



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311385-21

#### Development

Demolition of house, construction of new house, replacement of septic tank with wastewater treatment plant, widen of footpath adjacent to public road, replacement of vehicular entrance and demolition of store and replacement with garage.

#### Location

Rinville West, Co. Galway.

#### Planning Authority

Galway County Council

#### Planning Authority Reg. Ref.

211118

#### Applicant(s)

Patrick & Jacinta McManamon

#### Type of Application

Permission

#### Planning Authority Decision

Refuse

#### Type of Appeal

First Party

#### Appellant(s)

Patrick & Jacinta McManamon

#### Observer(s)

Michael Kelly & Ann Kelly

#### Date of Site Inspection

12<sup>th</sup> November 2021

**Inspector**

Colin McBride

## 1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.15 hectares, is located in the townland of Rinville West, to the south west of Oranmore. The appeal site is located on the north western side of the L-8104. The appeal site is occupied by a single-storey dwelling. The dwelling is of considerable age but still appears to be a habitable dwelling. The existing dwelling has a vehicular entrance to the north east of the dwelling on site and is a short distance south west of a T junction.

## 2.0 Proposed Development

2.1. Permission is sought for

- (i) permission for the demolition of existing dwelling.
- (ii) permission for construction of a new dwelling.
- (iii) replacement of an existing septic tank with new wastewater treatment plant.
- (iv) permission to widen and improve the width of existing public footpath adjacent to public road.
- (v) alteration and replacement of existing vehicular site entrance located at east of dwelling with new vehicular site entrance located at the west of proposed dwelling.
- (vi) demolition of existing store and replacement with new garage.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission refused based on one reason...

1. Having regard to:

- the proposal to replace the existing vehicular access with a new access on site;
- the unsatisfactory and insufficient sightlines demonstrated for the proposed new access which have been indicated to the centre of the road and traverse third party lands;

It is considered that roadside alteration works would be required to provide for sightlines from the proposed access to the site which relate to third party plans outside of the application site area and cannot be implemented under the current planning application, as per Section 34(4)(a) of the Planning and Development Act, 2000 (as amended), as such development works are outside of the control of the applicant. Accordingly, to grant the proposed development where there is limited visibility at the proposed site entrance, would interfere with the safety and free flow of traffic on the public road, 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 (12/08/21): The replacement entrance has insufficient sightlines and to achieve the sightlines proposed and requires alteration of 3<sup>rd</sup> party lands. Refusal was recommended based on the reason outlined above.

#### **3.2.2. Other Technical Reports**

Roads & Transportation Department (12/08/21): Refusal recommended due to insufficient sightlines in the context of DM Standard 20 of the development plan and constituting a traffic hazard.

### **3.3. Prescribed Bodies**

None

### **3.4. Third Party Observations**

Michael Kelly & Anne Kelly, Rinville West, Oranmore. The issues raised can be summarised as follows...

- Site size in relation to provision of wastewater treatment systems, rural housing need, overlooking of the adjoining property lack of boundary details,

inadequate sightlines/traffic safety, contrary development plan policy regarding demolition of existing structures.

## 4.0 Planning History

20/1423: Permission for extensions and alteration of dwelling refused. Refuse don traffic grounds.

70618: Permission granted to retain and complete extension to dwelling.

53187: Permission granted for extension to dwelling.

47704: Permission granted for extension to dwelling.

## 5.0 Policy Context

### 5.1. Development Plan

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

Rural Housing Objectives Objective RHO 6 - Replacement Dwelling It is an objective of the Council that the refurbishment of existing habitable dwelling houses would be encouraged, as a more sustainable option than the demolition and construction of a new dwelling house, unless a conclusive case for demolition based on technical evidence is made for the Planning Authority's consideration on a case by case basis. It will be a requirement that any new dwelling house be designed in accordance with Galway County Council's Design Guidelines for Rural Housing in the countryside. Applicants, who require the demolition of an existing dwelling house shall be

accommodated without the requirement to establish a Housing Need or proof of residence and will not be subject to an enurement clause.

Objective RHO 7 - Renovation of Existing Derelict Dwelling/Semi Ruinous Dwelling It is an objective of the Council that 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, having regard to the relevant policies and objectives of this plan, the specific location and the condition of the structure and the scale of any works required to upgrade the structure to modern standards. 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. A structural report will be required to illustrate that the structure can be brought back into habitable use, without compromising the original character of the dwelling. Where the total demolition of the existing dwelling is proposed an Enurement Clause for seven years duration will apply.

Objective RHO 3 - Rural Housing Zone 3 (Landscape Category 3, 4 and 5) 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.

## DM Standard 7

A minimum site size of 2000m<sup>2</sup> is generally required for a single house so as to provide for adequate effluent treatment, parking, landscaping, open space and maintenance of rural amenity. For house sizes greater than 200m<sup>2</sup> the site size shall be increased by 10m<sup>2</sup> for each 1m<sup>2</sup> of house area above 200m<sup>2</sup>. Special consideration will be given to existing houses and to proposed developments who can demonstrate Rural Housing Need and comply with EPA guidelines where the minimum size is not totally achievable.

### 5.2. Natural Heritage Designations

Galway Bay Complex SAC c.400m to the north.

Inner Galway Bay SPA c. 800m to the west.

### 5.3. EIA Screening

5.3.1 The proposed development is of a class but substantially under the threshold of 500 units to trigger the requirement for submission of an EIAR and carrying out of EIA. Having regard to the nature of the development, which is a replacement dwelling for an existing dwelling on site, the absence of features of ecological importance within the site, I conclude that the necessity for submission of an EIAR and carrying out of EIA can be set aside at a preliminary stage.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1 A first part appeal has been lodged by Patrick & Jacinta McManamon

- It is stated that the existing entrance is inadequate in sightlines and the proposal to relocate it is to improve the existing situation and is a more appropriate than retaining the entrance at its existing location.
- There is an existing long established entrance and the use and intensity of use is not changing with the proposal. It is noted the relocation of the entrance

further away for the existing junction represents an improvement in terms of traffic safety.

- The alterations to the public footpath are slight and will be an improvement over the current situation for pedestrians.
- The proposal entails a vast improvement in the sightlines and safety in terms of traffic over the existing situation.
- The submission laments the strict interpretation of policy and refers to a case (ref no. 08/3183) in which a development was permitted on basis of improved traffic safety despite not complying with required sightline standards.

## 6.2. Planning Authority Response

No response.

## 6.3. Observations

6.3.1 A observation has been submitted by Michael Kelly & Ann Kelly, Rinville West, Oranmore, Co. Galway.

- The observers make reference to the issues raised in their original submission.
- Section 34(4)(a) of the Planning Act.
- Compliance with development plan polices relating to replacement dwellings (RH06), renovation of derelict dwellings (RH07), DM Standard 6, Assimilation of Development into landscape and DM Standard 7, site size for single houses.
- The site is in Landscape Sensitivity Area 3 with a requirement to provide evidence of rural links and a visual impact assessment. The observers question the level of justification provided for demolition of the existing dwelling.
- The observers refer to a number of appeal cases refused in the vicinity relating to sightlines and failure to provide adequate sightlines within lands under the applicants control.



## 7.0 Assessment

- 7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Principle of the proposed development/design and scale

Traffic Impact

- 7.2. Principle of the proposed development/design and scale:

7.2.1 The proposal is for demolition of an existing dwelling and construction of a replacement dwelling, which is a single-storey dwelling. The proposal also entails closing up an existing vehicular access point serving the existing dwelling on site and opening a new vehicular access to the west of the site 23m further west than the existing entrance. The proposals also entails provision of a wastewater treatment system to replace the existing septic tank. The site is occupied by an existing habitable dwelling in the rural area of the county. Given the proposal is for a replacement of a habitable dwelling there is no issues concerning rural housing policy despite the site being in Rural Housing Zone 3 despite the issues raised by the observers.

7.2.2 The replacement dwelling is a single-storey dwelling with a ridge height of 6.59m, features a pitched roof and contemporary design with regard to the design of vernacular structures/proportions. The overall design and scale of the dwelling is satisfactory in the context of the visual amenities of the area and I would consider that such has adequate regard to the amenities of adjoining properties and is appropriate in design and scale at this location. The observers question how the proposal complies with policy RHO6. Policy RHO7 does not apply as it is not refurbishment project. In the context of RHO6, the applicant has provided survey report of the existing dwelling indicating that the existing condition and standard of construction would be difficult to upgrade to efficient and modern standards and that it is more cost effective to provide replacement dwelling. I would concur with this assessment and note that although the existing dwelling is habitable it is basic in its construction and would be difficult to upgrade to energy efficient and modern

standards. The dwelling although of considerable age is not exceptional in terms architectural heritage value or a protected structure. I would consider that adequate justification has been provided for demolition and replacement of the existing dwelling and such would be in accordance with policy RH06. As noted above I would consider that the design is of good standard with adequate regard to the visual amenities of the area and consistent with the Galway County Design Guidelines for Single Rural Houses.

7.2.3 The proposal to replace an existing septic tank with a more up to date wastewater treatment would be beneficial in regards to public health. A site suitability assessment is included and indicates that conditions on site are suitable for the operation of a wastewater treatment system in compliance with the EPA Code of Practice. The observers raise concern that the site size is below the requirements for rural houses with wastewater treatment systems specified in the Development plan (DM Standard 7). The proposal is for a replacement with dwelling and existing dwelling and septic tank on site. This development control standard allows reduced site size in the case of existing dwellings. I am satisfied that subject to compliance with the EPA code of practice including separation distances the proposal would be satisfactory.

7.3. Traffic safety/vehicular entrance:

7.3.1 The sole reason for refusal relates to the proposed vehicular access and the fact that sightlines at such are inadequate and that the sightlines indicated as being available by the applicant require alteration on third party lands outside of the applicants control. The Roads and Transportation report indicated that permission should be refused based on failure to comply with DM Standard 20 of the County Development Plan. DM Standard 20 relates to sightlines on National Primary Second and regional Routes with sightlines indicated to be provided based on design speed. The appeal site is on a local road with no standard indicated for such under DM Standard 20.

7.3.2 The existing entrance is located to the north east of the site and in close proximity to an existing T-junction. Sightlines at the existing entrance are curtailed. The proposal to relocate the vehicular entrance to the south west does provide for a vehicular entrance with improved sightlines and a better layout than the existing entrance. The sightlines indicated on the drawings submitted are for 70m in each direction measured 2.4m back from the road edge. The proposal was refused as the sightlines were considered inadequate and also crossed third party lands. Having view the drawings and inspected the site, the sightlines indicated may cross third party lands but do not require alterations of any boundaries or structures on either side. In the case of the site to the south west as new dwelling is at an advance stage of construction (ref no. 101761 and extension of duration of permission ref no. 151384) and such does not include any construction or proposal that would obstruct the sightlines indicated. I would consider that it is unlikely that the sightlines indicated would be obstructed in the future as the sightlines indicated are obstructed by the alignment of any roadside boundaries either side. I am satisfied that the proposal does not entail the carrying out of works on any land outside of the applicants control to facilitate the sightlines indicated. Notwithstanding such I would be of the view that the proposal represents significant improvement over and above the entrance arrangement currently in place on site and that the relocation of the existing entrance is an improvement in relation to traffic safety. I would consider that the Planning Authority's assessment of the proposal is overly restrictive and does not give adequate regard to the fact there is an established entrance serving a dwelling and that the proposal represents an improvement and in terms of layout and sightlines as well as being further away from the existing road junction. In this regard would consider that proposal would be satisfactory in the context of traffic safety and should be permitted as proposed.

7.3.3 There is an existing footpath running along the north western side of the public road and runs along the front of the existing dwelling. Where the footpath runs along the front of the house it comes extremely narrow and not particularly useable. The proposal entails revisions to the road frontage that would facilitates a wider footpath along the front and better continuity along the length of the existing footpath, This would also be a benefit in terms of traffic safety.

## **8.0 Appropriate Assessment**

8.1 Having regard to the nature and scale of the proposed development and its proximity 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.

## **9.0 Recommendation**

9.1. I recommend a grant of permission subject to the following conditions.

## **10.0 Reasons and Considerations**

Having regard to the provisions of the Galway County Development Plan 2015-2022 and to the nature, form, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in the context of the visual amenity of the area, the amenities of adjoining properties, traffic safety and convenience, and satisfactory in regards to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **11.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. The applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services and no surface water from the proposed development/site shall be allowed to discharge onto adjoining properties or the public road.

Reason: In the interest of public health.

4. The roof colour of the proposed house shall be blue-black, black, dark brown or dark-grey. The colour of the ridge tiles shall be the same as the colour of the roof.

Reason: In the interest of visual amenity.

5.

(a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 24th day of June 2021, and in accordance with the requirements of

the document “Wastewater Treatment Manual: Treatment Systems for Single Houses”, Environmental Protection Agency (current edition). Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Colin McBride  
Senior Planning Inspector

24<sup>th</sup> November 2021