



An
Bord
Pleanála

Inspector's Report

ABP-307753-20

Development	Construction of a dwelling, domestic garage and a new effluent treatment system.
Location	Lettermore, Co. Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	20521
Applicant(s)	Martin & Marzena Vaughan
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Martin & Marzena Vaughan
Date of Site Inspection	15 th October 2020
Inspector	Colin McBride

1.0 Site Location and Description

1.1. The subject site, which has a stated area of 0.37 hectares, is located to the south of Lettermore Co. Galway and on the south western side of the L-5232. The appeal site is a short distance from the coastline and Carraveg Bay, which is to the east of the site. The appeal site is a field area defined by low stone walls. Levels on site increase moving away from the public road. Adjoining lands to the south, west and north west are similar in nature. To the north west of the site is a vacant single-storey dwelling.

2.0 Proposed Development

2.1. Permission is sought to construct a dwelling, detached garage and install an effluent treatment system. The proposed dwelling is single-storey and has a floor area of 171.35sqm and a ridge height of 6.2m. The dwelling features a pitched roof and external finishes of mainly plaster with some stone elements and blue/black roof slates/tiles. The detached garage has a floor area of 34.5sqm, a ridge height of 4.62m and features a pitched roof and similar external finishes to the proposed dwelling. It is proposed to install a proprietary wastewater treatment system and water supply is to be from a private well. It is proposed to provide a new vehicular access off the public road.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on two reasons...

1. Having regard to the following:

- Poor drainage characteristics on site,
- The planning history on site in this regard under file ref. no. 17/1125, 18/1081 & 19/1042,
- The EPA site characterisation report being outdated,

- The lack of assessment in height of the winter water table,
- The potential pathway to Kilkieran Bay and Islands SAC,

It is considered by the Planning Authority that the safe disposal of domestic effluent on site cannot be guaranteed, notwithstanding the use of a wastewater treatment system and percolation area. Accordingly to grant the proposed development would be prejudicial to public health, would seriously endanger the health and safety of persons occupying the structure, would pose an unacceptable risk to surface water waters and would have an adverse impact on the conservation status of Kilkieran Bay and Islands SAC and therefore subsequently contravene Objective WW1, NHB 1, Objective NHB 2 and Objective NHB 3 of the Galway County Development Plan 2015-2021.

2. It is considered that the proposed development would endanger public safety by reason of traffic hazard owing to the restricted sight visibility to the north west and the substandard horizontal alignment of the heavily trafficked local road in the said direction in the immediate vicinity of the site frontage. Hence, it is considered that turning movements generated by the proposed development onto and from the site would interfere with the safety and free flow of traffic on the heavily trafficked local road and would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise 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

Planning Report (18/07/20): It was considered that drainage conditions on site are unsuitable for a wastewater treatment system with concerns regarding public health and potential significant effects on the status of the Kilkieran Bay & Islands SAC. Sightlines at the proposed entrance were considered to be deficient with the proposal deemed to constitute a traffic hazard. Refusal was recommended based on the reasons outlined above.

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

None

4.0 **Planning History**

4.1 18/1081: Permission refused to construct a dwelling, garage, wastewater treatment system and associated site works.

4.2 There were two withdrawn applications for the same development under ref no.s 17/1125 and 19/1042,

5.0 **Policy Context**

5.1. **Development Plan**

The relevant Development Plan is the Galway County Development Plan 2015-2021.

Chapter 2 provides the Core Strategy for the County. This includes in Section 2.3 Development Strategy Objectives: Objective DS 6 – Natura 2000 Network and Habitats Directive Assessment.

Section 2.4 provides for the Core Strategy as an integral component of the Spatial Strategy and reference is also made to the Regional Planning Guidelines. S.2.4.8 refers to the Core Strategy and Settlement Hierarchy.

Section 2.6 refers to the Settlement and hierarchy. A Table is provided showing a six tier system. It is noted that the lowest tier of the hierarchy refers to Other Settlements and the Countryside.

Chapter 3 refers to Urban & Rural Housing.

Section 3.7 refers to Single Housing in the Countryside and has regard to the distinction between urban and rural generated housing and the requirement for sustainable rural housing. S.3.8 identifies Rural Area Types – Map RH01 refers – the subject site is located in a Structurally Weak Rural Area. Section 3.8.2 refers and provides the objectives for such areas. This includes: *To protect areas located in Landscape Category 3, 4 and 5.* Map RHO2 shows that the area is located in Zone 3 Landscape Category 3-5. As per Section 3.8.3 the Site is within Rural Housing Zone 3. Objective RHO 3 refers i.e: *Those applicants seeking to construct individual houses in the open countryside in areas located in Landscape Categories 3, 4 and 5 are required to demonstrate their Rural Links to the area and are required to submit a Substantiated Rural Housing Need. In addition an Applicant may be required to submit a visual impact assessment of their development, where the proposal is located in an area identified as “Focal Points/Views” in the Landscape Character Assessment of the County or in Class 4 and 5 designated landscape areas. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis. An Enurement condition shall apply for a period of 7 years, after the date that the house is first occupied by the person or persons to whom the enurement clause applies.* Objective RHO 6 refers to circumstances relevant to the provision of a Replacement Dwelling.

RHO 9 - Design Guidelines for Single Rural House.

RHO 12 - Waste Water Treatment Associated with Development in Un-Serviced Areas

Chapter 5 refers to Roads and Transportation.

Chapter 6 includes regard to Wastewater Treatment Systems. Objective WW 5 refers to WWT associated with development in un-serviced areas.

Chapter 9 refers to Heritage, Landscape and Environmental Management Section Section 9.8 refers to Natural Heritage and Biodiversity and includes regard to Natura 2000 sites. S.9.9 provides the Natural Heritage and Biodiversity Policies and Objectives. NHB 1, NHB2, NHB 3 and NHB 8/10 (protection of coastal zone) are of note. Designated Environmental Sites are provided in Map NHB1.

Landscape Sensitivity categories 1 (low) – 5 (unique), are referred to in S.9.10.2.3. Map LCM1 shows the site is within the High Landscape value rating. Map LCM2 refers to Landscape Sensitivity and shows the site is included within the Class 4 – Special area.

Chapter 13 provides the Development Management Standards and Guidelines. DM Standard 1 refers to Qualitative assessments for urban and rural area. This includes reference to the DoEHLG Sustainable Rural Housing Guidelines 2005. Section 13.4 provides the Rural Residential Considerations and includes DM Standard 5 relative to Rural Housing need and DM Standard 6: Assimilation of Development into Landscape and DM Standard 8 relative to Landscaping.

DM Standard 20: Sight Distances Required for Access onto National, Regional & Local Roads.

5.2 Code of Practice Wastewater Treatment Disposal Systems serving Single Houses

This document (2009) by the EPA relevant to single houses (p.e <10). The objective is to protect the environment and water quality from pollution and it is concerned with site suitability assessment. It is concerned with making a recommendation for selecting an appropriate on site domestic wastewater treatment and disposal system if the site is deemed appropriate subject to the site assessment and characterisation report. The implementation of the Code is a key element to ensure that the planning system is positioned to address the issue of protecting water quality in assessing development proposals for new housing in rural areas and meeting its obligations under Council Directive (75/442/EEC).

5.3. EU Water Framework Directive

The purpose of the EU Water Framework Directive (WFD) 'is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater.

5.4. EU Habitat Directive

The aim of the EU Habitat Directive is 'to contribute towards ensuring bio-diversity through the conservation of natural habitats and of wild fauna and flora in the European territory of the Member States to which the Treaty applies'.

5.5 Natural Heritage Designations

There are a number of Natura 2000 sites within the vicinity...

Kilkieran Bay & islands SAC Site Code 002111 0.06km from the site.

Conemara Bog Complex SAC Site Code 002034 7.79km from the site.

Slyne Head to Ardmore Point Islands SPA Site Code 004159 8.50km from the site.

Conemara Bog Complex SPA 004181 Site Code 10.33km from the site.

Inishmore Island SAC Site Code 000213 Site Code 10.68km from the site.

5.6 EIA Screening

5.6.1 In regard to the nature and scale the development which consists of the construction a dwelling and associated site works 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 has been lodged by Martin & Marzena Vaughan. The ground of appeal are as follows...

- The appeal site is the only site available on family lands to the applicants for the purposes of a family home.
- The applicants/appellants have a report (submitted) from environmental consultants assessing the sites suitability for a wastewater treatment system. The report indicates that the site is suitable for a wastewater treatment system with the appellants questioned why the professional opinion on this matter is

not accepted and in the context of the fact that a number of other dwellings have been permitted in the area including one closer to the seashore.

- On the issue of sightlines it is noted that the neighbouring landowner is willing facilitate an improvement in sightlines by allowing set back of his gates, pillars and roadside wall. The applicants/appellants note that they have pegged out an area on their neighbours site to highlight this setback.
- The applicants/appellants considered that they have addressed the issues raised in the refusal and previous refusal on site.
- The appellants state that they have a need for improved family accommodation and provide details of the health/family requirements and wish for improved accommodation.
- The appeal submission is accompanied by various documents including details of the applicants' links to the area, NIS, site suitability assessment.

7.0 **Assessment**

7.1. Having inspected the site and the associated documents the relevant issues are as follows...

Compliance with Development Plan policy

Wastewater Treatment/public health

Traffic impact/vehicular entrance

Visual Impact/landscape character

7.2 Compliance with development Plan policy:

7.2.1 The proposal is for a dwelling, detached garage, wastewater treatment system and ancillary site works in the rural area of Galway. The applicants were considered to be in compliance with Objective RH03 (Rural Housing Zone 3, Landscape Category

3, 4 and 5) and have demonstrated Rural Links in accordance with Development Plan policy. Based on the information on file the applicants do comply with Development Plan policy in relation to rural housing.

7.3 Wastewater Treatment/public health:

7.3.1 The proposal was refused on the basis that there are poor drainage characteristics on site and the planning history of the site includes a previous refusal in regards to drainage issues. The refusal reason also noted that the site characterisation report is outdated, there was a lack of assessment in height of the winter water table and there is a potential pathway to Kilkieran Bay and Islands SAC. It was considered by the Planning Authority that the safe disposal of domestic effluent on site cannot be guaranteed, notwithstanding the use of a wastewater treatment system and percolation area and that the proposed development would be prejudicial to public health, would seriously endanger the health and safety of persons occupying the structure, would pose an unacceptable risk to surface water waters and would have an adverse impact on the conservation status of Kilkieran Bay and Islands SAC and therefore subsequently contravene Objective WW1, NHB 1, Objective NHB 2 and Objective NHB 3 of the Galway County Development Plan 2015-2021.

7.3.2 A site characterisation report was submitted with the application date from June 2017. This report include a trail hole test with a 0.5m deep trial hole due to bedrock being encountered and no water being detected within the trail hole. The report includes results of P test (test for shallow/subsoils and/or Water Table by the standard method with a result of 15.47. It was concluded that the site was suitable for a proprietary wastewater treatment system and polishing filter. The tests on site were carried out in May 2017. Having inspected the site there are visual indicators on site that drainage conditions on site are not ideal, including elevated bedrock and vegetation indicating wet conditions on site. The Planning Authority have raised the issue that there has been no demonstration of what the winter water table level is and the applicant has not taken the opportunity to provide a more up to date site characterisation to address such with the site characterisation details submitted with the appeal being the original ones submitted. I would consider that having regard to

the poor drainage characteristics of the site, I am not satisfied that the safe disposal of domestic effluent on site can be guaranteed in strict accordance with the EPA Code of Practice Manual 2009 for Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. less than or equal to 10). Accordingly to grant the proposed development would be prejudicial to public health, and therefore, would be contrary to the proper planning and sustainable development of the area.

7.4 Traffic impact/vehicular entrance:

7.4.1 The proposal was refused on the basis that the sightlines to the north west along the public road are restricted and that turning movements generated by the proposed development onto and from the site would interfere with the safety and free flow of traffic on the heavily trafficked local road and would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise. Having inspected the site the appeal site is located south of a bend in the road sightlines at the proposed vehicular entrance are obstructed in a north westerly direction. The applicants/appellants have proposed a setback of the boundary and existing gates and piers serving the vacant dwelling on the adjoining site to the north west. A letter of consent to make such alterations from the landowner has been submitted and the area to be setback is demarcated by wooded stakes on the adjoining site.

7.4.2 The proposed setback on adjoining lands would improve visibility in a north westerly direction. The improvement would be enough to facilitate the proposed development and its associated turning movements. I would have reservations about the proposals in that they require a dramatic alteration to the existing roadside boundary and setback on adjoining lands, which itself would have a significant impact on the rural character of the area. The applicants/appellants have proposed measures to address the issues regarding visibility, however the extent of alteration of the boundary on site and adjoining lands is significant.

7.5 Visual Impact/landscape character:

7.5.1 The appeal site is located in a coastal location and in close proximity to the shoreline itself. The appeal site is located in an area of 'Outstanding' Landscape Value Rating as shown on map LCM1, and shown as Class 4 "Special" landscape in the Galway County Development plan 2015-2021. The proposal is for a single-storey dwelling that is relatively simple in design and modest in scale. I would consider that the overall design and scale would be acceptable in the context of the visual amenities of the area.

8.0 **Appropriate Assessment:**

8.1 A screening report has been submitted (labelled Natura Impact Statement).

8.2. Screening

8.2.1 I followed the staged approach to screening for appropriate assessment as recommended in both EU Guidance and by the Department of Environment, Heritage and Local Government:-

1. Description of the plan or project and local site or plan area characteristics.
2. Identification of relevant Natura 2000 sites and compilation of information on their qualifying interests and conservation objectives.
3. Assessment of likely significant effects-direct, indirect and cumulative, undertaken on the basis of available information.
4. Screening statement with conclusions.

8.3. Project Description and Site Characteristics

8.3.1 The proposed development is as described in the report above and in the application submissions.

8.3.2. Relevant Natura 2000 Sites, Qualifying Interests and Conservation Objectives:

There are a number of site within the vicinity of the site and in the NIS. The sites

are:

Kilkieran Bay & islands SAC Site Code 002111 0.06km from the site.

Conemara Bog Complex SAC Site Code 002034 7.79km from the site.

Slyne Head to Ardmore Point Islands SPA Site Code 004159 8.50km from the site.

Conemara Bog Complex SPA 004181 Site Code 10.33km from the site.

Insihmore Island SAC Site Code 000213 Site Code 10.68km from the site.

The screening assessment focuses on the Kilkieran Bay & Islands SAC Site Code 002111 0.06km from the site with the other sites a significant distance/remote from the site and no source pathways between the appeal site and these designated sites.

Kilkieran Bay & islands SAC

Qualifying Interests for the designated site are as follows...

Mudflats

Coastal Lagoons

Large shallow inlets and bays

Reefs

Atlantic salt meadows

Mediterranean salt meadows

Machairs

Lowland hay meadows

Otter

Common Seal

Slender naiad

The Conservation Objectives of the site is a mixture of maintaining and restoring favourable conservation condition.

8.4 Assessment of likely Effects:

8.4.1 The applicants screening report identifies that there are no direct effects and no habitat loss as a result of the proposed development. It is identified that there is potential for indirect effects on water quality through construction activities and risk of pollution. No effects are anticipated during the operational phase with it noted that the wastewater treatment system will be operated in compliance with EPA standards and the site being deemed suitable for the operation of a wastewater treatment system.

8.4.2 I would consider that despite the proximity of the site to the designated SAC, the source pathway linkages between the appeal site and the designated site are not strong and that the proposal subject to appropriate mitigation measures during construction and operational phase including best practice construction management would be unlikely to have significant effects.

8.5 Screening Statement and Conclusions:

It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the Kilkieran Bay & Islands SAC, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment is not therefore required.'

9.0 Recommendation

9.1 I recommend refusal based on the following reason...

10.0 Reasons and Considerations

1. Having regard to the poor drainage characteristics of the site, the Board is not satisfied that the safe disposal of domestic effluent on site can be guaranteed in strict accordance with the EPA Code of Practice Manual 2009 for Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. less than or equal to

10). Accordingly to grant the proposed development would be prejudicial to public health, and therefore, would be contrary to the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

23rd November 2020