



An
Bord
Pleanála

Inspector's Report ABP 309514-21.

Development	Demolition and replacement of a house, construction of a house, effluent treatment system, garage and associated site works.
Location	Ballynakilla, Abbeyknockmoy, County Galway.
Planning Authority	Galway County Council
P. A. Reg. Ref.	20/1171.
Applicant	Aine Farragher.
Type of Application	Permission.
Decision	Refuse Permission
Type of Appeal	First Party
Appellant	Aine Farragher.
Date of Site Inspection	11th May, 2021
Inspector	Jane Dennehy

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
2.3. Decision	4
2.4. Planning Authority Reports	4
3.0 Planning History.....	5
4.0 Policy Context.....	5
4.1. Development Plan.....	5
5.0 The Appeal	6
5.1. Grounds of Appeal	6
5.2. Planning Authority Response	7
6.0 Assessment.....	7
7.0 Recommendation.....	9
8.0 Reasons and Considerations.....	9

1.0 Site Location and Description

- 1.1. The site has a stated area of 0.22 hectares is that of an unoccupied detached cottage and the location is circa 1.5 kilometres to the west of Abbeyknockmoy village and on the south side of the N63. (National Secondary route) At the frontage of the site there are two gated agricultural entrances and road widening works inclusive of a new footpath, cyclepath and dropped kerb have recently taken place.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for
 - Demolition of the existing dwelling on the site, the stated floor area of which is forty square metres,
 - Construction of a replacement dwelling to the southeast of the existing house setback from the site frontage by a distance of circa thirty-five metres and,
 - Construction of a domestic garage with a stated floor area of sixty square metres.
- 2.2. The proposed two storey replacement house has a stated floor area of 172.5 square metres and is an L shaped form with contemporary design and finishes. The stated floor area of the proposed garage is sixty square metres an effluent treatment system, garage with a stated floor area sixty square metres and site works. The application includes details of the applicant's circumstances and connections with the area, structural details of the existing dwelling.
- 2.3. The application includes copies of folio documentation for a family landholding and personal details to support the applicant's claim as to consistency with the Rural Housing criteria in the CDP and, a site characterisation form. accompanied by a survey evaluation for the property to demolished. According to the written submission the family home has been occupied by the applicant's parents and brother since 1970s.

2.4. Planning Authority Decision

2.5. Decision

- 2.5.1. The planning authority decided to refuse permission based on two reasons as outlined below:
- 2.5.2. According to Reason One the proposed development would cause endangerment of public safety by reason of traffic hazard due to the additional traffic movements that would be generated on the N63, a national secondary route where the maximum speed applies and where visibility is restricted in both directions and, conflict with the national policy within the *Spatial Planning and National Roads: Guidelines for Planning Authorities (2012)* which seeks to control development on national roads in the interest of protection the capacity, and operational safety and efficiency of the national road network.
- 2.5.3. According to Reason Two, the proposed development involves intensification of use of an existing access onto the National secondary route and would be in material conflict with national national guidance: *Spatial Planning and National Roads: Guidelines for Planning Authorities (2012)* and with DM Standard 18 and Objective TI 16 within the CDP in the applicant's housing need has not been substantiated in the application and the proposed development also would set precedent for similar development.

2.6. Planning Authority Reports

- 2.6.1. The **planning officer** according to her report considers, having regard to the CDP, that the requirement of Policy RHO 1 would be applicable due to the location within a designated Class 1 rural landscape within the GTPS area and that the application is also subject to DM Standard 18.
- 2.6.2. She notes the conclusion on the structural report on the existing dwelling in which it is concluded that the cottage's refurbishment and extension would not be viable. It stated that a new house with increased setback from the road frontage without direct access to the national route would be more favourably considered having regard to policy RHO 6 in the CDP. The current proposal is unacceptable according to the

report because the applicant has no functional need to reside at the location with access off the national road network.

- 2.6.3. The report of **Transportation Infrastructure Ireland**. (Prescribed body) dated 17th December, 2020 notes the official national policy in *Spatial Planning and National Roads: Guidelines for Planning Authorities* (2012) and section 2.5 in particular on avoidance of development with direct access and with additional accesses to National Routes where the speed limit is in excess of 60 kph and refusal is recommended due to additional traffic generation and intensification of use of an existing direct access.

3.0 Planning History

There is no record of planning history for the application site.

4.0 Policy Context

4.1. Development Plan

- 4.1.1. The operative development is the Galway County Development Plan, 2015-2021 according to which the site location is within the Galway Transportation Study Area (GTPS) which is under, “strong urban pressure” for which Rural Development Policy Objective RHO 1 applies. The location is also within a Class 1 Landscape sensitivity rating where Class 1 is the least sensitive and Class 5 the most sensitive.
- 4.1.2. Objective T16 provides for protection of the capacity and safety of the national and regional strategic road network with development not being permitted if direct access or intensification of use of accesses onto these routes outside the 60 kph limit.
- 4.1.3. DM Standard 18 provides for policy objectives according to which residential development along national roads will be restricted outside the 50-60 kmph speed zones in accordance with the DoECLG *Spatial Planning and National Road Guidelines 2012*.
- 4.1.4. However, the standard also provides for consideration of access to new dwelling development from National and other Restricted Roads if access off local roads the preferred option, is not feasible. Consideration will be given to the need of farm

families to live on the family landholding, on a limited basis where it has been demonstrated a functional need to live at the location. Combined use of an existing access is the preferred option but for a new access to be considered. It must be demonstrated to be technically unsuitable.

4.2. Spatial Planning and National Roads: - Guidelines for Planning Authorities, DOECLG, 2012. (The Guidelines)

- 4.2.1. Avoidance of creation of additional entrances onto or adjoining national routes where the maximum speed limit exceeds 60 kph is provided for in the Guidelines for incorporation into County Development Plans in order to protect the free flow and operational capacity of national strategic route and provide for public safety.

5.0 The Appeal

5.1. Grounds of Appeal

An appeal was lodged on behalf of the applicant on 24th February, 2021 attached to are a site layout drawing and a copy of a property registration map. The contents of the appeal are outlined below:

- The applicant's family has lived and farmed at the location for several generations. The applicant's original family home which was constructed in the 1930s is occupied by her brother and he refurbished it.
- The applicant's family home was constructed in the 1970s and it is now occupied by her parents and her brother. She is the first family member seeking to build on the family landholding, permission for the family home having been granted in 1970.
- The cottage was owned and inhabited until 2010 by the applicant's uncle. The only frontage for the farm holding as shown on the copy of the property registration map is to the N63 via the agricultural laneway which is not a public right of way.
- The house was accommodated within the road alignment works in 2015 by TII, which provided a new stone boundary wall and pedestrian entrance and a

double gated entrance to the side and rear along with a set down parking space at the front.

- The applicant could refurbish and extend the cottage as a last resort but has opted not to do so. There is precedent for similar development in the area by way of a grant of permission under P. A. Reg. Ref. 17/697. An extension to the rear of the existing property with a floor area up to forty square metres would not require planning permission.
- The applicant would prefer to replace the cottage with a new dwelling with an increased setback from the road boundary. The cottage was badly affected as a result of the road realignment works in 2015: It is now setback 4.5 metres from the boundary due to the construction of the grass verge pedestrian cycle lane and road widening. The existing entrance would be used to serve the proposed new, replacement dwelling. The setback front eh road frontage would be thirty-five metres and this accords with DM standard 21 of the CDP.
- With regard to Reason 1 for the decision to refuse permission, the entrance is an existing entrance serving the cottage. It is to remain unaltered and no additional entrance would be required. Therefore, additional traffic generation would not be an issue, the alternative being to refurbish the cottage.
- With regard to Reason 1 for the decision to refuse permission, no intensification of use of an entrance to the new house would arise as the existing entrance serviced the cottage.

5.2. Planning Authority Response

There is no submission from the planning authority on file.

6.0 Assessment

- 6.1. The application site is that of a small cottage, with frontage onto the N63 and the applicant wishes to replace the cottage with a new dwelling and garage to the rear of the cottage on a site formed from the family-owned lands.

- 6.2. The details of the building condition in the application submission in which it is stated that a refurbishment project for the cottage would be considerable and in which it is contended that a replacement dwelling would be more compatible with the interests of sustainable development is noted. Based on an external visual inspection of the cottage and the site, it does appear that it is structurally stable and suitable for refurbishment, upgrade and extension but it is noted that this is not the applicant's preferred option the alternative being a new dwelling.
- 6.3. The proposed replacement development comprises a modern dwelling with a stated floor area of 172 square metres and a garage with a stated floor area of sixty square metres. This is considerable, relative to the cottage, the stated floor area of which is forty square metres. It is also considered that the size of the proposed detached garage, which has a stated floor area of sixty square metres is excessive if it is required for purposes ancillary to the residential use of a single dwelling unit. If this view is shared, the applicant could be requested to clarify and or reconsider the proposal in this regard.
- 6.4. Although the argument is based on substitution of one dwelling for another with no net increase in dwellings or in entrances onto a national secondary route, it is difficult to accept that trip generation and turning movements onto and off a national route would be neutral rather than significantly intensified due to the size of the proposed dwelling. Furthermore, the existing cottage has not been occupied for over ten years although, it is accepted that the residential use of the cottage has not been proven to have been abandoned.
- 6.5. The applicant is a teacher based at a school in Tuam and she attended schools at primary and secondary level in Tuam for her own education according to the application. While clearly having a connection with the locality, there is no doubt that there is no functional need for the applicant to reside, (at a third dwelling) on the family's landholding, the applicant's parents and two brothers occupying the two existing dwellings.
- 6.6. There can be no justification, based on exceptional circumstances that would allow for flexibility to be applied as regards possible favourable consideration for a new dwelling and garage with direct access to a national secondary route having regard to national strategic policy and the relevant provisions of the Galway County CDP.

As such the views of the planning officer and decision to refuse permission is considered appropriate and reasonable.

6.7. There is no objection to the proposed arrangements for foul drainage which includes tertiary treatment prior to disposal effluent treatment installation of tertiary treatment subject to the existing septic tank being decommissioned and surface water drainage to a soak pit although some provision for collection and use would be advisable.

6.8. Environmental Impact Assessment.

6.8.1. Having regard to the nature of the proposed development and its location removed from any sensitive locations or features, there is no real likelihood of significant adverse effects on the environment. The need for environmental impact assessment can therefore be excluded at preliminary examination and a screening determination is not required.

6.9. Appropriate Assessment.

6.9.1. Having regard to the scale and nature of the proposed development and to the location removed from any European Sites no Appropriate Assessment issues arise. 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.

7.0 Recommendation

7.1. In view of the foregoing, it is recommended that the planning authority decision to refuse permission be upheld based on the following reasons and considerations:

8.0 Reasons and Considerations

The site of the proposed development has frontage and an entrance directly on the N63, a National Strategic Route where the maximum speed limit is in excess of sixty kph per hour. It is considered that the proposed development would lead to intensification of vehicular turning movements for access and egress on and off the carriageway at the entrance. The proposed development would be in material conflict with national policy for avoidance of frontage development on national routes in order to protect the free flow and operational capacity and the safety of traffic on national strategic routes as provided for in Spatial Planning and National

Roads: Guidelines for Planning Authorities: (DOECLG 2012), in Policy T1 of the Galway County Development Plan, 2015-2021 which seek to preserve the level of service and safety and carrying capacity of national roads, and DM Standard 18 of the Galway County Development Plan, 2015-2021 in that the applicant does not have a functional need to reside on a family landholding at the site location. As a result, the proposed development be contrary to these policies and objectives, would set undesirable precedent for similar development and would be contrary to the proper planning and sustainable development of the area.

Jane Dennehy
Senior Planning Inspector
June, 2021.