



An
Bord
Pleanála

Inspector's Report

ABP-313674-22

Development	Construction of a house, treatment unit and all associated services.
Location	Craughwell, Co. Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	22329
Applicant	Liam Bermingham
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant	Liam Bermingham
Observer(s)	None
Date of Site Inspection	30 th September 2022
Inspector	Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site is located on the northern side of a narrow local access road (L8577), c. 350 metres west of the centre of Craughwell, Co. Galway. The appeal site is located within a rural area, outside of a settlement.
- 1.2. The appeal site is 'L' shaped, has a stated area of 0.255 ha, and is used for the grazing of animals. The roadside boundary of the appeal site is formed by a low stone wall, tress and hedgerow. There is a gated field entrance to the south-east of the appeal site. The site rises up from the road, with topographical levels along the public road indicated as c. 21 metres (OD Malin) and levels at the northern part of the appeal site indicated at c. 25 metres (OD Malin).
- 1.3. Dunkelling River is located c. 50 metres south of the appeal site. A road and a wooded area separate the river from the appeal site. The appeal site is elevated relative to the river. There is a cluster of detached dwellings to the west of the appeal site. Grenage Rail Bridge crosses over the local access road at a location c. 150 metres east of the appeal site.

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. 8.5 metres.
 - material finishes to the proposed house comprise nap render and natural stone for the external walls. The roof covering comprises slate/tile (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 3rd May 2022 for 5 no. reasons which can be summarised as follows;

1. The subject site is located in the rural area, within the Galway Transportation Planning Study Area and is subject to strong urban influence. The applicant has not satisfactorily demonstrated compliance with the requirements of Objective RHO1 and as such the proposed development would contravene materially Objective RHO1 of the Galway County Development Plan 2015- 2021.
2. The subject is located within an indicative flood risk area. The proposed development would materially contravene Objective FL1 of the Galway County Development Plan 2015-2021.
3. The Planning Authority is not satisfied that the proposal will not adversely affect the integrity of Rahasane Turlough SAC and Rahasane Turlough SPA. The proposed development would materially contravene Objective NHB1 and DS 6 of the Galway County Development Plan 2015-2021.
4. Having regard to the horizontal and vertical alignment of the local road, the Planning Authority is not satisfied that sightlines are satisfactory. The development would interfere with the free flow of traffic on the public road and endanger public safety by reason of traffic hazard, obstruction of road users or otherwise.
5. Having regard to the design and siting of the proposed dwelling house, including its scale, mass, bulk on an elevated site, it is considered that the development would result in a built form that would not integrate effectively into this rural location, and would contravene materially Objective RHO 9, and DM Standard 6 of the Galway County Development Plan.

I note that Reasons No. 1, 2, 3 and 5 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;

- The subject site is un-serviced and un-zoned and is considered to be located outside the settlement of Craughwell.
- Effluent disposal proposals are within the parameters of the EPA CoP however the impact of flooding on the proposed waste water treatment system should be considered.
- The facilitation of sightlines will require the removal of a significant amount of hedgerow, contributing to the erosion of the rural environment.
- The design of the proposed house is considered to be urban, and not appropriate to the rural area, or to the elevated site. The height of the house exceeds that which is normally considered, that being 8 metres.
- There is a Recorded Monument to the north of the site however the site is not located with an archaeological zone.

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

None received.

3.4. Third Party Observations

None received.

4.0 Planning History

None.

5.0 Policy Context

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

National Policy Objective 19 states -

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.

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 'Rural Area Under Strong Urban Influence (Rural Housing Zone 2 GCTPS) (see Map 4.1 and 4.2 Galway County Development Plan 2022 - 2028). The Guidelines state that these areas exhibit characteristics such as proximity to the immediate environs or close commuting catchment of large cities and towns, rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such urban areas, or to major transport corridors with ready access to the urban area, and pressures on infrastructure such as the local road network.

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. The appeal site is located within the Galway County Transportation and Planning Study Area (GCTPS). The appeal site is located within an area identified as a 'Rural Area Under Strong Urban Influence (Rural Housing Zone 2 GCTPS)' (see Map 4.2. Galway County Development Plan 2022 – 2028).

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

Policy Objective RH2: Rural Housing Zone 2 (Rural Area Under Strong Urban Pressure-GCTPS-Outside Rural Metropolitan Area Zone 1)

DM Standard 28 – Sightline distances required for access onto National, Regional, Local and Private Roads

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

5.2.5. There is a Recorded Monument to the north of the appeal site (Ref. GA 04586 'Ringfort' refers).

5.2. Natural Heritage Designations

- Rahasane Turlough SPA (Site Code: 004089), c. 0.75 km west.
- Rahasane Turlough pNHA (Site Code: 000322), c 0.5 km west.
- Rahasane Turlough SAC (Site Code: 000322), c. 0.5 km west.

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

- The appeal site is located within 350 metres of the village centre and should be considered as being located within the village, and not the countryside, and as such local housing need should not apply.
- Craughwell has been subject to significant investment in infrastructure and the appeal site is located within walking distance of the village centre.
- A flood study has been undertaken which concludes that the appeal site is suitable for development.
- An Appropriate Assessment Screening report has been submitted which concludes that Appropriate Assessment is not required.
- The entrance has been moved to the east and walls set back to achieve 70 metre sightlines. Traffic on the road is slow moving due to its width and alignment.
- The design of the proposed dwelling is suitable noting the screening on the site. The proposed dwelling is similar to others in the vicinity and the site is not considered to be particularly elevated. The first party is amenable to reducing the size of the dwelling, if required.

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
- Design/Siting & Impact on Visual Amenity
- Flooding
- Waste water
- Access, Pedestrian & Traffic Safety
- Appropriate Assessment

7.2. Rural Housing Policy

7.2.1. The first party contends that the appeal site is not located within the rural area, noting its proximity to the village of Craughwell, and as such considerations of local need should not pertain. I note that the appeal site and adjoining area is not served by a foul sewer, pedestrian infrastructure or public lighting, comprises agricultural land on a substandard road, where a transitional speed limit of 60 kmph applies. I note that the appeal site, whilst located within walking distance of Craughwell, was not included within the development area of the expired Craughwell LAP 2009 - 2015, and is also not contiguous with other development which would be considered to form part of the urban fabric of the village. As such I consider that the appeal site is located within the rural area, outside of the settlement of Craughwell.

7.2.2. The appeal site is identified in the Galway County Development Plan 2022 – 2028 (see Map 4.2) as being within Zone 2 - Galway County Transport & Planning Study (GCTPS), which corresponds an 'Area Under Strong Urban Influence'. In accordance with National Policy Objective 19 of the National Planning Framework (NPF) the provision of single housing in such cases is based on the core consideration of demonstrable economic or social need to live in a rural area, and siting and design criteria. Policy Objective RH2 of the Galway County Development Plan 2012-2028

(which applies to rural areas under strong urban pressure – GCTPS – outside rural metropolitan area zone 1) sets out specified circumstances where applicants may be considered eligible for a dwelling in a rural area. Depending upon which criteria of Objective RH2 an application for a dwelling is being made, applicants are required to demonstrate their ‘Rural Links’ and/or ‘Substantiated Rural Housing Need’ to the area.

7.2.3. The first party has not demonstrated that he has ‘rural links’ to the area, or that he has a ‘substantiated rural housing need’ as set out under Objective RH2 of the Galway County Development Plan 2022 – 2028 and therefore has not demonstrated compliance with the Galway County Development Plan 2022 – 2028 in relation to proposals for single housing in the rural area. As stated above, the appeal site is located within an area under strong urban influence, within easy reach of urban settlements, in particular Galway City. I also note the proliferation of single dwellings in this rural locality, which is reflective of the significant pressure this rural area is under. The National Planning Framework provides that careful planning is required to manage the demand for rural housing in accessible countryside around cities and towns. Based on the absence of documentation submitted with the application and the appeal, the first party has not clearly demonstrated a socio and/or economic housing need that would necessitate a dwelling at this rural location. Having regard to the forgoing, I consider that the first party has not demonstrated that he meets the criteria of demonstrable economic or social need to live in a rural area set out in the NPF, a rural generated housing need that meets the test set by the Sustainable Rural Housing Guidelines, or rural links and/or substantiated rural housing need as required by the Galway County Development Plan 2022-2028.

7.3. Design/Siting & Impact on Visual Amenity

7.3.1. I consider that the proposed dwelling is suburban in its design, and has a ridge height of c. 8.5 metres which in conjunction with the elevated nature of the appeal site relative to the lands to the south, renders it conspicuous in the immediate landscape. The proposal also entails the removal of significant trees and hedgerow in order to facilitate sightlines, thereby further reducing the ability of the site to absorb the visual impact of development. In my view, minimal consideration has been given to dissipating the mass and bulk of the proposed dwelling and I agree with the Planning Authority that

the design of the proposed dwelling would be incongruous in the landscape. In my opinion the dwelling proposed would negatively affect the visual amenities of the area.

7.4. Flooding

- 7.4.1. The Planning Authority have identified that the appeal site is located within a flood risk area. The Planning Authority did not elaborate on the type of flooding which the site is susceptible to. A Flood Risk Assessment (FRA) has been submitted with the appeal. The FRA states that the appeal site is indicated within/or in close proximity to an area which is subject to fluvial flooding, as indicated on OPW Preliminary Flood Risk Assessment maps.
- 7.4.2. Regarding fluvial flooding, the FRA submitted notes that the estimated flood level of the 0.1% chance/1000 year return period flood, factoring in an allowance for climate change of 20% is 21.68 metres (OD Malin). The finished floor level of the proposed dwelling is 24.2 metres (OD Malin) therefore a freeboard of c. 2.5 metres is provided. The proposed dwelling is therefore within Flood in Flood Zone C and the justification test is not required. The FRA notes that the location of the proposed entrance, where levels are 21.30 metres (OD Malin), is within Flood Zone B however road infrastructure is considered as a less vulnerable category of development.
- 7.4.3. The FRA also examined the impact of flooding on the proposed treatment system. The FRA states that the top of the treatment unit is at a level of 24.55 metres (OD Malin), that the inlet and outlet pipes are watertight, and that the treatment unit has a low risk of submergence. The top of the polishing filter is at 24.95 metres (OD Malin).
- 7.4.4. The FRA states that there are no flow paths at the location on the appeal site, and therefore the proposed development will not obstruct any flow path and cause flooding elsewhere. Having regard to the FRA submitted and to the freeboard provided against fluvial flooding, I consider that the proposed development is acceptable in terms of flood risk.

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 Regionally Important Aquifer where the bedrock

vulnerability is High. A ground protection response to R21 is noted. Accordingly, 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 Chapter 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.

- 7.5.2. The trial hole depth referenced in the Site Characterisation Report was 2.4 metres. Neither bedrock nor the water table were encountered in the trial hole. The soil conditions found in the trial hole are described as comprising topsoil, clay loam with gravel, subsoil and gravelly clay with abundant cobbles and boulders. Percolation test holes were dug and pre-soaked. A T value/sub-surface value of 19.72 and P value/surface value of 14.72 were recorded. Based on the EPA CoP 2021 (Table 6.4) the site is suitable for a secondary treatment system and a soil polishing filter. The trial hole was open at the time of my site inspection and the conditions in the trial hole generally correspond with the information contained in the Site Characterisation Report.
- 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 6.2 of the CoP 2021. It is proposed to install a packaged waste water treatment system and a soil polishing filter. Based on the information submitted, I consider that the site is suitable for the treatment system proposed.
- 7.5.4. The EPA CoP requires a trial hole depth of 3 metres in areas with Regionally Important Aquifers whereas the trial hole was excavated to a depth of 2.4 metres. However, noting the proposal to install a treatment system with a soil polishing filter with an adequate depth of unsaturated subsoil to treat effluent on the site, I am satisfied that the treatment of effluent on the site can be catered for without a risk to groundwater.

7.6. Access, Pedestrian & Traffic Safety

- 7.6.1. A new vehicular access is proposed along the southern boundary of the appeal site. The posted speed limit at the location of the appeal site is 60 kmph however having regard to the narrow nature of the road, and to its horizontal and vertical alignment, I consider that vehicles using the road would likely travel at a lower speed. I note that DM Standard 28 (Table 15.3) of the Galway County Development Plan 2022 – 2028 requires sightlines of 70 metres for local roads with a design speed of 50 kmph and I consider this to be a more appropriate sightline requirement.
- 7.6.2. Based on the site layout plan submitted with the appeal, I note that the maximum achievable sightlines are 70 metres to the east and west. The boundary of a third party property to the east obstructs visibility and a letter of consent has been submitted with the planning application in respect of maintaining the area required for visibility clear of obstructions. These works are located within the blue line of the application. Based on the information submitted, I consider sightlines to be acceptable.
- 7.6.3. I consider the L85577 to be seriously substandard at this location due to its narrowness and horizontal and vertical alignment, which poses a danger for pedestrians using the road, particularly given the absence of footpaths and public lighting, and also due to the constraint posed by the rail bridge, which results in traffic using the road having to yield in order to pass under the bridge. Having regard to the forgoing, I consider that the traffic generated by the proposed development would endanger public safety and would give rise to a potential traffic hazard.

7.7. Appropriate Assessment

- 7.7.1. The first party has submitted an Appropriate Assessment Screening report with the appeal (dated May 2022) prepared by Noreen McLoughlin Environmental Consultant. The applicant's Stage 1 Appropriate Assessment Screening report concluded that *'the proposed development, individually or in combination with other plans or projects, will not have a significant effect on any European sites'*.
- 7.7.2. The closest European sites to the appeal site are Rahasane Turlough SAC (Site Code: 000322) and Rahasane Turlough SPA (Site Code 004089), which are located c. 0.5

km and c. 0.75 km from the appeal site. The river to the south of the appeal site flows into Rahasane Turlough SAC and Rahasane Turlough SPA. Having regard to;

- The nature of the proposed development;
- The use of a waste water treatment plant to treat effluent from the proposal;
- The proposal to direct run-off from the dwelling to a soakaway;
- The conclusion of the Flood Risk Assessment submitted with the appeal, specifically that the proposed dwelling and treatment system are located within Flood Zone C, and that the proposed development will not result in flooding elsewhere.
- The separation distance between the appeal site and the river to the south, and the existing road and wooded area separating the appeal site from this river;
- The absence of any direct hydrological or other pathway between the appeal site and Rahasane Turlough SAC and Rahasane Turlough SPA, and any other European sites;
- The separation distance between the appeal site and Rahasane Turlough SAC and Rahasane Turlough SPA, and;
- The fact that the appeal site would not be favourable habitat for the special conservation interest bird species of the Rahasane Turlough SPA, which show preference for open more habitats.

I consider that the project individually or in combination with other plans or projects would not be likely to have significant effects on Rahasane Turlough SAC or Rahasane Turlough SPA in view of the sites' Conservation Objectives, or on any other European sites, and Appropriate Assessment is therefore not required. No measures designed or intended to avoid or reduce any harmful effects of the project on a European site have been relied upon in this screening exercise.

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 site of the proposed development is located within an "Area Under Strong Urban Influence" as set out in the "Sustainable Rural Housing Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in April 2005. Furthermore, the subject site is located in an area that is designated under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to 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. Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need to live in this rural area. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location. The proposed development would, therefore, be contrary to the Ministerial Guidelines and to the over-arching national policy, to the provisions of the current Galway County Development Plan 2022 - 2018, would contribute to the encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would be contrary to the proper planning and sustainable development of the area.
2. The site is located on a minor road which is seriously substandard in terms of width and alignment. The traffic generated by the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users.
3. Having regard to the design, height and massing of the proposed dwelling, it is considered that the proposed development would seriously injure visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Ian Campbell
Planning Inspector

8th November 2022