



An
Bord
Pleanála

Inspector's Report ABP-313988-22

Development	Construct a new dwelling, domestic garage, waste water treatment system and all associated site works. .		
Location	Ballyclery, Kinvarra, County Galway.		
Planning Authority Ref.	2260343		
Applicant(s)	Mark Kealy.		
Type of Application	Permission.	PA Decision	Refuse Permission.
Type of Appeal	First Party	Appellant	Mark Kealy
Observer(s)	None		
Date of Site Inspection	11/04/23	Inspector	Fergal Ó Bric

1.0 Site Location and Description.

The site is located on the western side of the N67, a National Secondary Route, linking the settlements of Kinvarra with Ballindereen in south-west County Galway approximately two kilometres north east of Kinvarra. Site levels within the appeal site rise from the public road and the dwelling would be located on an elevated ridge line with site levels gently dropping off to the east and west of that ridge line. The subject lands are currently in pasture and the parental home and ancillary agricultural buildings are located immediately south and south-west of the appeal site. The landscape is broadly flat with some gentle undulations, field boundaries comprise a natural stone cut wall to the east along the N67, a low level block wall

to the south and open to the field along the northern and western site boundaries. There is a dedicated segregated cycle path along the road frontage at this location.

2.0 Proposed development.

Permission is sought for a dormer style dwelling house, domestic garage and waste water treatment system and percolation area.

A letter of consent from the land owner, Mr Frank Kealy, father of the applicant has been submitted as part of the planning documentation consenting to establishing a right-of-way at the existing family dwelling entrance to facilitate access to the appeal site.

3.0 PA's Decision:

A single reason for refusal as follows: The site is located along a national secondary route outside of the urban speed limits, where consideration is given to the need of farm families to live on the family holding on a limited basis and to the functional need to live at this location, where the combined use of an existing access must be considered and where access via local roads shall always be the preferred option. In this instance, based on the information submitted, it is considered the applicant has failed to satisfy the housing need requirements set out in DM Standard 18(a) of the Galway County Development Plan 2015-21. Accordingly, to grant approval for the proposed development would materially contravene Objective TI 6 and DM Standard 18 of the current County Development Plan (2015-21), would endanger public safety by reason of a traffic hazard, obstruction of road uses or otherwise on a strategic restricted route and would thus be contrary to the proper planning and sustainable development of the area.

4.0 Planning History. Planning Authority reference numbers 21/688 and 21/1908, in 2021, the current applicant was refused planning permission for the construction of a dwelling house, domestic garage and wastewater treatment system. The reason for refusal in the latter application related to the lack of compliance with Transport Infrastructure Ireland Guidance in relation to development along national routes and being contrary to specific objective DM Standard 18 and with specific

objective T16 as set out within the Galway Development Plan 2015, in relation to access onto a national route which would endanger public safety and cause obstruction to road users along a strategic restricted route.

5.0. Local Planning Policy

5.1 Galway County Development Plan 2022 -2028

The Galway County Development Plan 2022 -2028 was adopted by the Planning Authority on 9th May 2022 and came into effect on the 20th day of June 2022. It has regard to national and regional policies in respect of rural housing and access to national routes. Chapters 4, 6 and 15 of the plan refer.

Relevant policies and objectives include:

Policy Objective RC 2 Rural Housing in the Countryside

To manage the development of rural housing in the open countryside by requiring applicants to demonstrate compliance with the Rural Housing Policy Objectives as outlined in Section 4.6.3.

Policy Objective RH 2 Rural Housing Zone 2 (Rural Area Under Strong Urban Pressure-GCTPS-Outside Rural Metropolitan Area Zone 1), criteria 1(a) to 1(g) and 2.

Policy Objective RH 15 Direct access to Nationals Roads.

Section 6.5.3.1-National Roads

NR1: To protect the strategic transport function of national road and associated national road junctions, including motorways, through the implementation of the Spatial Planning and National Roads Guidelines for Planning Authorities DECLG (2012), and the Trans-European Networks (TEN-T) Regulations.

NR4: The policy objective of the Planning Authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 km/h apply. This provision, in accordance with the relevant TII Guidelines,

applies to all categories of development, Consideration will be given, where appropriate, for the facilitation of regionally strategic projects and utility infrastructure.

Chapter 15: Development Management Standards

DM Standard 6: Domestic Garages (Urban and Rural)

DM Standard 7: Rural Housing

DM Standard 8: Site Selection and Design

Appendix 5: Design Guidelines for the single rural house

5.2 Natural Heritage Designations

The closest designated European Sites are the Galway Bay Complex SAC (site code 000268) and the Galway Bay SPA (site code 004031) both of which are located approximately 670 metres west of the appeal site.

6.0 The Appeal

6.1 First Party Appeal.

- Documentation on file supports the contention that Mark Kealy has long established and historical links with the area.
- Land Registry details and folio documentation has been submitted and the appeal site and adjacent parcels of lands have been in the Kealy family ownership since at least 1979.
- The family have been farming the lands concerned for a number of decades and the applicant and his father are in the process of establishing a family farm partnership.
- The applicant states that 40% of his income is derived from working on the family farm and the remainder (60%) of his income is derived from working with a medical device production company based in Galway city.
- The applicant has submitted copies of his Levels 5 and 6 agricultural certificates.

- Supporting documentation from the local national school stating enrolment of the applicants' daughter in September 2021 and outlining his involvement in a local sporting organisation have been submitted.
- Housing need in accordance with the Development Plan has been demonstrated.

6.2 P.A. Response

- None.

7.0 EIA Screening - Having regard to the nature of the proposed rural house development and its location removed from any sensitive locations or features, there is no real likelihood of significant adverse effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 AA Screening - The subject site is located approximately 670 metres north-east of the Galway Bay Complex SAC (site code 000296) and the Galway Bay SPA (site code 004031). Having regard to the scale and nature of the proposed rural house development and to the location removed from any European Sites, no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

2.0 Assessment

2.1. Introduction

2.1.1. The key issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The issues can be dealt with under the following heading:

- Access and Traffic
- Other Matters

2.2. Access and Traffic

2.2.1. Access to the appeal site is proposed via a right-of-way from the domestic entrance serving the family home, which accesses directly onto the N67 National Secondary Route, at a point where the eighty kilometre per hour speed control zone applies. The applicant has submitted details of sightlines, whereby unobstructed visibility of 160 metres in each direction would be achieved at the entrance point. The minimum sightline requirement for this category of road is 160 metres as per DM Standard 28 of the current County Development Plan 2022-28. There is a dedicated segregated two metre wide cycle path linking Kinvarra and Ballindereen along the road frontage of the appeal site.

2.2.2. The Planning Authority set out that the development: has the potential to compromise the safety and efficiency of the national road network at a location where the 80km/h speed limit applies and would be at variance with the provisions of official roads policy. The stated policy of the Authority is set out within the Spatial Planning and National Roads Guidelines for Planning Authorities, 2012 published by the Department of Environment, Culture and Local Government. Section 2.5 of the Guidelines sets out the following: The policy of the Planning Authority: Will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.

2.2.3. I am of the opinion that the development would generate additional vehicular movements and would intensify the level of traffic that would be generated at the entrance onto the N67. The increase in trips would be generated by the day-to-day

activities of the applicant and his family, trips generated by other services, trips to school(s), crèches and activities. utility providers attending the site or visitors driving to/from the site.

2.2.4. Transport Infrastructure Ireland (TII) in its referral response to the Planning Authority set out the following: Official policy in relation to development involving access to national roads and development along such roads is set out in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities, (January 2012). The proposal, if approved, would create an adverse impact on the national road and would, in the Authority's opinion, be at variance with the foregoing national policy in relation to control of frontage development on national roads. The proposal, if approved, would result in the intensification of an existing direct access to a national road contrary to official policy in relation to control of frontage development on national roads. It is noted from the TII website that national routes carry 46% of all road traffic in Ireland and 50% of those travelling by public transport.

2.2.5. Section 6.5.3.1 of the current Galway Development Plan 2022-28 sets out specific policies and objectives in relation to the maintenance and protection of the N67 specifically refer to protecting and maintaining these routes for increased levels of access points. Specific policies NR1 and NR4 of the Plan are relevant in this regard. NR1 seeks to: Protect the strategic transport function of national road and associated national road junctions, including motorways, through the implementation of the Spatial Planning and National Roads Guidelines for Planning Authorities DECLG (2012), and NR4 seeks to: Avoid the creation of any additional access point from new development or the generation of increased traffic from existing access es to national roads to which speed limits greater than 60 km/h apply. This provision, in accordance with the relevant TII Guidelines, applies to all categories of development, Consideration will be given, where appropriate, for the facilitation of regionally strategic projects and utility infrastructure.

2.2.6. I note that the applicant acknowledges within his appeal submission that this road (the N67) has recently been upgraded to bring the road up to current TII standards. The applicant has stated that the other family lands cannot be accessed easily as they are accessed off unsurfaced roads or accessed through backlands or lands to which a burden of title exists. A photographic survey has been submitted to

corroborate this claim. However, I would concur with the Planning Authority that there would appear to be scope to gain access to at least one of the land parcels which are accessed from non-national routes and, therefore, would potentially provide an alternative to the applicant. The alternative sites would provide for an access which would be safer than that of the appeal site, directly off the N67, and would not intensify the volume of traffic directly accessing a national strategic and restricted route.

- 2.2.7. In conclusion, I consider that the applicant has not presented any exceptional circumstances that would justify a departure from the policy as set out by TII in terms of road safety considerations. It is considered the access, directly onto the N67 would establish an undesirable precedent, would endanger public safety by reason of a traffic hazard by virtue of the additional traffic that it would generate, including turning movements onto the National Secondary Route at a point where the eighty kilometre per hour speed control limit applies. The proposals would interfere with the safety and free flow of traffic along this strategic route and would be contrary to the NR1 and NR4 specific objectives of the Development Plan which seek to protect the strategic function of national routes.

2.3. **Other Matters**

Development Plan Policy Objectives:

- 2.3.1. The grounds of appeal reference the applicant's rural housing need. The applicant has submitted material to support his need to reside at this location and this includes the likelihood of inheriting the family farm and a hope to continue a tradition of farming. The Planning Authority set out that the site is located in Rural Housing Zone 2 (Rural Area Under Strong Urban Pressure – GCTPS - Outside Rural Metropolitan Area Zone 1) and Rural Housing Zone 4 (Landscape sensitivity Classification 2, 3 and 4) where an applicant must meet the criteria for a genuine rural generated housing need when seeking to develop a dwelling house. The Planning Authority were satisfied that the applicant had adequately demonstrated compliance with Policy Objective RH 2 as set out in the current Galway County Development Plan. Consequently, permission was not refused in relation to compliance with the Rural Housing Policy within the Development Plan.

2.3.2. 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 to construct a new 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.

2.3.3. The applicant has submitted a variety of planning documentation including a birth certificate showing his place of birth at Ballyclery, land registry documentation and folio mapping of the family lands, illustrating the location of the family home, immediately south of and adjoining the appeal site boundary. At present the applicant is stated to derive 40% of his income is stated to be derived from the family suckler farm, and the remainder (60%) of his income derived from an off-farm position as a quality technician with Boston Scientific, based in Ballybrit, on the perimeter of Galway city, approximately twenty-nine kilometres removed from the appeal site. No documentation to support these claims have been submitted. The site would be acquired from his father, Mr Frank Kealy, although the transfer of the site to the applicant does not appear to have been completed. Thus, notwithstanding the applicant is considered to have familial and social links to the area in general, his agricultural or economic need has not been substantiated. The family lands remain in his father’s name. The applicant has no herd number and no supporting documentation demonstrating substantial involvement in farming activities on the family farm. No demonstrable economic need as per RH2 (c) of the Development Plan has been established in this instance. No practical or sustainable economic reason to reside at this specific location has been established. Having regard to the forgoing, I consider that the applicant has not demonstrated that he meets the criteria of demonstrable economic or social need to live in a rural area as set out by Objective RH 2 of the Galway County Development Plan 2022-2028.

2.3.4. In conclusion, I consider the current proposals would be contrary to the provisions of RH2 of the Development Plan. I note the location of the appeal site in the Galway County Transport and Planning Study (GCTPS) area, a rural area under strong urban pressure. As the development plan states, these areas exhibit characteristics

of growth in population at locations in close proximity to the larger urban areas and to which the residents of these rural areas commute to in large numbers. The objective is to maintain a stable population base in rural areas within a strong network of small towns and villages. Unplanned and ad hoc rural housing militates against this objective. The Board may wish to consider these points in greater detail, but as they were not raised in detail by the appellant, they could be considered as new issues outside the grounds of appeal.

3.0 Recommendation

3.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

4.0 Reasons & Considerations

1. It is considered that the proposed development, which would result in an intensification of use of an existing domestic entrance which accesses directly onto the National Secondary Road, N67, at a point where the speed limit of 80 km/h applies, would endanger public safety by reason of a traffic hazard and the additional and conflicting traffic movements generated by the development would interfere with the safety and free flow of traffic on the public road.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Fergal Ó Bric

Planning Inspectorate

30th August 2023