development for the following stated reason:

Having regard to the access arrangement, elevated topography, the extent of cut required to facilitate for the footprint of the proposed works and backland siting of the proposed development within the wider context of the rural area, it is considered that the proposed development, would if permitted result in a haphazard arrangement, which would not fit appropriately or integrate effectively into this setting by way of disorderly development. Furthermore, the proposed house would contravene materially Objective RHO 0, Objective LCM 1, Objective LCM 2 and DM Standard 6 contained in the Galway County Development Plan 2015-2021. Accordingly to grant the proposed development would interfere with the character of the landscape and pattern of development in the area, would detract from the visual and residential amenity of the area, would militate against the preservation of the rural environment, would contravene materially a development objective and a development management standard contained in the current county development plan, would set an undesirable precedent for similar future development in the area and therefore, would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The initial Planning Report concludes that the applicant has demonstrated sufficient connections to comply with the requirements of Objective RHO1 of the CDP, as it relates to compliance with rural housing policies. The planning report, however, raises concerns in terms of the backland nature of the site and the potential impact on the amenity of existing properties in the vicinity. The topography of the site would require significant cut and fill to be carried out which would constitute haphazard and disorderly development. The report concludes that proposed development is not acceptable, and the Planning Officer recommends that permission be refused for the proposed development.

This Planning Report formed the basis of the Planning Authority's decision to refuse planning permission.

3.2.2. Other Technical Reports

None.

3.2.3. Prescribed Bodies

TII: The Authority will rely on the PA to abide by official policy and reserves the right to appeal any decision made which is at variance with stated criteria.

Arup: The roadside boundary of the site overlaps the Protected Road Scheme CPO, PRS plot reference 186, for the N6 Galway City Ring Road. Issue raised in relation to stated owner of the site which is not as per the notice served as part of the CPO. No construction work shall take place within the reserved corridor of the N6 GCRR and confirmation of ownership required.

3.2.4. Third Party Submissions

None

4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

PA ref:19/1396: Permission sought for a single storey dwelling by the current applicant. The application was withdrawn prior to a decision issuing.

PA ref:19/141: Chun teach cónaithe, córas séarachais agus Garáiste Príomháideach a thogáil. Spás urláir comhlán na n-oibreacha bearaithe teach 226.0sqm, Garáiste 60.0sqm by the current applicant. The application was withdrawn prior to a decision issuing.

PA ref:18/1032: Chun teach cónaithe, córas séarachais agus garáiste príomháideach a thogáil. Spás urláir comhlán na n-oibreacha beartaithe 248.75 sqm. by the current applicant. The application was withdrawn prior to a decision issuing.

PA ref: 03/3503: Permission refused for the construction of 4 dwelling houses to Paul Thornton and Yvonne Doyle.

Other relevant decisions in Bearná:

ABP-302216-18: Permission granted, under Section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016, for a development consisting of 197 dwellings, community room and associated site works, on a site approximately 300m to the south east of the site, and within the development boundary of Bearná.

5.0 Policy and Context

5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

- 5.1.1. The National Planning Framework – Project Ireland 2040 is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF

that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas.

- 5.1.2. National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations. In rural areas elsewhere, it refers to the need to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.2. Sustainable Rural Housing Development Guidelines 2005

- 5.2.1. The Rural Housing Guidelines seek to provide for the housing needs of people who are part of the rural community in all rural areas and makes a distinction between 'Urban Generated' and 'Rural Generated' housing need. Chapter 4 of the guidelines relates to rural housing and planning applications and states that in areas under significant urban influence, applicants should outline how their proposals are consistent with the rural settlement policy in the development plan. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply, including 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.
- 5.2.2. The Guidelines further require that new houses in rural areas be sited and designed in a manner so as to integrate well with their physical surroundings and generally be compatible with water protection, roads, traffic and public safety as well as protecting the conservation of sensitive areas.

5.3. Development Plan

- 5.3.1. The Galway County Development Plan 2015-2021 is the relevant policy document relating to the subject site. Variation No 2(a) Bearna Plan is effective from 23rd July 2018. The site is located outside the development boundary for the village.
- The site lies within Rural Area under Strong Urban Pressure (GTPS) and within An Ghaeltacht.

- Objective RHO 1 Rural Housing Zone. (Rural Area Under Strong Urban Pressure – GTPS)
- Objective RHO 9 Design Guidelines.

5.4. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Galway Bay SAC & SPA (Site Code: 000268) which is located approximately 1.3km to the east of the site.

The Moycullen Bogs NHA, (Site Code 002364), is located approximately 1.4km to the west of the site.

5.5. EIA Screening

Having regard to nature and scale of the development, together with the brownfield nature 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

This is a first party appeal, submitted by Fergal Bradley & Co. Ltd., against the decision of the Planning Authority to refuse planning permission for the proposed development. The appeal sets out the planning history of the site and notes that several requests for a pre-application consultation with the Planning Authority were denied. The issues raised are summarised as follows:

- The position of the PA that the development at the site would be ‘insurmountable from a development management perspective, and that this was conveyed to the landowner’ is entirely at odds with the applicants recollection of the pre-application consultation.
- No record of the pre-application consultations was provided.

- In terms of Objective RHO 9, it is argued that the proposed dwelling respects entirely the character, pattern and tradition of existing places, materials and built forms, and fits appropriately into the landscape.
- In terms of Objective LCM 1 and Objective LCM 2, it is argued that the dwelling will not be visible from any of the adjoining access roads within the immediate vicinity and will not interrupt views, prospects or local amenities.
- In terms of DM Standard 6, it is argued that the house has been positioned on the mid to lower slope of the site as required. The proposal does not alter or affect the existing field patterns nor any established hedgerows or woodland.
- Access is from a public roadway in the control of the local authority with no restrictions in terms of sightlines.
- With regard to the backland nature of the site, a number of examples of similarly sited planning permission which have been approved by the PA for one-off rural houses in the immediate vicinity are submitted.

6.2. **Planning Authority Response**

None.

6.3. **Observations**

None.

7.0 **Assessment**

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development & Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards
2. Visual Impacts
3. Roads & Traffic
4. Water Services
5. Site Suitability Issues
6. Other Issues
7. Appropriate Assessment

7.1. Principle of the development & Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards:

- 7.1.1. The subject site is located within the rural area and outside the designated settlement boundary of Bearna. The site is not zoned and is within an area identified as being under Strong Urban Pressure in the Galway County Development Plan 2015-2021, due to its proximate location to Galway City. This pressure is evident on the ground. There is a presumption against development in such areas save for in instances where it can be demonstrated that an applicant complies with the Planning Authority's policies relating to the rural area. Should the Board be minded to grant planning permission in this instance it should be satisfied that the appellant adequately complies with the requirements of these stated policies, as well as National Policy Objective 19 of the National Planning Framework.
- 7.1.2. Objective 19 of the National Planning Framework seeks to ensure that in rural areas under urban influence, the provision of single housing in the countryside will be based on the core consideration of demonstratable economic or social need to live in a rural area..... having regard to the viability of smaller towns and rural settlements. The Galway County Development Plan also seeks to facilitate the rural generated housing needs of the local rural community with urban generated housing directed to the zoned and serviced areas of settlements, villages and towns. Objective RH01- Rural Housing Zone 1 (Rural Area Under Strong Urban Pressure – GTPS) of the

CDP provides for the limited circumstances within which rural housing within an area under strong urban pressure may be facilitated.

- 7.1.3. The applicant has submitted adequate evidence to suggest that she has strong local links to the area and her parents appear to have owned the subject site since December 2008. She has attended local schools, works locally, with Aer Arann at Inverin, and is currently living in her parents' home at Foramoyle East, Barna, approximately 1km (as the crow flies) to the south west of the subject site. The applicants' parents' house is also located outside the development boundaries of Bearna. While I acknowledge and accept the bone fides of the applicant in this instance, I am satisfied that she does not have a specific economic need to live on the subject site, where her housing need might reasonably be met within the settlement boundary.
- 7.1.4. The Board will also note the submission in the appeal which details previous planning permissions for similar type developments in the area of Bearna. While I acknowledge same, I also note the most of these developments were granted planning permission prior to the adoption of Variation No 2(a) of the Galway County Development Plan 2015-2021 which became effective from 23rd July 2018. Indeed, the majority of the examples cited are also located within the settlement boundary of Bearna. The above Variation No 2(a) clearly locates the appeal site outside the settlement boundary. The variation No 2(a) deals in a very clear manner, the reasoning behind setting the development boundary with the express preference to consolidate the existing build up area of the village rather than the continual expansion of sprawl into the countryside and ensuring a more compact form of development which makes more efficient use of existing services and infrastructure in Bearna.
- 7.1.5. In light of the above, I consider that a grant of permission in this instance would militate against the consolidation of the village of Bearna and would result in urban sprawl, setting a precedent contrary to the policy objectives of the Galway County Development Plan 2015 and in particular, Variation No 2(a). Having regard to the level of existing housing development already in existence in this rural location, it is considered that the proposed development would exacerbate the existing excessive density of development in this rural area, would contribute to the further

suburbanisation of the area and would, therefore, result in a haphazard and unsustainable form of development in an unserved area.

- 7.1.6. As such, I am satisfied that the applicant has not demonstrated adequate compliance with the policy objectives of the City Development Plan as they relate to rural housing, Objective 19 of the National Planning Framework or the guidance provided within the Sustainable Rural Housing Guidelines.

7.2. Visual Impacts

- 7.2.1. The appellant seeks to make a case for the proposed development noting the proposal respects the character, pattern and traditions of the area. The design seeks to nestle the building into the landscape such that it will not be visible from the access road. The perimeter of the site is to be screened to further protect the visual amenity of the area.
- 7.2.2. The site is located in the Landscape Character Area 9 – Inveran to Galway City Coastline and within a Class 2 landscape in terms of sensitivity with a medium landscape value. The site is located in an elevated position and rises from the south towards the north of the site and has a range in levels from +91m to the south and +95.5m to the north. The proposed finished floor level of the house is indicated to be +93m and the house will rise to an overall height of 5.782m.
- 7.2.3. As such, I am satisfied that the development would be visible in the wider area. The necessary cutting of the site to accommodate the proposed development would also result in a visual scar at this location. In this regard the proposed development would contravene the relevant provisions of the Galway County Development 2015-2021, including Objectives RHO9, LCM 1 and LCM 2 and DM Standard 6, and would, therefore, be contrary to the proper planning and sustainable development of the area.

7.3. Site Suitability Issues

- 7.3.1. In terms of site suitability, the Board will note that the proposed development is to be served by a private waste water treatment system, and it is intended to install an Aswaflo Wastewater Secondary Treatment System (4-8P.E) which will discharge to

a sand polishing filter. The filter sand polishing filter will have a stated area of 45m². It is also noted that the house is to be serviced via the public water supply.

- 7.3.2. Having considered the information provided with regard to the proposed development, I am satisfied that the applicant submitted a robust and complete site assessment regarding its suitability in terms of the treatment and disposal of wastewater generated on the site. The site assessment appears to have been carried out by a suitably qualified professional. However, the submitted plans fail to identify the location of the wastewater treatment systems for the houses immediately adjacent to the site to the west and to the south. In the context of the subject site, I would advise that there is a high concentration of houses with individual WWTPs.
- 7.3.3. The Site Assessment Report notes that the bedrock was encountered in the trial pit at a depth of 1m bgl, while the water table was not identified. The depth of the trial hole was 1m. The assessment identifies that the site is located in an area where there is no Groundwater Protection Scheme. The site is categorised as being a Poor Aquifer (PI), bedrock which is generally unproductive except for local zones, and has an extreme vulnerability. A Groundwater Protection Repeal of R2¹ is indicated. The topsoil is described as organic peaty soil with gravelly clay mixed with cobbles below. The bedrock type is 'Granites & Other Igneous intrusive rocks'. Rocky outcrops are visible within the site and stone walls comprise the site boundaries.
- 7.3.4. Due to the shallow nature of the soils, no *T tests were carried out on the site. *P tests were also carried out at the site at a level of 0.4m bgl, yielding an average value of 9.33 and a *P result of 4.06. The report concludes, recommending a pumped wastewater treatment plant and sand polishing filter. The system will discharge to groundwater at a hydraulic loading rate of 20l/m².d.
- 7.3.5. I am satisfied that the applicant has submitted a robust and complete site suitability assessment regarding the suitability of the proposed site in terms of the treatment and disposal of wastewater generated on the site. I am further satisfied that the site appears capable of accommodating the development in the context of wastewater treatment and disposal. However, I would raise concerns in terms of the concentration of individual wastewater treatment systems in the vicinity of the site and on lands which are characterised by shallow soils over aquifers of extreme vulnerability. I again restate that the submitted planning application details do not

provide details as to the location of the existing wastewater treatment systems associated with the closes houses, approximately 70m and 90m away.

- 7.3.6. Should the Board consider it appropriate to include this issue as a reason for refusal, it would be a new issue.

7.4. Other Issues

7.4.1. Roads Issues

The Board will note that the entrance to the subject site overlaps the Protected Road Scheme CPO, PRS plot reference 186, for the N6 Galway City Ring Road. I am satisfied that the issues raised by ARUP can be appropriately dealt with by way of condition in the event of a grant of planning permission.

7.4.1. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

7.4.2. Appropriate Assessment

The site is not located within any designated site. The closest Natura 2000 site is the Galway Bay SAC & SPA (Site Code: 000268) which is located approximately 1.3km to the east of the site. The Moycullen Bogs NHA, (Site Code 002364), is located approximately 1.4km to the west of the site.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

I recommend that planning permission be Refused for the proposed development for the following stated reason and subject to the following stated conditions.

9.0 Reasons and Considerations

1. The site of the proposed development is located within an “Area Under Strong Urban Influence” as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April 2005, wherein it is policy to distinguish between urban-generated and rural-generated housing need. Furthermore, the subject site is located in an area that is designated under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements.

Having regard to the location of the site outside the settlement boundary for the village of Bearna, within an unserviced area, it is considered that the proposed development would result in and exacerbate a pattern of haphazard development at this location outside of the urban area, and would by itself and by the precedent it would set for similar such development, militate against the consolidation of the adjoining settlement including the more efficient use of services and infrastructure within this settlement and would contribute to the encroachment of random development, resulting in urban sprawl into the countryside at this location, contrary to the requirements of Variation No 2(a) of the Galway County development Plan 2015. Furthermore, the Board is not satisfied that the applicant’s housing needs could not be satisfactorily met in an established town or settlement centre.

The proposed development would, therefore, be contrary to the Ministerial Guidelines, to the over-arching national policy and having regard to the provisions of the current Galway County Development Plan 2015-2021 would be contrary to the proper planning and sustainable development of the area.

2. The proposed development by reason of its design and siting would constitute an inappropriate design response to the existing context of the site, would result in discordant development which would be unduly obtrusive and would seriously injure established residential and other amenities of properties in the vicinity. In this regard the proposed development would contravene the relevant provisions of the Galway County Development 2015-2021, including Objectives RHO9, LCM 1 and LCM 2 and DM Standard 6. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

A. Considine

Planning Inspector

20th October 2020