



An
Bord
Pleanála

Inspector's Report ABP-311737-21

Development	Demolition of derelict dwelling house, construction of a serviced house, domestic garage/fuel store and associated works.
Location	Tomree, Co Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	21726
Applicant(s)	Robert & Leanne Muldoon
Type of Application	Permission
Planning Authority Decision	Galway County Council
Type of Appeal	Third Party
Appellant	Mary Keane
Observer	None
Date of Site Inspection	25 th May 2022
Inspector	Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site is located on the northern side of the N63, c. 0.5 km east of the centre of Moylough. The appeal site has a stated area of c. 0.18 ha and accommodates a vacant single storey detached dwelling. A shed structure is located to the west of the dwelling. The appeal site is relatively flat.
- 1.2. The appeal site is bound by a low stone wall to the front/south. A gated vehicular entrance and a pedestrian entrance are located along the front/southern site boundary. Trees and hedgerow form the side and rear boundaries of the appeal site.
- 1.3. The adjoining area is residential in character. There are detached bungalows to the east and west of the appeal site.
- 1.4. The lands to the west are indicated as being within the applicants' ownership/control, as indicated by the blue line boundary. The appeal site (referred to a 'Site B') immediately adjoins 'Site A' to the west (which was the subject of a grant of permission for a two storey detached dwelling under PA. Ref. 21/727). The red line boundaries of both 'Site A' and 'Site B' include the existing dwelling on the site.
- 1.5. The appeal site is located within a transitional zone, with an applicable speed limit of 60kmph.

2.0 Proposed Development

- 2.1. The proposed development comprises;
 - The demolition of an existing house (c. 89 sqm).
 - Construction of a part single/part two storey, four-bedroom, detached dwelling:
 - stated floor area c. 282 sqm.
 - maximum ridge height c. 7.55 metres.
 - material finishes to the dwelling are indicated as nap plaster and natural stone for the external walls and blue/black roof slate.
 - separation distances indicated as c. 3 metres to the eastern boundary, c. 3.3 metres to the western boundary, and c. 15 metres from the

front/southern site boundary. A rear garden depth of c. 50 metres is indicated.

- A single storey domestic garage/fuel store:
 - stated floor area 55 sqm.
 - ridge height c. 4.7 metres.
 - positioned c. 1 metre from the western site boundary.
 - material finishes to the garage/fuel store are indicated as nap plaster and natural stone for the external walls and blue/black roof slate.

3.0 Planning Authority Decision

3.1. Further Information

Prior to the decision of the Planning Authority to GRANT permission for the proposed development, the Planning Authority requested Further Information.

3.1.1. Further Information was requested as follows:

- Alter the entrance to provide for a single entrance, rather than a double entrance.
- Submit technical evidence as to the condition of the existing dwelling.

3.1.2. Further Information submitted on 13/09/2021:

- A single entrance is indicated to serve the proposed dwelling.
- Report showing the condition of the existing dwelling.

3.2. Decision

The Planning Authority issued a Notification of Decision to Grant Permission on the 6th October 2021, subject to 11 no. conditions. These conditions are standard in nature and refer to issues including, finishes, surface water and construction management.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The first report of the Planning Officer (dated 21st June 2021) includes the following comments;

- The photographic report submitted in respect of the existing dwelling does not satisfy the requirements of Objective RHO6 (re. replacement dwellings) of the Galway CDP 2015-2021.
- The design of the proposed dwelling and garage are sympathetic to the area.
- The proposal entails a double entrance within the 60kmph zone. As per TII submission, allowing an additional access or intensifying existing access to a national road is contrary to the Spatial Planning and National Roads Guidelines 2012.

Further Information recommended.

3.3.2. The second report of the Planning Officer (dated 22nd September 2021) includes the following comments;

- The applicant has submitted a revised access proposal.
- The condition survey report indicates that the house is not viable to conserve.

The report of the Planning Officer recommends a grant of permission consistent with the Notification of Decision which issued.

3.3.3. Other Technical Reports

None received.

3.4. Prescribed Bodies

TII (Transport Infrastructure Ireland) – proposal is at variance with DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), specifically Section 2.5, which states that the policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater

than 60kph apply. The proposal, if approved, would result in the intensification of an existing direct access to a national road contrary to official policy in relation to control of frontage development on national roads.

3.5. Third Party Observations

In addition to the observation from TII (see above) 1 no. observation was received by the Planning Authority. The following is a summary of the main issues raised in the third-party observation:

- Concerns in relation to the size of the site to accommodate 2 no. dwellings.
- Concerns regarding the potential for the creation of traffic congestion.
- Potential for asbestos within the existing dwelling which is to be demolished.

4.0 Planning History

Site to immediate west (within blue line boundary)

PA Ref. 21/727 – Permission GRANTED for demolition of existing derelict dwelling & shed, construction of dwelling, domestic garage/fuel store and associated works.

Following a request for Further Information the proposed vehicular entrance was repositioned further west, within the 50 kmph speed limit area.

5.0 Policy Context

5.1. Development Plan

5.1.1. The proposed development was considered by the Planning Authority under the Galway County Development Plan 2015-2021 however the Galway County Development Plan 2022-2028 came into effect on the 20th June 2022 and is now the relevant development plan.

5.1.2. The appeal site is not subject to any specific land-use zoning under the Galway County Development Plan 2022-2028, being situated just outside the extent of the zoned area of Moylough.

5.1.3. In terms of Landscape Character Type, the appeal site is located within the 'Central Galway Complex Landscape' (see Appendix 4 of CDP). Regarding landscape sensitivity, the appeal site is located within a Class 1 'Low Sensitivity Landscape'. The appeal site is not affected by any protected views (see Map 08, Appendix 4) or scenic routes (see Map 09, Appendix 4).

5.1.4. The provisions of the Galway County Development Plan 2022 - 2028 relevant to this assessment are as follows:

- DM Standard 26: Access to National and Other Restricted Roads for Residential Developments
- DM Standard 28: Sight Distances Required for Access onto National, Regional, Local and Private Roads

5.2. Natural Heritage Designations

- Summerville Lough pNHA (Site Code 001319), c. 1.7 km north-west
- Carrownagappul Bog pNHA (Site Code 001242), c. 3 km north-east
- Carrownagappul Bog SAC (Site Code 001242), c. 3 km north-east
- Shankhill West Bog pNHA (Site Code 000326), c. 2.85 km north
- Shankhill West Bog SAC, (Site Code 000326) c. 2.85 km north

5.3. EIA Screening

Having regard to the limited 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 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

This is a third-party appeal on behalf of Mary Keane, Moylough, Ballinasloe, against the decision of Galway County Council to grant permission for the proposed development. The grounds of appeal can be summarised as follows:

- The proposed development will result in overshadowing and overlooking of the third party's property.
- The third party's property is situated at a lower level than the appeal site, exacerbating potential impacts. This will result in the proposed development towering over the third party's property and blocking light.
- The proposed development will reduce the third party's ability to get onto the road safely.
- The proposed development is out of character with the houses in the area.

6.2. Applicant Response

The first party response can be summarised as follows:

Regarding the initial proposal and observations made in respect of same:

- The proposed dwelling is set off the south-eastern site boundary by 2.996 metres and 9.436 metres from the closest corner of Mary Keane's dwelling.
- The single storey element of the proposal is situated on the side of Mary Keane's dwelling, to assist with the assimilation of the proposal.
- There are examples of higher density development within the village. The footprints of both houses cover 8.73% of the overall site, which is low density within a town boundary in a residential area.
- The proposal makes reference to the building line.
- The house could be pushed back on the site if required.
- Visibility from Mary Keane's entrance is obstructed by a hedge and a boundary wall to the front of the subject site. Mary Keane's entrance is set back from the road and behind the front wall of the applicant's site. It is proposed to set the boundary wall back in line with the boundary wall of adjacent property. The proposal if permitted would therefore benefit Mary Keane in terms of sightlines from her entrance.
- Regarding asbestos, the slates on the roof of the dwelling will be removed and dealt with in a proper manner. If they are left they will be more likely to fall off

and cause more harm. The removal of asbestos will be carried out by a contractor with the necessary training and experience.

- There are errors in the TII observation. The proposal is within a town boundary, settlement core and residential area. The proposal is within the 50-60kmph speed limit and not in a location where the speed limit is in excess of 60kmph. Traffic approaching from Moylough is limited to 50kmph. Traffic approaching from Mountbellew is restricted to 60 kmph.
- Site A entrance is a replacement entrance of an existing entrance. Site B is an additional entrance.

Regarding the third party appeal:

- It is proposed to set the front boundary of the appeal site back 3 metres and have a splayed entrance. A footpath is also being provided to the front of the appeal site. This will improve visibility for the third party at her entrance.
- The hedge between the appeal site and the third party's property is a shared boundary.
- There are a number of derelict dwellings in the vicinity of the appeal site, including the appeal property and the proposal has the support of residents in the village.
- Overshadowing from the proposed development will not occur given the orientation of the third party's property.
- A CGI Shadow analysis submitted for 9am, 12pm, 6pm in winter and summer. These images show no impact from the proposed development on the third party's property.
- The ground floor windows on the elevation which faces the third party's property (i.e. the south-east elevation) are positioned c. 3 metres from the eastern boundary, 2 metres in excess of the minimum requirement. The windows of the bedroom block are positioned behind the single storey element which will block views of the third party's property. First floor windows are in excess of the required 11 metres from the boundary and the roof of the single storey element will block views from these windows of the third party's property.

- The finished floor level (FFL) of the single storey element has been reduced by 300 mm to address any potential overlooking of the third party's property.
- The third party could improve her access by maintaining sightlines at her entrance.
- The proposal is for a family native to the area, on family lands, entails replacing a derelict dwelling, incorporates improvements to sightlines, a new set-back and a new footpath.

6.3. **Planning Authority Response**

None received.

6.4 **Further Responses**

The third party has made a subsequent response. Issues raised can be summarised as follows:

- The third party accepts that there are examples of higher density development in Moylough but states that these are not located on the main road.
- The third party contends that she has maintained the hedge between both properties for several years.
- The third party reaffirms her concerns in relation to asbestos on the appeal site.
- Cars travel in excess of the posted 50 kmph speed limit on the road to the front of the appeal site. A speeding car crashed into the third party's front pillar.
- The third party contends that even if the front boundary of the appeal site is set back and a footpath put in place that it will make no difference as the road is still too narrow and dangerous.

7.0 **Assessment**

7.1. I consider the main issues in the assessment of this appeal are as follows:

- Principle of Demolition & Development
- Impact on Residential Amenity.

- Impact on Visual Amenity.
- Access.
- Appropriate Assessment.

7.2. Principle of Demolition & Development

7.2.1. The dwelling which is proposed to be demolished is not a Protected Structure, is not located within an Architectural Conservation Area (ACA) and is not a vernacular structure. On foot of an objective of the previous Development Plan the first party were required to submit a detailed building condition report in respect of the existing dwelling on the site, which it is proposed to demolish. The report notes that the dwelling is positioned too low relative to the road, that most of the walls are compromised, and that after remedial works 4 no. potentially compromised masonry walls would remain. The report concludes that it is neither economically viable nor practical to retain or adapt the dwelling and as such it is recommended that the dwelling be demolished. Having regard to the forgoing, I consider the demolition of the existing dwelling on the site to be acceptable in principle.

7.2.2. The appeal site is located just outside the extent of the zoned area of Moylough in the Galway County Development Plan 2022-2028. Notwithstanding the location of the appeal site outside the extent of the zoned area of Moylough, having regard to the proximity of the appeal site to the centre of the village, to the prevailing pattern of development at this location, to the existing dwelling on the site and to the transitional speed limit applicable to the area, I consider the appeal site to be located within the settlement boundary of the village, as distinct from the open countryside, and as such the provisions contained in the Galway County Development Plan 2022-2028 in relation to rural housing are not applicable.

7.3. Impact on Residential Amenity

7.3.1. The third party raises concerns in relation to the impact of the proposed dwelling on the residential amenity of her property, which is located to the east of the appeal site. I note that the proposed dwelling takes account of the third party's property in its design, employing a number of measures to minimise potential impact on this property. Most notably, the first party have proposed a single storey element at the interface

with the third party's property. This single storey element is situated c. 3 metres from the eastern site boundary, with a distance of c. 9.4 metres to the side wall of the third party's dwelling. I also note the ridge height of the single storey element of the proposed dwelling, at c. 5.3 metres and an eaves level of c. 3.3 metres. Having regard to the design of the proposed dwelling, specifically the single storey nature of the proposed element along the eastern part of the appeal site, and to the separation distance between the proposed dwelling and the adjacent dwelling, I do not consider that the proposed dwelling would have any significant negative impacts on the amenity of the adjoining property to the east arising from overbearance.

7.3.2. Regarding overlooking from opposing windows, the ground floor windows and door along the eastern elevation of the single storey element of the proposed dwelling are located c. 3 metres from the eastern site boundary, with a hedge situated along this boundary. The first party proposes to reduce the FFL of this element of the dwelling 300 mm below the rest of the proposed dwelling to mitigate its impact on the property to the east, which is situated at a lower level compared to the appeal site. As such I do not consider that the ground floor windows of the proposed dwelling would give rise to any significant overlooking of the property to the east. In relation to potential overlooking from first floor windows, views into the third party's property from 3 no. of the 5 no. first floor windows along the eastern elevation of the proposed dwelling will be blocked by the roof of the single storey element. The remaining 2 no. windows will be situated c. 11 metres from the eastern site boundary. Based on this, I do not consider that the first floor windows of the proposed dwelling would give rise to any significant overlooking of the property to the east.

7.3.3. The third party raises concerns in relation to potential overshadowing and a loss of light. The first party has submitted a CGI shadow analysis with the appeal. The analysis indicates that the proposal will not result in any significant overshadowing of the property to the east. Having regard to the scale and design of the proposed dwelling, the relationship of the proposed dwelling to the third party's property, the orientation of the third party's property relative to the appeal site, and to the shadow analysis submitted by the first party, which indicates that the third party's property will not be significantly overshadowed, I consider that the degree of shadow cast from the proposed dwelling would not significantly affect the level of daylight or sunlight to the

third party's property and as such there is no basis for the assertion that the proposal will result in a diminution of established residential amenity.

7.4. Impact on Visual Amenity

- 7.4.1. The proposal comprises a contemporary style, part single, part two storey, dwelling. There are a multiplicity of house types in the vicinity and the proposed development is sympathetic to the character of the area and, would in my opinion add a degree of visual interest to the area. The proposed dwelling, in terms of its design and material finishes is of a high quality and I do not consider that the proposed dwelling would result in any significant negative impacts on the visual amenity or character of the area. The design of the proposal also integrates with the recently permitted dwelling on the adjoining site to the west.

7.5. Access

- 7.5.1. The third party's concerns primarily relate to traffic safety. Specifically, that the proposed development would make it difficult for the third party to access the public road, that vehicles travel in excess of the posted speed limit at this location, and that the proposal would result in traffic congestion.
- 7.5.2. In relation to the ability of the third party to access her property, I note that the third party's vehicular entrance is set back from the road and is positioned behind the front boundary wall of the appeal site, limiting visibility at the third party's entrance. I do not consider that the proposed development would cause an obstruction to the third party in entering or exiting her property. Rather the proposed development provides for the setting back of the front boundary of the appeal site in line with the third party's front boundary, which would in my opinion significantly improves visibility at the third party's entrance. Whilst I note the concerns of the third party in relation to the speed of vehicles using the N63 at this location, I consider that this is a road traffic enforcement issue and is not a relevant planning consideration in the context of this appeal. The third party also raises concerns in relation to traffic congestion. I do not consider that the proposed development, which is for one dwelling, would result in, or exacerbate traffic congestion in the area. Based on my site visit I did not observe any traffic queuing on the N63.

- 7.5.3. The first party is proposing to provide a footpath along the front of the appeal site, including the site which was the subject of PA. Ref. 21/727. I note that there is no footpath on either side of the appeal site and as such the footpath does not join up with an existing footpath network. Notwithstanding this, the provision of a footpath is generally welcome and would allow the third party when on foot to cross the N63 within the 50 kmph zone.
- 7.5.4. I note that the observation of TII in relation to the proposed development refers to the location of the appeal site within an area which is subject to a speed limit greater than 60 kmph. The appeal site is however located within a 'transitional zone', with an applicable speed limit of 60kmph. In such locations, National policy, as outlined in Section 2.5 of the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012) states *'where the plan area incorporates sections of national roads on the approaches to or exit from urban centres that are subject to a speed limit of 60 kmh before a lower 50 kmh limit is encountered – otherwise known as transitional zones - the plan may provide for a limited level of direct access to facilitate orderly urban development. Any such proposal must, however, be subject to a road safety audit carried out in accordance with the NRA's requirements and a proliferation of such entrances, which would lead to a diminution in the role of such zones, must be avoided'*. The site of the existing dwelling was served by a vehicular entrance onto the stretch of the N63 with a speed limit of 60 kmph. Under PA Ref. 21/727, a dwelling was permitted on the adjoining site (i.e. 'Site A') with a new vehicular entrance onto the N63 where the posted speed limit is 50 kmph. The current proposal entails the relocation of the existing vehicular entrance further east, the relocated vehicular entrance will be onto part of the N63 which is subject to the 60 kmph speed limit. As such, the proposal does not result in any additional vehicular entrances onto the national road network where the 60 kmph speed limit applies. Having regard to this, I consider that the proposal is in accordance with the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012). I do not consider that a Road Safety Audit is required under such circumstances given that there is no additional vehicular entrance onto the national road network where the 60 kmph speed limit applies.

- 7.5.5. DM Standard 28 of the Galway County Development Plan 2022-2028 requires a sightline of 90 metres for roads with a design speed of 60 kmph. The first party has demonstrated the availability of the required sightline in each direction.

7.6. Appropriate Assessment

- 7.6.1. Having regard to the nature and limited scale of the proposed development, to the serviced nature of the site, the developed nature of the landscape between the site and European sites and the lack of a hydrological or other pathway between the site and European sites, it is considered that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

8.0 Recommendation

- 8.1. Having regard to the above it is recommended that permission is granted based on the following reasons and considerations and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the Galway County Development Plan 2022-2028, to the prevailing pattern and character of existing development in the vicinity and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the residential or visual amenities of the area or of property in the vicinity. Furthermore, the proposed development complies with the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012). The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 13th September 2021 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the detailed requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
3.	<p>Prior to commencement of development, the developer shall enter into water and waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
4.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity.</p>
5.	<p>The front boundary wall shall have a height not exceeding 1 metre and shall comprise natural stone. The external finishes of the dwelling and garage/fuel store shall comprise natural slate of blue/black colour for the roof and neutral coloured render and natural stone for the external walls, unless otherwise agreed in writing with the Planning Authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>

6	<p>The garage/fuel store shall be used solely for use incidental to the enjoyment of the main dwelling and shall not be sold, rented or leased independently of the main dwelling and shall not be used for the carrying on of any trade, business or commercial/industrial activity. The structure shall not be used for the purposes of independent habitation.</p> <p>Reason: To ensure that the development shall be in accordance with the permission, and that effective control be maintained.</p>
7	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
8	<p>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 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.</p> <p>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</p>

Ian Campbell
Planning Inspector

9th August 2022