



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312976-22

<b>Development</b>	Construction of a house, wastewater treatment plant, polishing filter and all associated site works
<b>Location</b>	Bellayarha North, Bullaun, Co. Galway
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	212348
<b>Applicant</b>	Joseph Forde
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Joseph Forde
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	30 <sup>th</sup> September 2022
<b>Inspector</b>	Ian Campbell

## **1.0 Site Location and Description**

- 1.1. The appeal site is located on the northern side of a local access road (L3202), c. 1 km south-east of the village of Ballaun, Co. Galway.
- 1.2. The appeal site forms part of a field, is broadly rectangular in shape, relatively flat and has a stated area of 0.243 ha. The appeal site is under grass. The roadside boundary of the appeal site comprises a wire fence.
- 1.3. The adjoining area is rural in character. The adjoining land to the south-east accommodates a two storey dwelling which is currently under construction. 4 no. recently constructed two storey detached dwellings are located to the north-west of the appeal site. There are also detached dwellings located to the south of the appeal site on the opposite side of the L3202.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises;
  - Construction of a two storey, four-bedroom, detached dwelling:
    - stated floor area 214 sqm.
    - ridge height c. 8 metres.
    - material finishes to the proposed house comprise nap plaster and natural stone for the external walls. The roof covering comprises slate (blue/black colour).
    - positioned 30 metres from the public road.
  - The installation of a packaged waste water treatment system and a soil polishing filter.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority issued a Notification of Decision to Refuse Permission on the 10<sup>th</sup> February 2022 for 2 no. reasons which can be summarised as follows;

1. The proposed development would result in the creation of a linear, suburban pattern of development, which would not fit appropriately or integrate effectively into this rural location and would contravene materially Objective RH011 contained in the Galway County Development Plan, 2015- 2021.
2. The subject site is located within the zone of notification of Recorded Monument GA097-012 (Enclosure). In the absence of archaeological testing on the subject site, as required by the Development Applications Unit (DAU), it has not been demonstrated that the proposed development would not adversely impact the archaeological heritage of the area. Accordingly, to grant the proposed development would be contrary to Objectives ARC 1, ARC 2 and DM Standard 45 of the 2015-2021 Galway County Development Plan 2015-2021.

I note that Reason No. 1 included in the Notification of Decision to Refuse Permission issued by the Planning Authority makes reference to material contravention of the Galway County Development Plan 2015-2021. The Galway County Development Plan 2022-2028 came into effect on the 20th June 2022 and is now the relevant development plan. As such, I do not therefore consider that the Board is bound by the provision of Section 37 (2) (b) of the Planning and Development Act 2000 (as amended).

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The report of the Planning Officer includes the following comments;

- Visibility splays are considered acceptable.
- The site is considered suitable for a waste water treatment system.
- The design of the proposal is consistent with the adjacent dwellings permitted in the area.
- There are several existing and permitted dwellings along this stretch of road and the proposal would result in the creation of a linear pattern of development which would be out of character with the rural area.

- The majority of the site is within a zone of archaeological potential associated with Recorded Monument GA097-012. An Archaeological Assessment was submitted which concluded that no trace of surface archaeology was recorded, however the Planning Authority consider there to be potential for sub-surface archaeology on the site and archaeological testing is recommended, this is also recommended by the DAU of the DoEHLG.

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

### 3.2.2. Other Technical Reports

None received.

### 3.3. Prescribed Bodies

Department of Housing, Local Government and Heritage – site is located within the Zone of Notification for RMP GA097-012 (Enclosure), with historical mapping indicating at least 50% of the footprint of the monument located within the development site. Subsurface features may remain and their location, extent and condition cannot currently be characterised. Serious concerns are expressed in relation to the potential scale of impact arising from the proposed development on the Recorded Monument. The report recommends that a geophysical survey and test excavation are carried out on the site, and that a report describing the findings be submitted to the Planning Authority and to the Department of Housing, Local Government and Heritage.

### 3.4. 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:

- Concern in relation to the number of permissions for dwellings and the level of construction activity in the area.
- The reasons for refusal cited under PA. Ref. 21/1124 still apply, specifically the creation of linear development and archaeological considerations.

- Concerns in relation to potential flood risk rising from the proposed development.
- Traffic impact concerns.

## 4.0 Planning History

### Appeal Site:

**PA. Ref. 21/1125** – Permission REFUSED for a house and waste water treatment system. Reasons for refusal concerned the creation of linear development and potential impact on archaeology.

### Lands to North-West:

**PA. Ref. 21/1124** - Permission REFUSED for a house and waste water treatment system. Reasons for refusal concerned the creation of linear development and potential impact on archaeology.

**PA. Ref. 20/754** – Permission GRANTED for a house and waste water treatment system.

**PA. Ref. 19/2009** – Permission GRANTED for a house and waste water treatment system.

**PA. Ref. 20/755** – Permission GRANTED for a house and waste water treatment system.

**PA. Ref. 18/1715** – Permission GRANTED for a house and waste water treatment system.

### Lands to South-East

**PA. Ref. 20/227** – Permission GRANTED for a house and waste water treatment system.

**PA. Ref. 20/1425** – Permission GRANTED for a house and waste water treatment system.

**PA. Ref. 18/1714** – Permission GRANTED for a house and waste water treatment system.

## 5.0 Policy Context

### 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 Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10) 2009

The EPA CoP 2009 was revised in March 2021. The 2009 CoP may continue to be used for site assessments and subsequent installations commenced before 7<sup>th</sup> June 2021 or where planning permission has been applied for before that date. I note that the planning application was lodged with Galway County Council on the 10<sup>th</sup> December 2021 and the site assessment was carried out in April 2021. Based on the forgoing, the EPA CoP 2009 is considered to be the relevant CoP for the purpose of this appeal.

### 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 20<sup>th</sup> 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. The appeal site is located within the Zone of Archaeological Potential/Notification associated with Recorded Monument (RMP Ref. GA097-012 - Enclosure).

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

- Objective ARC 4: Protection of Archaeological Sites
- Objective ARC 5: Development Management
- Objective ARC 10: Zones of Archaeological Potential

5.2.5. 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).

### 5.3. **Natural Heritage Designations**

The appeal site is not located within or close to any European Site.

### 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 first-party appeal against the decision to refuse permission. The grounds for appeal can be summarised as follows;

- The proposed development would result in 4 no. houses, then a gap of two sites, and then another four houses for which permission has already been granted. Rather than create a precedent, the proposed development would create an identical pattern of development to that which already exists at the other end of the field. The first party also contends that a precedent has been set for this form of development at this location.



- The proposed development would not detract from the character of the area, but would rather match the pattern of development which has already been considered to be compliant with the County Development Plan.
- The Planning Authority could have requested further information to address the issue of archaeology on the appeal site. The period of 4 week within which to make an appeal does not allow for the carrying out of archaeological testing, which requires an application to be made for a licence in advance. The Planning Authority could have permitted the proposed development subject to a condition addressing archaeological testing.

The appeal submission also contains reference to the previous refusal on the appeal site, under PA. Ref. 21/1125. This decision was not appealed, however in the interests of completeness I have also summarised the first party's contentions as they relate to the history on the appeal site.

- Reference to Objective RH011 has been misapplied as it relates to transitional lands outside settlements.
- Compliance with Objective RH09 as it relates to landscaping could easily be complied with.
- Objective LCM1 relates to significant developments, and does not relate to a proposal for a house.
- Objective LCM2 only relates to landscapes of high sensitivity, and is therefore not relevant.

## **6.2. Planning Authority Response**

None received.

## **6.3. Observations**

None received.

## **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
- Ribbon Development
- Archaeology
- Waste Water
- Impact on Visual and Residential Amenity
- 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 sitting 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 the applicant has an economic or social need to reside at such a location.

### **7.3. Ribbon Development**

- 7.3.1. Taking account of the recently constructed dwellings to the north-west of the appeal site, and to the existing dwelling to the south-east of the appeal site, the emergent development pattern along the road serving the site is characteristic of ribbon development. Ribbon development is 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 sixth dwelling on the northern 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 south-west of the site and the existing dwellings to the north-west and south-east, 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.
- 7.3.2. I note that the Planning Authority has referred to the creation of linear development in refusal reason 1. I consider linear development to be analogous with ribbon development and as such I do not consider this to be an new issue.

## **7.4. Archaeology**

- 7.4.1. The appeal site is located within the Zone of Archaeological Potential/Notification associated with Recorded Monument RMP Ref. GA097-012. A desktop based Archaeological Impact Assessment (AIA) was submitted with the planning application. The AIA found no surface remains within the appeal site. The AIA did not recommend a geophysical survey, due to the uneven nature of the ground surface, instead the AIA recommended that pre-development testing be carried out. In the absence of archaeological testing on the site, the Planning Authority considers that it has not been demonstrated that the proposed development would not adversely impact the archaeological heritage of the area. The first party contends that this issue could have been addressed through a request for further information, or the attachment of a planning condition.
- 7.4.2. In some situations it is appropriate to require archaeological testing and/or monitoring by condition, however I note the concerns raised in the report of the Development Applicants Unit (DAU) of the Department of Housing, Local Government and Heritage, specifically that in this case at least 50% of the footprint of the monument is located within the appeal site. On this basis I consider that information in relation to the possible existence of subsurface features, including their location, extent and condition would be required prior to permitting development on the appeal site. In this regard I agree with the Planning Authority that in the absence of this information the proposed development could adversely impact the archaeological heritage of the area.

## **7.5. Waste Water**

- 7.5.1. 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 Moderate. A ground protection response to R1 is noted. Accordingly, I note the suitability of the site for a treatment system (Subject to normal good practice, i.e. system selection, construction, operation and maintenance). The applicant's Site Characterisation Report identifies that there is no Groundwater Protection Scheme in the area.

7.5.2. The trail hole depth referenced in the Site Characterisation Report was 2.6 metres. Neither bedrock nor the water table were encountered in the trail hole. The soil conditions found in the trail hole are described as comprising topsoil, limestone, and gravel/sand. Percolation test holes were dug and pre-soaked. A T value/sub-surface value of 17.11 and P value/surface value of 41.86 were recorded. Based on the EPA CoP 2009 (Table 6.3) the site is suitable for a secondary treatment system and a polishing filter at ground surface or overground. The trail hole was infilled at the time of my site inspection.

7.5.3. The Site Characterisation Report submitted with the application concludes that the site is suitable for treatment of waste water. I am satisfied that the proposal complies with the required separation distances set out in Table 6.1 of the CoP 2009. It is proposed to install a packaged waste water treatment system and a gravity feed polishing filter. Based on the information submitted, I consider that the site is suitable for the treatment system proposed.

#### **7.6. Impact on Visual and Residential Amenity**

7.6.1. The proposed dwelling is not dissimilar to the adjoining dwellings to the north-west. I do not consider that the proposed dwelling would result in any significant negative impacts on the visual amenity or character of the area.

7.6.2. Having regard to the design of the proposed dwelling, and to the separation distance of c. 20 metres between the proposed dwelling and the adjacent dwelling to the south-west, I do not consider that the proposed dwelling would have any significant negative impacts on the residential amenity of the adjoining property to the south arising from overlooking, overshadowing or overbearance.

#### **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 proposed development, when taken in conjunction with existing and permitted development in the vicinity of the site, would consolidate and contribute to the build-up of ribbon development in an open rural area. This would militate against the preservation of the rural environment and lead to demands for the provision of further public services and community facilities. The proposed development would be contrary to the Sustainable Rural Housing, Guidelines for Planning Authorities, 2005 and would therefore be contrary to the proper planning and sustainable development of the area.
2. It is considered that the archaeological significance of the site is such that any development of the site in advance of a comprehensive archaeological assessment, carried out to the requirements of the appropriate authorities, would be premature and would, therefore, be contrary to the proper planning and sustainable development of the area.

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Ian Campbell  
Planning Inspector

11<sup>th</sup> October 2022