



An
Bord
Pleanála

Inspector's Report

ABP-312338-21

Development	Construction of dwelling and all associated site works.
Location	Carrowmore, Woodlawn, Co. Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	211489
Applicant	John Barry
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Mathew & Avril Kane
Observer(s)	None
Date of Site Inspection	3 rd August 2022
Inspector	Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Carrowmore, c. 0.5 km north of Woodlawn, Co. Galway. The appeal site is located within a rural area, outside of a settlement. The appeal site is broadly rectangular in shape, has a stated area of c. 0.2 ha and is located on the western side of the R359. The appeal site is undulating with a level difference of c. 1.3 metres between the west of the appeal site and the east of the appeal site. The appeal site is under grass and appears to be used for the keeping of livestock. Site boundaries comprise a stone wall along the front/roadside and a wire and post fence along the side/northern boundary.
- 1.2. There is a recently constructed two storey dwelling on the site to the immediate north. There is a farm complex to the south of the appeal site. The adjoining area is rural in character.

2.0 Proposed Development

- 2.1. The proposed development comprises;
 - Construction of a two storey, four-bedroom, detached dwelling:
 - stated floor area c. 200 sqm.
 - ridge height c. 8.4 metres (reduced following clarification of further information to 8 metres).
 - material finishes to the proposed house have not been specified but appear to comprise render for the external walls and slate/tile for the roof.
 - positioned c. 29 metres from the public road.
 - The installation of a septic tank and a percolation area.
 - While not referred to in the development description contained in the public notices, the proposal also includes a vehicular entrance.
 - Construction of a detached garage/fuel store:
 - stated floor area c. 54 sqm.
 - ridge height c. 5 metres.

- material finishes to the proposed garage/fuel store comprise nap render for the external walls and slate/tile for the roof.

3.0 Planning Authority Decision

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

3.1.1. Further Information was requested on 07/10/2021 as follows:

- Indicate sightlines of 120 metres in both directions. Submit a letter of consent, if necessary, and a photographic survey showing sightlines.
- Reduce the height of the proposed dwelling by c. 0.4 metres and submit a contiguous elevation for the proposal.

3.1.2. Further Information submitted on 26/10/2021:

- Site plan indicating sightlines of 120 metres submitted.
- Photographic survey submitted indicating sightlines.
- Contiguous elevation submitted indicating reduced finished floor level of proposed dwelling. Height of dwelling remained at 8.4 metres.

3.1.3. Clarification of Further Information was requested on 18/11/2021 as follows:

- Reduce height of dwelling as stated in initial request.

3.1.4. Clarification of Further Information submitted on 23/11/2021:

- Height of dwelling reduced to 8 metres¹.

3.2. Decision

The Planning Authority issued a Notification of Decision to Grant Permission on the 8th December 2021, subject to 15 no. conditions. These conditions are standard in

¹ The clarification of further information submitted to the Planning Authority on the 23rd November 2021 reduced the height of the proposed dwelling from 8.4 metres to 8 metres. Reference in the report of the Planning Officer to the height of the dwelling at 8.2 metres appears to be a typographical error.

nature and refer to issues including, finishes, surface water and construction management. Condition No. 2 is an occupancy condition.

3.3. Planning Authority Reports

3.3.1. The first report of the Planning Officer includes the following comments;

- The subject site is located within a Class 1 Landscape and outside the GTPS, therefore housing need is not applicable.
- The provision of sightlines as indicated is unsatisfactory.
- Concerns expressed in relation to the disparity in height between the proposed dwelling and the dwelling to the north.

Further Information recommended.

3.3.2. The second report of the Planning Officer includes the following comments;

- The response to the issue of sightlines is noted.
- Notwithstanding the reduction in the FFL, a reduction in the height of the dwelling is required.
- Clarification of Further Information recommended.

3.3.3. The third report of the Planning Officer includes the following comments;

- The Planning Authority is satisfied that the dwelling as now proposed would be appropriate at this location.

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

3.3.4. Other Technical Reports

None received.

3.4. Prescribed Bodies

None received.

3.5. Third Party Observations

1 no. observation was received by the Planning Authority. The following is a summary of the main issues raised in the third-party observation:

- The proposed development will be close to the observers' sheds and pasture lands, and will have implications for the adjoining farming enterprise as future residents of the proposed dwelling may have issues with the raising of hens, pigs, roosters, turkeys etc. and raise complaints to the Council.
- Concerns in relation to the impact of the proposed dwelling on the property to the south, arising from overlooking.
- Potential for damage to be caused to trees on the observers' property.
- Sightlines have not been adequately indicated. Sightlines to the south will require works to the observers' stone wall.

4.0 Planning History

Appeal Site:

None.

Lands to North:

PA Ref. 20/1688 – Permission GRANTED for a two storey house, garage and treatment system. (This house has been constructed).

PA Ref. 21/1388 – Permission GRANTED for a two storey house and treatment system.

PA Ref. 21/1799 – Permission GRANTED for a two storey house and treatment system.

The above permissions relate to 3 separate sites, with permission having been granted for 3 houses in a row along the R359.

5.0 Policy Context

5.1. Development Plan

5.1.1. National Planning Framework (NPF) – Project Ireland 2040 (2018)

National Policy Objective 15 states -

‘Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.’

National Policy Objective 19 states -

‘Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere.

In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.1.2. Code of Practice Domestic Wastewater Treatment Systems (p.e. ≤ 10)2021

The Code of Practice (CoP) sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses.

5.1.3. Ministerial Guidance

Sustainable Rural Housing, Guidelines for Planning Authorities (2005)

The appeal site is located within an area identified as a 'Structurally Weak Area' (Rural Housing Zone 3) (see Map 4.1, Galway County Development Plan 2022 - 2028). The Guidelines state that these areas exhibit characteristics such as persistent and significant population decline as well as a weaker economic structure based on indices of income, employment and economic growth. The Guidelines provide that the key development plan objective in these areas should refer to the need to accommodate any demand for permanent residential development as it arises subject to good practice in matters such as design, location and the protection of important landscapes and any environmentally sensitive areas.

Appendix 4 of the Sustainable Rural Housing, Guidelines for Planning Authorities provides policy on ribbon development. The guidelines recommend against the creation of ribbon development for a variety of reasons relating to road safety, future demands for the provision of public infrastructure as well as visual impacts.

5.2. Development Plan

5.2.1. 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.

5.2.2. The appeal site is not subject to any specific land-use zoning under the Galway County Development Plan 2022-2028.

5.2.3. In terms of Landscape Character Type, the appeal site is located within the 'North 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).

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

- Objective RH 3: Rural Housing Zone 3 (Structurally Weak Areas)
- DM Standard 28: Sight Distances Required for Access onto National, Regional, Local and Private Roads

5.3. Natural Heritage Designations

- Callow Lough pNHA (Site Code 001239) – c. 3.5 km east.

5.4. 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 against the decision to grant permission. The grounds for appeal can be summarised as follows;

- Sightlines to the south have not been demonstrated. The map submitted at further information stage is hand drawn and inaccurate. The map does not accurately represent the third party's property boundary.
- The photographic survey (looking south) is not taken from a set-back of 2.4 metres from the roadside and is therefore inadequate for the purposes of indicating sightlines.
- Condition No. 8 requires that sightlines are maintained. The first party has submitted a letter of consent which relates to the removal of a roadside boundary at an area south of the proposed vehicular entrance, however, in order to achieve the 120 metre sightline to the south, c. 60 metres of the third party's roadside boundary would also be required to be altered. The third party note that they are not consenting to their boundary being altered and as such the requirements of Condition No. 8 cannot be met.
- The proposed development is not suitable for a dwelling given its proximity to a working free range fowl and swine farm.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the appeal, and having inspected the site, and having regard to the relevant national and local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Rural Housing Policy
- Impact on residential amenity
- Access
- Ribbon Development – New Issue
- Waste Water – New Issue
- Appropriate Assessment

7.2. Rural Housing Policy

7.2.1. The appeal site is located within an area identified as a ‘Structurally Weak Area’. National Policy Objective 19 of the NPF provides that in such areas, the provision of single housing in the countryside is based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements. This is reflected in Objective RH3 of the Galway County Development Plan 2022 – 2028, where proposals for dwellings in such locations are considered subject to normal planning and environmental criteria. I consider the design and siting of the proposed dwelling to be acceptable. On this basis, I consider that the proposed development accords with the provisions of the Galway County Development Plan 2022-2028 in relation to rural housing, specifically Objective RH3.

7.2.2. Should the Board be minded to grant permission for the proposed development, I do not consider that there is a requirement to attach an occupancy condition as the appeal site is located within a part of the County where the provision of single housing is based on siting and design considerations, and not the requirement to demonstrate that they have an economic or social need to reside at such a location.

7.3. Impact on residential amenity

- 7.3.1. The third party raises concerns in relation to potential overlooking of their property arising from the proposed dwelling. Having regard to the design of the proposed dwelling, specifically the absence of first floor windows on the southern elevation serving habitable rooms, and to the separation distance of c. 50 metres 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 south arising from overlooking.

7.4. Access

- 7.4.1. The proposed development was considered by the Planning Authority under the Galway County Development Plan 2015-2021, where under DM Standard 20, sightlines of 120 metres were required for accesses onto a regional road with a design speed of 85 kmph. The Galway County Development Plan 2022-2028 came into effect on the 20th June 2022 and is now the relevant development plan. DM Standard 28 of the new Development Plan requires sightlines of 160 metres for a regional road with a design speed of 85 kmph. The first party has not demonstrated the provision of 160 metre sightlines at the proposed entrance. The proposed development would therefore not comply with DM Standard 28 of the Galway County Development Plan 2022-2028.
- 7.4.2. Following a request for further information the first party submitted a site layout drawing which indicated sightlines of 120 metres (as was the requirement under the previous Development Plan) to the north and south. In order to achieve and maintain this 120 metre sightline, the first party indicated that works to the lands to the south of the proposed entrance were required, specifically the removal of a stone wall. These lands are indicated within the blue line boundary of the application site and a letter of consent from the landowner was submitted. Based on the particulars submitted with the application and appeal I note that this area extends to c. 15 metres. This was considered acceptable by the Planning Authority and Condition No. 8 of the Notification to Grant Permission issued on the 8th December 2021 requires that sightlines are maintained and kept free from obstruction. The third party contend that in order to achieve and maintain the 120 metre sightline to the south, works will also be required to the roadside boundary of their property, which they do not consent to.

From reviewing the documentation on the file, and based on my site inspection, I consider that the roadside boundary of the third party's property, which I observed to be overgrown, would obstruct visibility to the south and as such works to this section of roadside boundary would also be required in order to facilitate sightlines. Noting the extent of lands to the south to which the letter of consent relates to, I consider that the maximum achievable sightline to the south would be c. 40 metres, significantly below the 160 metres now required under DM Standard 28 of the Galway County Development Plan 2022 – 2028.

7.5. Ribbon Development – New Issue

7.5.1. Taking account of the recently permitted dwellings to the north of the appeal site, and to the existing dwelling to the south of the appeal site, the emergent development pattern along the regional road serving the site is characteristic of ribbon development and whilst not raised by the Planning Authority or by third party appellant, I consider that the proposed development would result in ribbon development, defined in the Sustainable Rural Housing, Guidelines for Planning Authorities (2005) as '5 or more houses on any one side of a given 250 metres of road frontage'. I note that the proposed development would be the fifth dwelling on the western side of the road over a 250-metre distance. The Sustainable Rural Housing, Guidelines for Planning Authorities recommends against ribbon development and provides that in assessing individual housing proposals in rural areas, Planning Authorities need to form a view as to whether that proposal would contribute to or exacerbate ribbon development, based on a number criteria including; the type of rural area and circumstances of the applicant; the degree to which the proposal might be considered infill development, and, the degree to which existing ribbon development would be extended or whether distinct areas of ribbon development would coalesce as a result of the development. Whilst the appeal site is identified in the Galway County Development Plan as being a 'Structurally Weak Area' as distinct from an 'Area Under Strong Urban Influence', I do not consider the proposal to constitute infill development, given the stand-alone nature of the proposal and having regard to the resultant coalescence of ribbon development which would arise on foot of the proposal when considered in conjunction with the recently permitted houses to the north of the site and the existing dwelling to the immediate south, I consider that this form of development is unsustainable in rural areas, and would not be in accordance with the Sustainable Rural Housing, Guidelines

for Planning Authorities, 2005. This is a new issue and the Board may wish to seek the views of the parties. However, having regard to the other substantive reason for refusal set out below, it may not be considered necessary to pursue the matter further.

7.6. Waste Water – New Issue

7.6.1. The Site Characterisation Report submitted with the application identifies that the subject site is located in an area with a Locally Important Aquifer where the bedrock vulnerability is extreme. A Ground Protection Response of R2¹ is noted by the applicant. Based on the Ground Protection Response of R2¹, I note the suitability of the site for a treatment system (subject to normal good practice). Where domestic water supplies are located nearby, particular attention should be given to the depth of subsoil over bedrock such that the minimum depths required in Section 6 are met and that the likelihood of microbial pollution is minimised. The applicant's Site Characterisation Report identifies that there is no Groundwater Protection Scheme in the area.

7.6.2. The trail hole depth referenced in the Site Characterisation Report was 2.2 metres. No bedrock or water were encountered in the trail hole. The soil conditions found in the trail hole are described as comprising silt/clay and silt. Percolation test holes were dug and pre-soaked. A sub-surface percolation test result of 14 was recorded and a surface percolation test result of 16.5 was recorded. It is unclear why surface tests were carried out. Based on the EPA CoP 2021 (Table 6.4) the site is suitable for a septic tank and percolation area.

7.6.3. I note that the trail hole is located within the area proposed to accommodate the percolation area. The EPA CoP recommends against this, as it can result in the establishment of preferential flow paths to become established once the system becomes operational.

7.6.4. The Site Characterisation Report submitted with the application concludes that the site is suitable for treatment of waste water and it is proposed to install a septic tank and percolation area (108 metres of percolation trenches) with a minimum of 1.2 metres of material under the percolation trenches. Table 6.2 of the CoP 2021 sets out required minimum separation distances between septic tanks, packaged systems, percolation areas and polishing filters. The proposal complies with the required minimum separation distances set out in the EPA CoP.

7.6.5. During my site inspection I observed rushes on the appeal site, which are indicative of poorly drained soils/poor permeability. The Site Characterisation Report submitted with the application does not refer to the presence of rushes on the appeal site and states that the site is free draining.

7.6.6. Regarding the suitability of the appeal site to cater for the treatment of effluent, noting the observed site conditions, which are indicative of poorly drained soils/poor permeability, and the information contained in the Site Characterisation Form which does not reflect the conditions which I observed on the appeal site, I am not satisfied that appeal site can cater for an on-site waste water treatment system without detriment to ground water, or that the proposed development would comply with the EPA CoP. This is a new issue and the Board may wish to seek the views of the parties. However, having regard to the other substantive reason for refusal, it may not be considered necessary to pursue the matter further.

7.7 **Appropriate Assessment**

7.7.1 Having regard to the nature and limited scale of the proposed development 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 planning permission be refused for the proposed development based on the following reasons and considerations.

9.0 **Reasons and Considerations**

1. The roadside boundary of the property to the south, which is not within the applicant's control, would obstruct visibility from the proposed vehicular entrance, such that the maximum achievable sightline to the south would be significantly below the 160 metres required under DM Standard 28 of the Galway County Development Plan 2022 – 2028. It is therefore considered that the proposed development would endanger public safety by reason of traffic hazard because of

the additional traffic turning movements the development would generate, at a point where sightlines are restricted in a southerly direction.

Ian Campbell
Planning Inspector

16th September 2022