



An
Bord
Pleanála

Inspector's Report

ABP-313677-22

Development	Permission to construct a dwelling house, new road access, sewage treatment system and all associated site development works.
Location	Kilcolgan, Co. Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	22/60207
Applicant(s)	Pat Kinahan.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party V. Refusal
Appellant	Pat Kinahan
Observer(s)	Tom Quinn
Date of Site Inspection	11 th April 2023
Inspector	Fergal Ó Bric

1.0 Site Location and Description

- 1.1. The appeal site is located in Kilcolgan, a rural settlement located approximately 18 kilometres south-east of Galway city. The appeal site is located to the south-west of the settlement and fronts onto the N67, National secondary route which links Kilcolgan with Kinvara, within the 60 kilometre per hour (Km/h) speed control zone.
- 1.2. The appeal site comprises an area of 0.05 hectares and is located approximately 0.25 kilometres south west of the centre of Kilcolgan. The appeal site comprises a greenfield site with some disturbed ground within its boundaries and immediately adjoins three existing established dwellings located immediately east of the appeal site and another dwelling which is at an advanced stage of construction further south of the appeal site, on the opposite side of the N67, all within the 60 km/h speed control zone.
- 1.3. Immediately to the east and north of the appeal site are undeveloped lands which are located to the rear of the Main Street in Kilcolgan. There is a hedgerow and field gate to the south of the site, a block walled boundary to the east and the site boundaries are open to the north and west.

2.0 Proposed Development

- 2.1. The development would comprise the following:

Construction of a dwelling house, new road access, sewage treatment system and all associated site works.

- 2.2. The two-storey dwelling would have a ridge height of approximately 8 metres and a floor area of 211 square metres (sq. m.). External finishes would comprise rendered plaster and natural stone concrete blue/black natural slate. on the roof consistent with the finishes of the adjoining residential properties.
- 2.3. The layout would continue the established built form pattern in the areas with dwellings fronting onto the N67. A wastewater treatment system is proposed and a connection to the public watermain would be utilised.

- 2.4. Access is proposed from the N67, national secondary route, connecting Kilcolgan with Kinvara. The site access is located within the 60 kilometre per hour speed control zone. On-site car parking spaces for the residential unit would be provided within the site curtilage.
- 2.5. The Planning Authority screened the development for Appropriate Assessment and concluded that the proposed development, by itself or in combination with other plans and projects, would not be likely have a significant adverse effect on European sites, their qualifying interests or conservation objectives. Therefore, no further assessment is required.
- 2.6. The planning application was supported by a number of accompanying reports including a Site Characterisation Report (SCR) and an Appropriate Assessment (AA) screening report.
- 2.7. A letter of consent from the land owners Kinport Homes consenting to Mr Pat Kinahan making a planning application on their lands has been included as part of the planning documentation.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority refused planning permission for the development for one reason as follows:

1 With consideration for DM Standard 20 of the Galway County Development Plan 2015-21, the proposed site entrance onto the public road is deemed unsatisfactory due to insufficient sightlines and concerns regarding turning movements into and out of the subject site, and if granted, would interfere with the free flow of traffic on the public road and endanger public safety by reason of a traffic hazard, obstruction of road users or otherwise.

3.2. Planning Authority Reports

- 3.2.1. The initial Planner's Report dated the 3rd day of May 2022 set out the following:

- Accepted the principle of residential development within the rural settlement of Kilcolgan.
- The design, layout and wastewater treatment proposals were acceptable.
- The Planning Officer stated that she spoke by phone with the Executive Engineer within the Road and Transportation Section who raised issues in relation to traffic safety.

3.3. **Technical Reports.**

Roads and Transportation Section: No written report received. The Planning Officer references a phone conversation between herself and Executive Engineer within the Roads and Transportation Section and that the main issue related to the possibility of cars turning right into the site from the N67 being rear ended.

3.4. **Prescribed Bodies**

Transport Infrastructure Ireland: No particular observations made.

3.5. **Third Party Observations**

One third-party observation received from Mr James Roche, Consultant Engineer on behalf of a neighbouring resident, Mt Tom Quinn which included similar issues to those raised within the appeal observation and included the following:

- Unsatisfactory access proposals.
- Development would result in the creation of a traffic hazard.
- Proposals would interfere with the free flow of traffic on the adjoining road and endanger public safety.
- The entrance could be used at a later stage to access additional development to the rear of the appeal site.
- Development for 8 dwelling units on part of the appeal site was previously refused planning permission.

4.0 Planning History

- 4.1. The following is considered to be the relevant planning history pertaining to the appeal site:

Planning Authority (PA) reference 19/18, in 2018, Galway County Council granted planning permission for the construction of eight dwellings each with its own individual wastewater treatment systems and an access road onto the N67. An Bord Pleanála (ABP) reference 304725-19, in 2019, ABP overturned the decision of the PA to grant planning permission for the proposals. The sole reason for refusal set out by the Board related to a proliferation of individual wastewater treatment systems overlying a regionally important aquifer with extreme groundwater vulnerability which would result in undesirable wastewater arrangements and be prejudicial to public health.

Planning Authority reference number 11/679. In 2011, Galway County Council granted planning permission for a development of an eight classroom two storey primary school, with 55 car parking spaces and an access onto the N67. This development was never constructed.

5.0 Policy Context

5.1. Galway County Development Plan 2022-2028

The sections that are relevant to the current appeal include:

The Development Plan was adopted by the elected members on the 9th May and came into effect on the 20th day of June.

Chapter 2 of the Plan places Kilcolgan within Tier 7a of the Settlement Strategy- Rural Settlements.

Kilcolgan is also located with the Galway County Transport and Planning Strategy (GCTPS) Area (Map 2.1)

Section 2.3 provides that: Compact growth will be pursued to ensure sustainable growth and more compact urban and rural settlements, supported by jobs, houses, services and amenities rather than continued sprawl rather than unplanned economic growth.

Section 3 of the Plan pertains to Placemaking, Regeneration and Urban Living: To develop the urban and rural places to live, work and visit in a sustainable manner based on the principle of placemaking, compact growth, high quality public realm where residential developments are connected to service and employment locations.

Section 3.2 sets out Strategic aims including: To reinforce the vitality and future of urban and rural settlements and recognise the role that they play in a wider social and economic context.

The relevant policy objectives include the following:

CGR 1 Compact Growth To require that all new development represents an efficient use of land and supports national policy objectives to achieve compact growth in towns and villages. Development of lands with no links to the town or village centre will be discouraged.

Section 15-Development Management Standards

DM Standard 28 Sight Distances Required for Access onto National, Regional, Local and Private Road

The exit visibility check x distance shall be measured a minimum distance of 2.4m from the edge of the carriageway ('x' distance) or as determined by Galway County

Council. In limited instances this may be reduced to 2.4m and to 2.0m in difficult circumstances on urban roads.

The entry visibility check is where: A vehicle turning right into the proposed development shall have a forward visibility to the centre of the opposite lane for a distance of Y to ensure they can safely cross the path of an on-coming vehicle.

Table 15.3 sets out sight distances required for access to national, regional and local roads. Sight Distances (y-distances) required for access onto these roads within the 60 km/h speed control zone National Regional and Local Roads are set at 90 metres.

5.2. **Regional Guidance**

Section 3.5 of the Regional Spatial and Economic Strategy (RSES) for the Northern and Western Regional Assembly sets out the following in relation to development within the smaller town, villages and rural areas. The regeneration of our smaller towns and villages is now a major priority action for our region.

5.3. **National Guidance**

5.3.1. **National Planning Framework 2040**

The National Planning Framework has a population projection by 2040 to 5.7million people, which provides for one million extra people, 660,000 new jobs and 550,000 new houses by 2040.

National Policy Objective 32

To target the delivery of 550,000 additional households to 2040.

National Policy Objective 33

Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

National Policy Objective 35

Increase residential density in settlements through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes or site-based regeneration and increased buildings.

5.3.2. **Sustainable Residential Development in Urban Areas, Guidelines (DoEHLG, 2009)**

Section 2.3 specifically relates to Strengthening Rural Villages and Towns. Planning Authorities need to ensure that cities, towns and villages offer attractive and affordable housing options to meet the housing needs of urban communities and persons wishing to live in urban areas.

These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:

- quality homes and neighbourhoods,
- places where people actually want to live, to work and to raise families, and
- places that work – and will continue to work - and not just for us, but for our children and for our children’s children.

5.3.3. **Section 28 Ministerial Guidelines**

The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Design Manual for Urban Roads and Streets’ (DMURS 2013)
- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) (DoEH&LG 2009)
- ‘Quality Housing for Sustainable Communities’ Best Practice Guidelines (DoEHLG 2007)

- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities (DoEH&LG 2009).

5.4. Natural Heritage Designations

- 5.4.1. The closest Natura 2000 site is the Galway Bay Complex Special Area of Conservation (SAC) (site code 000268) which at its closest point is located approximately 500 kilometres north of the appeal site boundary. The Inner Galway Bay Special Protection Area (site code 004031) which at its closest point is located approximately 640 kilometres north-west of the appeal site boundary.
- 5.4.2. The closest Natural Heritage Area (NHA) is the Galway Bay Complex proposed Natural Heritage Area (pNHA) (site code 000268) which at its closest point is located approximately 550 metres north of the appeal site boundary.

5.5. Environmental Impact Assessment (EIA)-Preliminary Assessment

- 5.5.1. Having regard to the 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 environment 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

- 6.1.1. A first party appeal against the decision of the Planning Authority to refuse planning permission has been submitted by James O Donnell, Planning Consultancy Services on behalf of the applicant, Mr Pat Kinahan. The main issues raised within the appeal submission relate to the reason for refusal and a number of related planning matters, and can be summarised as follows:

Principle of Development:

- The appeal site is located within the designated settlement of Kilcolgan, as set out within the Galway Development Plan,
- The village has excellent transport links to Galway city via the N67.
- Kilcolgan has a range of essential facilities including a supermarket, cafe/restaurant, post office, petrol station, pubs, churches, retail outlets, offices and other commercial premises.
- The appeal site is bounded by a row of residential properties to its east.
- A dwelling house is currently under construction across the road, to the south of the appeal site.
- Planning permission has previously been granted on this site for the construction of a dwelling in 1999.
- Permission for a far more intensive development in 2011 (an eight classroom school) has been permitted on this site, including the provision of 55 car parking spaces.
- The stated concerns of the PA are entirely inconsistent with the established planning history on the site.
- The proposals would comply with the Development Plan in terms of achieving a more compact rural settlement at this location.
- Section 3.2. of the Development Plan seeks to: Reinforce the vitality and future of urban and rural entitlements and recognise the role that they play in a wider economic and social context.

Access and Traffic:

- There is an existing vehicular access to the appeal site from the N67.
- Sightlines at the site access were previously deemed acceptable when the Board permitted an 8 classroom school on this site under Board reference 304725.
- The PA raised no issues in relation to access or sightlines or turning movements under planning reference number 19/11.
- The Board raised no issues in relation to sightlines or turning movement under Board reference number 304725.

- The applicant has submitted an updated sightline drawing to accompany his appeal submission prepared by his Consultant Engineers which would comply with DM standard 29 of the current GCDP 2022, updated from DM standard 20 of the previous Development Plan in 2015. An x-distance (set back) distance of 2.4 metres is demonstrated even through a reduced x distance of 2 metres would be allowable in this instance, given the access point is within the 60 km/h speed control zone.
- Y and Z sightlines of 220 and 120 metres in westerly and easterly directions are achievable from the access point.
- The frequency of turning movement into a single dwelling house is low.
- DMURS standards for sites within a 60km/h speed zone on a bus route require a sight/stopping distance of 65 metres. The Site layout plan submitted by the applicants indicates the sightline forward visibility provision greatly exceeds the DMURS standards.
- The TII issued a referral response and outlined no objections to the proposals.

6.2. Planning Authority Response

The Planning Authority made the no comments in relation to the planning appeal.

6.3. Third Party Observations

One third-party observation was received from Mr James Roche, Constant Engineer on behalf of a neighbouring resident, Mt Tom Quinn which included similar issues to those raised within the observation to the Planning Authority and included the following:

- The observer is in agreement with the Planning Authority regarding the refusal of planning permission on traffic grounds.
- The refusal of planning permission is based on a recommendation from the Roads and Transportation Section within Galway County Council.
- Additional/further uses/development could take place using the access off the N67.

- Under 304725, the Board refused planning permission for the development of 8 dwellings on the appeal site on a larger portion of land to its rear (north).
- Permission was previously granted on the site for a school and a dwelling, however, these permissions have long expired.
- The current proposal would result in piecemeal development and be contrary to the proper planning and sustainable development of the area.

7.0 Assessment

7.1.1. At the time the Planning Authority made its decision on the 4th day of May 2022, the appeal was assessed under the provisions of the Galway County Development Plan 2015-2021. The Galway County Development Plan 2015-2021 has since been superseded by the Galway County Development Plan 2022-2028, operational since the 10th day of August 2022.

7.1.2. The main issues in this appeal are those raised in the grounds of appeal. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Principle of Development
- Traffic and Parking.
- Other Issues.
- Appropriate Assessment.

7.2. Principle of Development

7.2.1. The subject site is located within the rural settlement of Kilcolgan as set out within the Galway County Development Plan 2022-2028. The objective for rural settlements as set out within the Plan is: To develop the urban and rural places to live, work and visit in a sustainable manner. Therefore, I am satisfied that the principle of development is acceptable in this instance.

7.2.2. The applicant is seeking to construct a dwelling house within the south western section of the settlement immediately adjacent to 4 established dwelling houses, and

across the road from another dwelling which is presently at an advanced stage of construction. The access to the appeal site is within the 60 kilometre speed control zone of the settlement. While the principle of residential development is acceptable on site, other matters also have to be considered including access, traffic and safety issues which were matters raised in the reason for refusal set out by the Planning Authority and by the observer within his appeal observation. These issues will be assessed in greater detail in the sections below.

7.3. Access, Traffic and Parking

- 7.3.1. The applicant is proposing to use an existing vehicular access to the site as part of the current proposals. The access is located inside the 60 kilometre per hour speed control zone for the settlement of Kilcolgan. I note that there are three dwellings with individual access points located immediately east of the appeal site and another domestic access has been recently developed on the opposite side of the N67. All of these access points are located within the speed control zone. I note that Transport Infrastructure Ireland raised no objections to the access proposals.
- 7.3.2. The applicant submitted a revised site layout plan to accompany his appeal submission. This Site Plan prepared by his Consultant Engineers demonstrates sight lines of 220 metres in a westerly direction and 120 metres in an easterly direction from an x (set back) distance of 2.4 metres. These sight/stopping distances would accord with DM Standard 28 as set out within the current Galway County Development Plan and Table 15.3 in relation to sight distances required for access to National, regional and local access roads, where sightlines of 90 metres are required within a 60 km/h speed control zone. I am satisfied that the applicant has demonstrated adequate sight distances in accordance with Development Plan and national road traffic policy standards. Therefore, I consider that the proposals would not interfere with the free flow of traffic nor endanger public safety on the adjoining public road.
- 7.3.3. The additional vehicular movements associated with the dwelling would not be material, relative to that generated by passing traffic on the N67. The car parking

standards asset out within Table 15.5 of the Galway County Development Plan set out that 2 spaces are required for four bedroom dwellings. I am satisfied that the two on-site car parking spaces as set out in the Site layout Plan as submitted to the Board on the 30th day of May 2022, is sufficient to serve the proposed development. I note the location of the appeal site within 250 metres of the settlement centre of Kllcolgan and the existence of a wide verge between the appeal site and the junction with the Main Street in Kilcolgan, thus making it possible to walk safely to the village centre and from the appeal site, thus reducing the need for a motor car in some instances. There is also a regular bus service serving Kilcolgan to and from Galway city centre and runs at least every hour and more frequently during the morning and evening peak hours.

7.3.4. The observer has mentioned the possibility of using the entrance off the N67 to access other potential development. These are matters that would be subject to assessment at a future date when, and if, further development proposals are received by the Panning Authority. However, each planning proposal must be assessed on its individual merits.

7.3.5. In conclusion, I am satisfied that the access to the dwelling is in accordance with the Development Plan standards. I would not accept that the current proposal, in itself, would interfere with the free flow of traffic nor endanger public safety on the adjoining public road by reason of a traffic hazard.

7.4. **Other Issues**

7.4.1. The applicant is proposing to install a packaged wastewater treatment system and soil polishing filter, T and P values of 15.06 and 15.14 were recorded and both are within the parameters as set out with the EPA Code of Practice 2021, Wastewater treatment and disposal systems serving single houses ($PE \leq 10$). Generic proposals of a Trice Novo package plant and Tricel sand polishing filter have been submitted. Specific details for the installation and maintenance of the wastewater treatment system are matters that can be conditioned, in the event that the Board are minded to grant planning permission.

7.5. Appropriate Assessment

- 7.5.1. The nearest Natura 2000 sites to the appeal site are the Galway Bay Complex SAC (site code 000268) and the Inner Galway Bay SPA (site code 004031) which are located approximately 0.5 and 0.64 kilometres north and north-west of the appeal site respectively. The applicant submitted an AA screening report as part of his planning documentation. I am satisfied that adequate information is provided in respect of the baseline conditions, potential impacts are clearly identified, and sound scientific information and knowledge was used. The information contained within the submitted report is considered sufficient to allow me to undertake a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans or projects on European sites. The Screening report concluded that: It is not expected that the proposed development will give rise to any direct impacts on the Natura 2000 sites in question, due to the significant distance, the lack of hydrological and ecological pathways and the existing environment comprising of residential and commercial buildings....no significant impacts effects are expected on the Qualifying Interests or conservation objectives of the surrounding Natura 2000 sites, as a result of the proposed development in question, alone, or in combination with other plans and projects in the area. I would concur with the findings of the screening report. The observer did not raise any issues in relation to biodiversity or potential to adversely impact upon the qualifying interests of the adjacent Natura 2000 sites..
- 7.5.2. Given there are no surface water hydrological or ecological pathways linking the appeal site to these European sites and having regard to the nature and modest scale of the proposed development and the separation distances from the nearest European sites, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 Recommendation

I recommend that planning permission be granted.

9.0 Reasons and Considerations

Having regard to the location of the site within the designated rural settlement of Kllcolgan as set out within the current Galway County Development Plan 2022-2028, and to the policies and objectives and the development standards in the Plan, it is considered that, subject to compliance with conditions set out below, the proposed development would not interfere with the safety and free flow of traffic nor endanger public safety in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

- 1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application submitted to the Planning Authority on the 10th day of March 2022 and by further plans and particulars received by An Bord Pleanála on the 30th day of May 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

- 2 Permission is granted for:

- Site Layout drawing number 1 of 3, submitted to the Board on the 30th day of May 2022.

Reason: In the interest of proper planning and sustainable development and residential amenity.

- 3 The existing stone wall western boundary shall be retained, Prior to the commencement of development, boundary treatment details for the remaining

site boundaries shall be submitted for the written agreement of the Panning Authority.

Reason: In the interest of residential and visual amenity.

- 4 The internal access road and entrance serving the proposed development, shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

- 5 The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

- 6 a) Water supply and drainage arrangements, including attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

b) A land drain to the rear (northern) boundary of the site shall be installed prior to the occupation of the dwelling. Precise details of the land drain shall be submitted for the written agreement of the Planning Authority prior to the commencement of development.

Reason: In the interest of public health.

- 7 (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the detail submitted to the Planning Authority on the 10th day of March 2022. and in accordance with the requirements of the document entitled: Code of Practice - Wastewater

Treatment and Disposal Systems Serving Rural Dwellings (p.e .≤ 10) – Environmental Protection Agency, 2021. Arrangements in relation to the ongoing maintenance of the system shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of development.

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

Reason: In the interest of public health.

- 8 Site development and building works shall be carried out only between the hours of 0700 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.

Reason: In order to safeguard the amenities of property in the vicinity.

- 9 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.

Reason: In the interests of visual and residential amenity.

- 10 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.

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.

Fergal Ó Bric

Planning Inspectorate

8th day of June 2023