



An
Bord
Pleanála

Inspector's Report

ABP-314303-22

Development

Refurbishment/alteration of 2 no. semi-detached houses, removal of septic tank and provision of 2 no. wastewater treatment systems and associated site works.

Location

Colesgrove, Craughwell, Co Galway

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

22646

Applicant

Patrick Faherty

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant

Patrick Faherty

Observer(s)

None

Date of Site Inspection

7th February 2023

Inspector

Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site¹ is located in the townland of Colesgrove, c. 3 km south-east of Craughwell, Co. Galway. The appeal site is located in a rural area outside of a settlement.
- 1.2. The appeal site is located at the bottom of a narrow local access road, the L-82542. The L-82542 terminates at the northern boundary of the appeal site. The area to the front/west of the house serves as an access route to the adjoining lands south of the appeal site.
- 1.3. The appeal site accommodates a vacant, two storey, semi-detached house. The appeal property is served by a garden to the rear/east of the property. The adjoining lands are in agricultural use and there are agricultural sheds located on the lands to the immediate east and south. There is a recently constructed house located to the north-west of the appeal site.

2.0 Proposed Development

- 2.1. The proposed development comprises;
 - Refurbishment of semi-detached house. With the exception of the removal of an external stairs from the side/southern elevation, alterations to a door on the front/western elevation and the provision of new guttering the alterations are internal².
 - Removal of a septic tank and provision of 2 no. tertiary treatments systems, specifically the installation of a secondary treatment system, pumped to a tertiary treatment system for each house, with an infiltration area of 37.5 sqm for House A and 30 sqm for House B; and

¹ The site is stated in the planning application form as having an area of 1.2 Ha however this appears to be a typographical error, having measured the site the Planning Authority estimate the site area as being 0.12 Ha.

² The existing floor plans indicate that House A is a 4 bedroom house and House B is a 2 bedroom house whereas the proposed floor plans depict House A as a 3 bedroom house and House B as a 2 bedroom house, therefore an overall reduction in the number of bedrooms.

- the provision of an area of car parking accommodating 6 no. cars along the western boundary of the site.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission on the 13th July 2022 for 2 no. reasons which can be summarised as follows;

1. The Planning Authority is not satisfied that wastewater arising from the proposed development can be satisfactorily treated and disposed of by the two individual effluent treatment systems. The development, if permitted, would materially contravene Policy Objective WW6 and DM Standard 38 of the Galway County Development Plan 2022-2028 and would be prejudicial to public health.
2. The existing constraints of the L-82542, including its capacity, width, alignment and its structural condition, and future maintenance requirements, would render the road infrastructure unsuitable to carry the increased road traffic likely to result from the development. The proposed car parking arrangement adjacent to the L-82542 is deemed unsatisfactory, owing to the absence of satisfactorily demonstrated sightlines in accordance with DM Standard 28 of the Galway County Development Plan 2022 - 2028, precluding the provision, and maintenance of, a safe and satisfactory means of vehicular ingress/egress from the public road network to the site. The development would endanger public safety by reason of traffic hazard.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer includes the following comments;

- Ambiguities in the Site Characterisation Report noted, specifically, reference to Aughinish Bay being located 1km south of the site; variation of depths at which bedrock was encountered (i.e. 1.55m versus 1.45m); and the interchangeable

use of information from the two trial hole assessments in the manufacturer's site specification reports,

- Given the high level of bedrock within the immediate vicinity and the presence of bedrock within both trial holes, P-tests should also have been completed as a pre-caution.
- Site specific plans and longitudinal sections of the proposed treatment systems were not submitted, with only generic cross sections provided.
- The submitted site layout plan does not differentiate between the proposed infiltration/treatment areas for the 2 no. separate effluent treatment systems, an overall area of 130 sqm is shown extending across both rear gardens. In this regard, it is unclear whether the required 10m separation distance between the two independent infiltration/treatment areas, as per the EPA CoP is achieved. Furthermore, there is only a c. 8m separation distance between the 2 no. tertiary plant units. Reservations expressed regarding the overall site size in the context adequately accommodating 2 no. individual effluent treatment plants in line with the EPA CoP.
- No details submitted of drainage for car parking area.
- No assessment of sightline or auto-track analysis for the area of car parking is provided.
- Concerns expressed regarding increase in traffic generated by the proposal, and the condition, width and alignment of the road.
- A landscape mitigation strategy is required to address the loss of vegetation from the rear of the site which would occur as a consequence of facilitating the new treatment systems.
- A structural report is required to demonstrate that the property can be brought back into habitable use.

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**

Appeal Site:

PA. Ref. 21/2079 – Permission REFUSED for alterations and refurbishment of 2 no. semi-detached houses, 2 no. wastewater treatment systems and associated site works. Refusal reasons concerned landscape/visual amenity impact considerations.

5.0 **Policy Context**

5.1. **National Policy**

5.1.1. **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.

5.2. **Development Plan**

5.2.1. The Galway County Development Plan 2022-2028 is the relevant development plan. 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), within Rural Housing Zone 2.

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

Policy Objective RH7: Renovation of Existing Derelict Dwelling

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

5.3. **Natural Heritage Designations**

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

5.4. **EIA Screening**

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, (as amended) and therefore is not subject to EIA requirements.

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 may be summarised as follows;

Introduction:

- The appeal property is in excess of 100 year old, has fallen into disrepair and requires intervention to take the property up to modern standards. No additional floor area is proposed and there are no significant changes to the elevations of the property. The proposal complies with 'Bringing Back Homes – Manual for the Reuse of Existing Buildings'.

Refusal Reason No. 1:

- The existing property (2 no. houses) is served by a single septic tank of block construction, with no percolation area. The proposal is for a tertiary treatment system and an infiltration area.
- T-tests are within the acceptable range (at 24.19 and 23.53).
- As a precautionary principle the groundwater response was increased from R2₁ to R2₂, to provide greater protection to groundwater.
- There are no distinct karsk features in the area, groundwater recharge rate has a coefficient of 60% and sub-soil is well drained.

- There are no watercourses on the site which could affect the functioning of a treatment system.
- Noting the absence of one-offs in the area the proposal will not result in a proliferation of treatment systems.
- The proposal complies with EPA CoP requirements in respect of separation distances (Table 6.2).
- There are no mapped water wells in the vicinity and the nearest group water scheme is c. 750 metres from the site. The appeal property is served by Seefin Group Water Scheme, c. 1 km from the site.
- The system proposed has been designed to exceed the minimum requirements set out in the EPA CoP, the installation of the system will be certified by a bonded engineer and an annual maintenance agreement will be put in place for the system.
- The proposal complies with Objectives WW6 and DM28 of the Galway County Development Plan 2022-2028, and the EPA CoP 2021.

Refusal Reason No. 2:

- The L-82542 serves 2 no. properties, in addition to the two houses on appeal site. The width, alignment and condition of the L-82542 is similar to hundreds of roads throughout the country.
- There will be no increase in the capacity of the road as a result of the proposal. The Local Authority have responsibility for the maintenance of the road.
- Objective RHO7 seeks to encourage the renovation of derelict dwellings.
- The existing situation entails the parking of cars to the front of the property, along the edge of the L-82542. The proposal will improve the safety of road users by providing an area for cars off the road. Sightlines to the north are in excess of 200 metres. Sightlines to the south are not applicable as the road terminates.

6.2. Planning Authority Response

None received.

6.3. **Observation**

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:

- Waste Water/Refusal Reason 1
- Access/Refusal Reason 2
- Other Issues
- Appropriate Assessment

7.2. **Waste Water/Refusal Reason 1**

7.2.1. The Planning Authorities first refusal reason concerns the ability of the site to cater for the treatment of effluent, discrepancies in the information submitted, and compliance with the EPA CoP 2021 in relation to separation distances.

7.2.2. From reviewing the information submitted I note that there are a number of discrepancies in the information submitted. Firstly, the applicant refers to 2 no. Site Characterisation Reports having been submitted with the planning application however I note that the application/appeal is accompanied by a single Site Characterisation Report. Appeal documentation however includes information for both sites and trail holes have also been dug for House A and House B, with T-value/sub-surface information provided for both locations. Secondly, the Site Characterisation report submitted with the planning application, which relates to one of the two trail holes, states that bedrock was encountered in the trail hole at a depth of 1.55 metres and elsewhere at a depth of 1.45 metres. Having regard to the fact that tertiary level treatment is proposed, I do not consider this to be of significant concern. Thirdly, the EPA CoP 2021 requires a trail hole depth of 3 metres in areas with Regionally Important Aquifers. The information submitted with the appeal refers to a trail hole

depth of 1.7 metres for House A and 1.55 metres for House B. As stated above, as tertiary level treatment is proposed, I do not consider this to be of significant concern. The Planning Authority raise the issue of the generic nature of the site sections submitted and query whether the infiltration area is intended to serve both sites. I note that the applicant has submitted a revised site layout plan to the Board indicating the location of each infiltration area to serve each system and as such I consider this matter to have been clarified. Notwithstanding the discrepancies outline above, having reviewed the information provided, I consider that there is sufficient information to enable a determination in respect of the suitability of the site for the treatment of effluent.

7.2.3. The appeal site is located in an area with a Regionally Important Aquifer where the bedrock vulnerability is high. A ground protection response of R2¹ is noted, however in accordance with the provisions outlined in paragraph 5.4.2³. of the EPA CoP 2021 the applicant has upgraded the groundwater response to R2². Accordingly, I note the suitability of the site for a treatment system subject to normal good practice and subject to the additional conditions⁴. The applicant's Site Characterisation Report identifies that there is no Groundwater Protection Scheme in the area.

7.2.4. The water table was not encountered in the trial hole. The soil conditions found in the trial hole are described as comprising brown soil and limestone rock and clay. Percolation test holes were dug and pre-soaked. T-values of 24.19 and 23.53 were recorded for House A and B respectively. P value/surface tests were not carried out. Based on the EPA CoP 2021 (Table 6.4) the site is suitable for a secondary treatment system and a soil polishing filter, or a tertiary treatment system and infiltration area. The trial holes were open at the time of my site inspection and the information

³ In cases where regionally important aquifers underlie the site, if bedrock is met within 3 m of the surface and the existing vulnerability classification is 'high', 'moderate' or 'low', this vulnerability classification must be considered at a site level to be 'extreme' and this new local GWPR relating to 'extreme' groundwater vulnerability adhered to.

⁴ That there is a minimum thickness of 2 metres of unsaturated soil/subsoil beneath the invert of the percolation trench of a septic tank system,

or

that a secondary treatment system is installed, with a minimum thickness of 0.3 metres of unsaturated soil/subsoil with percolation values from 3 to 75 (in addition to the polishing filter, which should be a minimum depth of 0.9 metres), beneath the invert of the polishing filter (i.e. 1.2 metres in total for a soil polishing filter).

contained in the Site Characterisation Report is generally representative of the conditions observed in the trail holes. The Site Characterisation Report submitted with the application concludes that the site is suitable for the treatment of waste water.

- 7.2.5. Regarding compliance with EPA CoP 2021 requirements in relation to separation distances (Table 6.2) I note that the site layout plan submitted with the initial planning application indicated the tertiary treatment modules c. 8 metres apart, whereas a separation distance of 10 metres is required. Drawing No. PF 010 submitted to the Board now indicates separation distances which comply with the distance requirements set out in Table 6.2.
- 7.2.6. In conclusion, as the proposal entails the replacement of a septic tank with no percolation area with 2 no. tertiary treatment systems and infiltration areas I consider that the proposed system would result in a significant improvement to the treatment of effluent on the site and an increased level of protection of human health and the environment.
- 7.2.7. As the proposed development comprises the upgrading of the existing treatment system/septic tank on the site, should the Board be minded to grant permission for the proposed development I recommend that a condition be attached in relation to the decommissioning of the existing treatment system/septic tank.
- 7.2.8. I note that the Planning Authorities first reason for refusal states that the proposed development would materially contravene Policy Objective WW6 and DM Standard 38 of the Galway County Development Plan 2022-2028. These policies refer to a general approach to wastewater treatment and are not, in my view, sufficiently specific so as to justify the use of the term materially contravene in terms of normal planning practice. The Board should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act, 2000, as amended.

7.3. **Access/Refusal Reason 2**

- 7.3.1. The second reason for refusal cited by the Planning Authority relates to the increase in traffic generated by the proposal, and concerns that the condition of the road is

unable to cater for the proposal. The report of the Planning Officer also refers to there being no assessment of sightlines or auto-track analysis for the proposed area of car parking.

7.3.2. I concur with the Planning Authority that the L-82542, owing to its narrow nature and alignment, is unsuitable for development which would give rise to a significant increase in its use. The appeal property, whilst currently vacant, is not in a ruinous condition and is capable of being resided in and as such the proposed development does not result in an intensification in the use of the L-82542. I do not therefore consider that the proposed development should be refused on this basis.

7.3.3. Regarding the issue of the area of car parking to the front/west of the appeal property, noting the location of the appeal site at the bottom of, and outside the L-82542, I do not consider that the car parking proposed, which is situated within the curtilage of the appeal property, would give rise to a traffic hazard. Whilst I note that there is a gated field entrance and shed to the south of the appeal site, and that there may be some right of way arrangement with the adjoining landowner over this area facilitating access to the south, at the time of my site inspection there was no activity evident at this location and in my opinion it is unlikely that this location would be intensively used. As such I do not foresee any significant issues in respect of conflicts between agricultural machinery and vehicles using the parking area proposed.

7.4. **Other Issues**

7.4.1. Development Contribution

I have reviewed the Galway County Council Development Contribution Scheme 2016 and note that there is no development contribution for the provision of car parking. Having regard to the absence of reference in the Scheme to the other specific elements for which permission is being sought under the current application/appeal, I do not consider that the proposed development attracts a development contribution.

7.4.2. Requirements of Policy Objective RH7

Policy Objective RH7 of the Galway County Development Plan 2022 – 2028 provides that proposals for the renovation/restoration of derelict dwellings are assessed on a

case-by-case basis, and that the dwelling must be structurally sound, have the capacity to be renovated/extended, and that a structural report will be required to demonstrate that the structure can be brought back into habitable use without compromising its character. The proposed development does not entail any extension to the dwelling, and for the most part relates to internal improvements. Additionally, the structure is intact and appears to be in relatively good structural condition. Having regard to the forgoing, I consider that the proposed accords with Policy Objective RH7, and that a structural report is not required.

7.4.3. Drainage of Car Parking Area

Should the Board be minded to permit the proposed development I recommend that drainage details, incorporating the principles of Sustainable Urban Drainage Systems (SuDS) are agreed in writing with the Planning Authority prior to commencement of development.

7.5. **Appropriate Assessment**

- 7.5.1. 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 permission is granted based on the following reasons and considerations and subject to the attached conditions.

9.0 **Reasons and Considerations**

Having regard to the provisions of the Galway County Development Plan 2022-2028 and to the nature of the proposed development, it is considered that, subject to compliance with the conditions set out below, the development would not be prejudicial to public health, and would be acceptable in terms of traffic safety. The proposed

development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the Planning Authority on the 19th May 2022, and in accordance with the requirements of the document entitled "Code of Practice – Domestic Waste Water Treatment Systems (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 commencement of development.</p> <p>(b) Within three months of this grant of permission, 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 in accordance with the standards set out in the EPA document.</p> <p>Reason: In the interest of public health.</p>

3.	<p>Prior to commencement of development, the developer shall agree in writing the with the Planning Authority, details for the decommissioning/removal of existing septic tank from the site.</p> <p>Reason: In the interest of public health.</p>
4.	<p>Prior to commencement of development, the developer shall agree in writing the with the Planning Authority, drainage details for the area of car parking. The car parking area shall incorporate the principles of Sustainable Urban Drainage Systems (SuDS) into its design.</p> <p>Reason: In the interest of public health.</p>

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.

Ian Campbell
 Planning Inspector

12th May 2023