



An
Bord
Pleanála

Inspector's Report

ABP-307752-20

Development	Amendments to previously granted planning permission (GCC Ref 18/1435) to renovate and extend an existing semi derelict house.
Location	Ballynacloghy Road, Maree, Co Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	20411
Applicant(s)	Ger Hyland & Selena O'Brien
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	Marlys Coffey
Observer(s)	None
Date of Site Inspection	13 th October 2020
Inspector	Mary Crowley

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1.0 Site Location and Description

1.1. The appeal site with a stated area of 0.22ha is located in a rural area c5.km west of Clarinbridge. The area is characterised by a network of narrow local roads, extensive one off rural houses, linear development and agricultural development. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

2.0 Proposed Development

2.1. Permission is sought for amendments to previously granted planning permission (Reg Ref 18/1435) to renovate and extend an existing semi derelict dwelling house (49sqm) and provision of a new proprietary treatment plant and all ancillary works. Gross floor space of proposed works, 233sqm.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Galway County Council issued a notification of decision to grant permission subject to 10 no standard conditions. Conditions of note are summarised as follows:

- Condition No 2 – The grant of permission shall expire on the expiry date of the parent permission under planning reference Reg Ref 18/1435.
- Condition No 9 – Any in-situ stonewalls; hedgerows and / or trees bounding the site shall be retained.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Case Planner referred to the previous grant of permission on site and recommended that permission be granted subject to conditions. The notification of decision to grant permission issued by Galway County Council reflects this recommendation.

3.2.2. Other Technical Reports

- None

3.3. Prescribed Bodies

3.3.1. None

3.4. Third Party Observations

3.4.1. There are 2 no observations recorded on the appeal file form (1) Mark Coffey, (2) Marlys Coffey. The issues raised relate to local need, scale of development, visual impact, overlooking and flooding.

4.0 Planning History

4.1.1. There was a previous permission granted on this site, that is referenced in the public notices and that may be summarised as follows:

- **Reg Ref 18/1435** – Planning permission was granted to Henry Kearney subject to conditions to renovate and extend an existing semi derelict dwelling house and provision of a new proprietary treatment system and all ancillary works. Gross floor space of proposed works: 64.4 sqm. Total ground floor area is 113.4 sqm. It is noted that no restrictive occupation condition was attached.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative plan for the area is the **Galway County Development Plan 2015 – 2021**.

5.2. Natural Heritage Designations

5.2.1. The site is not located within a designated Natura 2000 site. The Galway Bay Complex SAC and the Inner Galway Bay SPA is c.0.65km from the appeal site.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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. The third-party appeal has been prepared and submitted by Marlys Coffey, Bluebell Cottage (adjacent property to the south) and the issues raised may be summarised as follows:

- The proposed extension is 5.2m from the appellants boundary and 16m from their rear boundary. There is also a proposed window on western elevation 4m from the boundary and will overlook the appellants property. The Development Plan requires 22m to prevent overlooking.
- All planning applications requires a landscaping plan. None has been submitted and there is inadequate screening to the appellants property.
- Reference is made to Section 13.4 of the Development Plan (unobtrusive buildings). The proposed house will be looking straight into the appellant house and c1.5m over their floor level whereby windows will be equivalent to a 1st floor window. Further the site levels given don't appear to tie into the Malin Head datum.
- The Council are aware that this area is subject to pluvial flooding and have raised the road near the appellants property by c300mm in 2016 to allow people to access their properties. The appellants house is now one of the lowest properties in the area. Concern that the proposed development will cause their house to flood. A Flood Risk Assessment is required.
- The Development Plan requires a minimum site size of 2000sqm for a 200sqm house and 10sqm for each extra sqm. In this case the site area required is 2330sqm but the application is 2200sqm and is not suitable.

- The development is not in scale with the appellants traditional cottage and is contrary to the Galway County Council Design Guidelines.
- There is no evidence that this site has been used for residential purposes and has been a shed since long before the 1950s. The proposed buildings is almost 5 times bigger and out of scale and character with the adjacent stone cottage. The scheme is contrary to the Sustainable Rural Housing Guidelines for Planning Authorities.
- The original planning decision Reg Ref 18/14535 was by a local and included a housing need application but did not result in a clause restricting use of the property. The new applicant needs to show housing need as this site is designated as an area under strong urban pressure.
- The planning as granted does not include the documents and details of how they are going to protect existing structures during construction submitted under Reg Ref 18/1435 as required under the Galway County Development Plan.
- Objective RHO-7 Renovation of Existing Derelict Dwelling / Semi Ruinous Dwelling states that “where the total demolition of the existing dwelling is proposed an Enurement Clause for seven years duration will apply”. Submitted that this should have been applied in this case.
- Condition No 1 of Reg Ref 20/411 does not reference planning Reg Ref 18/1435 and documents submitted on 18th December 2018. These dealt with how they are going to protect existing structure. Submitted that they are now free to demolish existing structure and inurement clause should have been inserted and housing need application sought as previously outlined.

6.2. Applicant Response

6.2.1. The first party response to the appeal has been prepared and submitted by the James O'Malley on behalf of the applicants and may be summarised as follows:

- There is no requirement by Galway County Council stating that “all planning applications require landscaping plan”.
- The finished floor level of the higher portion of the proposed dwelling is between 400 and 740mm lower that the existing boundary level.

- The design process has given fair consideration to the site and its context, working within the guidance set out in the Galway Council “Design Guidelines for the Single Rural House” and has resulted in a modestly scaled and massed dwelling while working within the constraints of the existing site levels and incorporating the existing semi derelict dwelling.
- The majority of glazing on the southern elevation is along a circulation route save for a section provided at inward facing seating area adjoining the kitchen.
- Reference is made to the Flood Risk assessment section of the Case Planners report where it states that “following examination of the relevant GIS information in relation to flood risk assessment, the site of the proposed development is not within a flood risk area”. Letters from neighbours and previous owner of Bluebell cottage re flooding stating that they have “absolutely no issues with flooding”. Further the applicant intends to dispose of all surface water sensitively.
- The site area standards as set out in the Development Plan are noted. It is submitted that the proposed development would fall within the category of an “existing” scenario.
- The former use of the existing derelict dwelling has been addressed under the previous permission Reg Ref 18/1435.
- The levels indicated are relative to an assumed ordnance datum and do not “tie into Malin Head datum”.
- This application related to amendments to previously granted planning permission (Reg Ref 18/1435). The necessity to demonstrate housing need has been addressed under this grant of planning permission.
- The applicant intends to employ a chartered structural engineer throughout the project to ensure that the existing building can be retained and renovated.

6.3. Planning Authority Response

6.3.1. None

6.4. Observations

6.4.1. None

6.5. Further Responses

6.5.1. None

7.0 Assessment

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings. Concerns raised with regard to site levels are noted. However, together with my site inspection I am satisfied that there is adequate information available to determine this appeal.

- Principle
- Design & Scale
- Residential Amenity
- Flooding
- Appropriate Assessment.
- Other Issues

7.2. Principle

7.2.1. This application relates to amendments to a previously granted planning permission (Reg Ref 18/1435). While the appeal site is within an area identified as "Rural Area Under Strong Urban Pressure" where Objective RHO 1 - Rural Housing Zone 1 (Rural Area Under Strong Urban Pressure-GTPS) requires inter alia that applicants demonstrate rural links to the area it remains that the parent permission did not attach a restrictive occupancy condition. Rather it would appear that the parent permission was based on Objective RHO7 Renovation of Existing Derelict Dwelling / Semi Ruinous Dwelling where proposals to renovate, restore or modify existing derelict or semi derelict dwellings in the County are generally dealt with on their merits on a case by case basis. Accordingly, the proposal to amend the design of the permitted dwelling at this location is acceptable in principle.

7.3. Design & Scale

- 7.3.1. Objective RH07 Renovation of Existing Derelict Dwelling / Semi Ruinous Dwelling states that proposals to renovate, restore or modify existing derelict or semi derelict dwellings are generally dealt with on a case by case basis, having regard to *inter alia the condition of the structure and the scale of any works required to upgrade the structure to modern standards*. It further states that the *derelict/semi ruinous dwelling must be structurally sound, have the capacity to be renovated and/ or extended and have the majority of its original features/walls in place*.
- 7.3.2. It is clearly the intent of this objective that the structure to be renovated and or extended should be maintained and respected. Further it is reasonable to infer that where an extension is proposed that the original structure should for the most part be clearly identifiable within the proposed scheme. To this end I refer to the plans and particulars of the permitted scheme where the existing derelict structure has been sensitively renovated, is clearly identifiable as original and the rear extension is subordinate and respectful to the existing structure for which permission was granted in compliance with Objective RH07. However, I am concerned that the current amended plans before the Board in terms of desing and scale will erode the presence of the existing structure on site and contravene Objective RH07.
- 7.3.3. Having regard to the condition and scale of the derelict structure on site with a stated area of 49sqm relative to the proposed renovation and extension works with a stated area of 233sqm I consider that the proposed scheme by reason of its bulk and massing would be incongruous in terms of scale and would be out of character with the pattern of development in the vicinity. Further I consider that the design whereby the existing structure is virtually undistinguishable from the new build would be unacceptable. Refusal is recommended.

7.4. Residential Amenity

- 7.4.1. I note the concerns raised in relation to overlooking and impact on the residential amenity of the appellants adjoining. Having regard to the plans and particulars submitted I share the concerns raised. The majority of glazing on the southern elevation serves the kitchen / living/ dining area. Together with the location, orientation, and proximity of the proposed dwelling to the adjoining property to the

south I am concerned that there will be a negative impact on residential amenity. However, given the substantive issues raised with regard to the design and scale of the scheme proposed I do not consider that it is necessary to refuse permission based on impact on residential amenity. It is however recommended that any future application at this site would have regard to the amenity of adjoining residential properties.

7.5. **Flooding**

7.5.1. I note the concerns raised that the area is subject to pluvial flooding and that a Flood Risk Assessment is required. In this regard I refer to the Flood Maps available to view on the OPW website where there is no evidence of flooding at this site. I do not consider that the proposed development would exacerbate the risk of flooding in the area.

7.6. **Appropriate Assessment**

7.6.1. Having regard to the nature and scale of the development and its distance to the nearest European site, 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.

7.7. **Other Issues**

7.7.1. **Construction Impact** – I note the concerns raised with regard to the proposed construction works. There will inevitably be disruption during the course of construction, however this will be a short-term impact and as such can be minimised to acceptable levels with appropriate standard working / construction procedures such as controlling construction hours, dust minimisation etc. Overall, I am satisfied that these matters can be dealt with by way of suitably worded condition requiring the submission of a construction management plan for agreement.

7.7.2. **Development Contribution** - I refer to the Galway County Council Development Contribution Scheme 2016. The proposed development is not exempt. It is therefore recommended that should the Board be minded to grant permission that a suitably

worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

8.0 Recommendation

8.1. I have read the submissions on file and visited the site. Having due regard to the provisions of the Development Plan, together with all other issues arising, I recommended that permission be **REFUSED** for the following reasons and considerations.

9.0 Reasons and Considerations

1) Having regard to the condition and scale of the derelict structure on site with a stated area of 49sqm relative to the proposed renovation and extension works with a stated area of 233sqm it is considered that the proposed development, by reason of its floor area relative to the derelict structure and surrounding buildings, its bulk and massing and its design whereby by the existing structure would be unidentifiable in the new build would be incongruous in terms of scale and would be out of character with the pattern of development in the vicinity and would constitute a visually discordant feature that would detract from the structure on the site and be detrimental to the rural character of this area, which it is appropriate to preserve and would set an undesirable precedent for future similar development in this area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area

Mary Crowley

Senior Planning Inspector

30th October 2020