



An
Bord
Pleanála

Inspector's Report ABP 309713 -21

Development	Two storey house, entrance connection not public sewer and all site works.
Location	An Leac Liath, Barna, Co. Galway.
Planning Authority	Galway County Council
P. A. Reg. Ref.	20/1964
Applicant	M. Connelly.
Type of Application	Permission
Decision	Refuse Permission.
Type of Appeal	First X Refusal
Appellant	M. Connelly.
Inspector	Jane Dennehy
Date of Inspection	23 rd June, 2021

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1.0 Site Location and Description

- 1.1. The site has a stated area of 1459 square metres and is located on the west side of minor road (L53871) to the south-west of Barna Village and the R336 at Leac Liath, Bearna. (Lacklea Road, Barna.) which extends as far as a beach. The surrounding area is mainly characterised by single house developments on large plots with the exception of the lands to the south of the site which is undeveloped and are stated to be subject to a separate application on the lodged plans. A detached house is located to the north side of the site and on opposite, east side of the road there are two storey detached houses.
- 1.2. The application site area extends around the frontage of the adjoining, undeveloped lands to the south and along frontage of a road extending westwards along with there is continuous road frontage development. Indigenous hedgerow and stone walling are located along the frontage. There are no footpaths along either side of the road and adjoining roads with the carriageway, which is somewhat uneven in alignment being shared by all road users including pedestrians.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for construction of a two storey four-bedroom house with an “L” shape footprint and form with a stated floor area of 311 square metres and the proposed vehicular entrance is on the frontage of the site.
- 2.2. The lands to the south, which are shown on a sightline masterplan drawing contains footprints of two additional houses on separate plots and which would be subject of a separate application.

Included with the application are letters of consent from adjoining property owners confirming their consent to the keeping of sightlines from the proposed entrance location free from vegetation of obstruction.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 18th February, 2021 the planning authority decided to refuse permission based on the three reasons outlined in brief below:

1. The proposed development is in the area of the Bearna Plan, is at a density below that set in DM Guideline DM1 Development Densities. It materially contravenes objective LU2, RD3 and RT3 of the Bearna Plan, Variation No 2 (a) of the Galway CDP 2015-2021 due to absence of pedestrian infrastructure and lighting proposals on site or connectivity to existing pedestrian infrastructure in Bearna Village resulting in car dependent development on a site underutilised in density provision and compromising a residential development of a Phase 1 parcel of land. The proposal is also in contravention of Section 28 Statutory Guidelines: “*Sustainable Residential Development in Urban Areas, 2009, Urban Design Manual – A Best Practice Guide and Design Manual for Urban Roads and Streets* seeking to create connected compact neighbourhoods promoting alternative to car journeys and encouraging sustainable modes of transport. statutory guidelines.
2. Endangerment of public safety by reason of traffic hazard obstruction of other road users or otherwise due to Insufficient sightlines within the remit of the application site absence of pedestrian infrastructure and connectivity
3. In the absence of an Irish Water Design Statement from Irish Water, it is had been demonstrated that there is sufficient capacity in the public mains water and in the public sewer infrastructure to accept the additional loading and demand as a result of which the proposed development would be prejudicial to public health.

3.2. Planning Authority Reports

- 3.2.1. The planning officer considered the zoning and density objectives of the CDP having regard to the Bearna LAP and in particular Objective LU2 and RD 3 and statutory guidance and having considered the proposed access arrangements and lack of

pedestrian facilities indicated a recommendation for refusal based on the reasons which were attached to the decision to refuse permission.

There are no internal technical reports or third-party observer submissions on file.

4.0 Planning History

- 4.1. According to the details available, there have been prior applications for both the application site and for the lands to the south for which a masterplan drawing was included with the application.
 - 4.1.1. **P. A. Reg. Ref. 201723:** An Application for construction of a house (311 square metres) entrance and connection to the public sewer and site works on the application site was incomplete according to the planning officer report.
 - 4.1.2. **P. A. Reg. Ref. 191179** Permission was refused for a house, entrance and connection to the public sewer and site works on part of the lands adjoining the south boundary which are within the masterplan area included with the current application. The reasons are similar to those attached to the decision to refuse permission for the current proposal.
 - 4.1.3. **P. A. Reg. Ref.191180:** Permission was refused for a house, entrance and connection to the public sewer and site works on part of the lands adjoining the south boundary which are within the masterplan area included with the current application. The reasons are similar to those attached to the decision to refuse permission for the current proposal.
 - 4.1.4. **P. A. Reg. Ref. 191171** Permission was refused for a house, entrance and connection to the public sewer and site works on the application site. The reasons are similar to those attached to the decision to refuse permission for the current proposal.
 - 4.1.5. Two prior applications house, entrance and connection to the public sewer and site works were withdrawn prior to determination of a decision. (P. A. Refs 161427 and P. A. Reg. Ref.16361 refer.)

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan is the Galway County Development Plan, 2015-2021. According to Variation 2 (a) the Bearna Local Area Plan was adopted and incorporated with the CDP, on 23rd February, 2015.
- 5.1.2. According to the Bearna LAP the site is within an area zoned R-Residential and is within lands designated as Phase 1 for development.
- 5.1.3. According to Section 3.1 Development Management Guidelines -DM1 M Guideline DM1 – Development Densities *“The development of higher densities will need to be appropriate to the context and will be assessed based on the merits of the proposal and subject to good quality design, compliance with both qualitative and quantitative standards, location, capacity of the site and infrastructure to absorb development, existing character of the area, established densities on adjoining sites, protection of residential amenities, proximity to public transport, etc. The Planning Authority may use its discretion in varying these density standards.”*
- 5.1.4. For lands zoned “R” the plot ratio required is 0.10-0.50 with fifty per cent site coverage and 15 per cent minimum public open space provision. Appropriate Density for Neighbourhoods within 400 metres of the village centre is 15-35 units per hectare.
- 5.1.5. Relevant Policy Objectives are reproduced below:

Objective “RD3:

“Encourage the development of sustainable residential communities through the promotion of innovative, high quality building design and appropriate layouts, that prioritise walking, cycling and public transport options and provide for a high level of permeability, accessibility and connectivity to the existing built environment, services and facilities. In this regard, future residential development proposals will be in accordance with the principles set out in the DoEHLG document Sustainable Residential Development in Urban Areas 2009 and its companion document Urban Design Manual: A Best Practice Guide for Planning Authorities 2009, or any updated version of these documents published during the lifetime of this plan and shall also

have regard to the design principles as set out in the Design Manual for Urban Roads and Streets (2013) (or as updated)."

Objective LU2 - Residential (R) (Land use management)

"Promote the development of appropriate and serviced lands to provide for high quality, well laid out and well landscaped sustainable residential communities with an appropriate mix of housing types and densities, together with complementary land uses such as community facilities, local services and public transport facilities, to serve the residential population of the area. Protect existing residential amenities and facilitate compatible and appropriately designed new infill development, in accordance with the proper planning and sustainable development of the area."

Objective RT3 - Public Footpath & Lighting Network

- a) Support improvements to the existing public footpaths network within the plan area.*
- b) New development shall be required to connect to the footpath and public lighting network that currently serves the village centre.*
- c) Support the provision of footpaths and-public lighting from the existing residential development to the village centre. In order to protect light sensitive species such as bats, lighting fixtures should provide only the amount of light necessary for personal safety and should be designed so as to avoid creating glare or emitting light above a horizontal plane.*
- d) Facilitate the provision of pedestrian crossings adjacent to the national school, residential areas and at other appropriate locations within the plan area, as required."*

Objective CH3 provides for a requirement for a language enurement clause for residential developments.

6.0 The Appeal

- 6.1. An appeal was lodged by Planning Consultancy Services on 15th March, 2021. Attached is written confirmation by Irish Water in which it is stated that a water connection and a wastewater connection are "*feasible without infrastructure upgrade by Irish Water*".

6.2. According to the appeal:

- With regard to Reason 1 for the decision to refuse permission the proposal is in keeping with the prevailing character and pattern of development and consistent permitted development in the area namely development permitted under P. A. Reg. Ref. 14/1174 and 14/1156. The two developments permitted under P. A. Reg. Ref. 14/1174 14/1156 are for single dwelling developments on the adjoining land to the west on land further to the west. The planning officer observed the site locations as within the Phase 1 Outer village zoned lands and is compliant with the Bearna LAP 2007-2017
- The zoning does not preclude the proposed development. The proposal is consistent with the prevailing density and established pattern of development and therefore with DM Guideline DM 1 as it provides for a significant level of flexibility in relation to density and for a planning authority to use its discretion in varying density standards. DM 1 Guideline DM 1 is a guideline rather than an absolute standard. The development is consistent with Guideline DM 1 in that it provides that higher densities should be appropriate to the context and established character of the area and that proposals should be assessed on merit subject to qualitative and quantitative standards, there is capacity in the infrastructure to absorb the development, residential amenities of adjoining properties would not be adversely affected, established densities and transport.
- DM 1 sets out a range of densities appropriate in various land use zones and in different residential locations within the plan area. The proposed development of a house of 311 square metres on a site of 1.439 represents a PAR of 0.21 so it is well within the recommended density range of a plot ratio of 0.10 to 0.50 PAR for Zone R.
- The proposed development is not in material contravention of Objective LU2 because it is appropriate to the context, is high quality by reason of the design, is well laid out by reason of design and maximisation of solar gain, is well landscaped and provision is made for appropriate mix of housing types and densities, especially as a range of higher density terraces and apartments have been granted permission in Bearna in recent years. The residential

amenities of properties are protected and the development is appropriate for the location.

- The proposal is not in material contravention of Objective RD3 in that it is for a detached house at a location on a cul de sac and does not contravene the aspiration of the objective.
- The proposal is not in material contravention of Objective RT3 because it has frontage onto a cul de sac (L53871) and there are no objectives for improvement works, footpath provision within the objectives of the LAP. The application includes a Sightline Master Plan which provides for a 1.2 m wide footpath the western edge of the L53871 within the lands in the applicant's ownership and this is considered appropriate for the development.
- Adjoining properties' owners have provided letters which were included in the application confirming their support. It is erroneous to refuse permission because it involves a 115 m public footpath and lighting along the public road between the site and the R336. It would also be inconsistent with the grant of permission under P. A. Reg. Ref. 18/505 on the L1321-72 north of the R336 where there is no public footpath.
- The proposed development is not contrary to section 28 guidance: "*Sustainable Residential Development in Urban Areas, 2009*" in that under section 16.1 there is an allowance for consideration of densities at less than 15-20 dwelling per hectare along or inside the edge of smaller towns and villages if the lower density does not present more than 20% of the total planned housing stock which is to avoid predominance of low density commuter driven developments around towns and villages within commuter belts. The current proposal is less than 20% of the total planned stock for the village and is consistent with the prevailing stock and established character of Leac Liath.
- With regard to reason 2 it is submitted that the reason for refusal is inconsistent with prior grants of permission. The planning authority has always accepted letters of consent. For example, the grant of permission under P. Ref. Ref. 17/293, the planning officer stated "*The site is located on a local road 70 metre sightlines have been shown. Applicant has submitted a*

letter of consent permitting the setback of the wall north of the site". The adjoining landowners provided letters of conformation that sightlines will not be obscured by the proposed development.

- With regard to Reason 3, an acknowledgement of pre connection enquiries was included in the application so to refuse permission on grounds of absence of a confirmation of feasibility letter is unreasonable. The required confirmation of feasibility letter is attached to the appeal in Appendix 2.

6.3. **Planning Authority Response**

There is no submission from the planning authority on file.

7.0 **Assessment**

7.1. The issues central to the determination of the decision, having regard to the three reasons attached to the decision to refuse permission are considered below under the following subheadings:

- Strategic and Local Policy (Reason One)
- Sightlines and pedestrian and vehicular safety at the entrance. (Reason Two)
- Water supply and drainage arrangements. (Reason Three.
- Environmental Impact Assessment Screening
- Appropriate Assessment Screening.

7.2. **Strategic and Local Policy (Reason One)**

7.2.1. With regard to Reason No 1 attached to the planning authority decision, it is agreed that the proposed development would be compatible with the prevailing character and pattern of development in the area. Along the road frontages there are individual plots, with significant stretches of continuous road frontage on which single houses have been developed along with individual entrances is low. As such the density is relatively low, the pattern and layout are somewhat uncoordinated and, the area notwithstanding its proximity to the village centre, lacks coordinated connectivity, pedestrian footpath provision, public lighting and road markings.

However, the frontages to some of the dwelling, mainly those of more recent construction are setback from the carriageway edge.

- 7.2.2. However, within the now extant LAP, as provided for under Variation 2 (a) of the CDP, the land use zoning map shows the parcel of land comprising the application site, the adjoining lands to the south (within the sightline masterplan area included with the application) and another parcel of land to the west side, within the “Plan Boundary” and within “Residential” zoned lands designated “Phase 1”, suggestive of intention for development within the period of the LAP. The application of land-use objective LU2 also is applicable.
- 7.2.3. It is clear that in seeking to provide for “*high quality well laid out and well landscaped sustainable residential communities with an appropriate mix of housing types and densities*” according to the objective in the LAP, it is to be assumed that as opposed to the current proposal, a more coordinated or ‘plan led’ approach is required to facilitate the achievement of the LAP objectives. This includes facilitation for higher density, (ideally within the range of 15-35 units per hectare), and responsive to the dwelling type and design needs corresponding to variation in household formation and providing for coordination in layout including amenity space, footpath provision or a suitable alternative providing for pedestrian connectivity and coordinated amenity space provision and entrance arrangements, ideally shared.
- 7.2.4. Given the proximity to the village centre at Bearna with available services and facilities, a higher density development for the parcel of lands subject to the “R Phase One” zoning objective facilitates consolidation and sustainable development at the edge of the village core as provided for in national policy and relevant strategic guidance.
- 7.2.5. In view of the foregoing, as previously indicated, it is acknowledged that the proposed development is consistent with the established pattern and character of development. Nevertheless, it is contrary to the current Bearna LAP policies and objectives, namely with regard to density as provided for under Objective, DM 1 in section 3.1 Objective LU2, and, correspondingly *statutory guidance issued under Section 28 of the Planning and Development Act, 2000 as amended, namely, “Sustainable Residential Development in Urban Areas, 2009* the accompanying “*Urban Design Manual – A Best Practice Guide for Planning Authorities* and, *Design*

Manual for Urban Roads and Streets, 2012) in which it is sought to create connected compact neighbourhoods that promote alternatives to car journeys and to encourage sustainable modes of transport.

- 7.2.6. With regard to the objective RT3, it is noted that the objective is generic and that there is no specific objective or plan for the provision of footpaths and lighting along the road serving the site of the proposed development within the LAP. As such, while there is no dispute that the availability of pedestrian facilities is highly desirable, it appears unreasonable for it to be determined that the proposed development is in material contravention of this objective.
- 7.2.7. However, it should be pointed out that while the development along the road network generates private car trips it was noted in course of the inspection that the neighbourhood is popular with pedestrians with all road users sharing the carriageway. Some property frontages are setback from the carriageway edge so that good sightlines are attainable in each direction. An element of “informal” traffic calming was evident in observation of the low speeds of vehicular traffic due to the substandard vertical alignment, with is of particular benefit as regards the safety of pedestrians

7.3. Sightlines and pedestrian and vehicular safety at the entrance. (Reason Two)

- 7.3.1. The proposed development for the application site, when considered alone or in conjunction with the adjoining lands to the south, is insufficient with regard to the proposed entrance arrangements. It is noted that the planning authority does not consider agreements with adjoining landowners with regard to consent to an applicant’s undertakings for maintenance of hedgerows to facilitate sightlines at entrances acceptable. This policy is considered reasonable and is supported in that a coordinated approach with regard to, entrance arrangements, boundary treatment and achievement of sightlines being desirable. As a result, it is agreed that the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users and is contrary to the [roper planning and sustainable development of the area.

7.4. Drainage and Water Supply. (Reason Three)

- 7.4.1. With regard to the third reason for refusal of permission, it is considered that that the matter has been resolved satisfactorily in that the applicant has provided a copy of the Written Confirmation of Feasibility of Connection to services from Irish Water.

7.5. Environmental Impact Assessment Screening.

- 7.5.1. Having regard to the nature and scale of the development 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.

7.6. Appropriate Assessment.

- 7.6.1. Having regard to the scale and nature of the proposed development and to the serviced location at Bearna, 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.

8.0 Recommendation

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

9.0 Reasons and Considerations

1. Having regard to:

- The Galway County Development Plan, 2015-2021, Variation No 2A, Bearna Plan, according to which the site comes within a parcel of lands subject to the zoning objective; “R – Residential, ‘Phase 1’.

- Section 3.1 therein and DM Guideline DM 1 (Development Densities) providing for higher density development with reduced car dependency and,

- The associated objectives Residential density (RD3) and Land Use Management (LU2) providing for creation of high quality residential development in sustainable residential neighbourhoods and providing for pedestrian connectivity with the village core and supported by footpath provision and public lighting network, according with the principles set out in the DoEHLG document "*Sustainable Residential Development in Urban Areas* and its companion document *Urban Design Manual: A Best Practice Guide for Planning Authorities*, and design principles as set out in the *Design Manual for Urban Roads and Streets* issued under Section 28 of the Planning and Development Act, 2000 as amended.

It is considered that that the proposed development would constitute haphazard, piecemeal development within the parcel of Phase 1 residential zoned lands, which fails to create sustainable residential neighbourhoods closely connected to services and facilities at the village centre of Bearna, would set precedent for further similar development which would be contrary to the development objectives of the Galway County Development Plan, 2015- 2021, Variation No 2A, Bearna Plan and would be contrary to the proper planning and sustainable development of the area.

2. It is considered that by reason of deficiencies in the attainable sightlines in either direction at the entrance and, the absence of public footpath provision benefiting pedestrians, the proposed entrance arrangements would be substandard and that as a result the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users and is contrary to the [roper planning and sustainable development of the area.

Jane Dennehy
Senior Planning Inspector
24th June, 2021