



An
Bord
Pleanála

Inspector's Report

ABP-314608-22

Development	Construct a new dwelling, shed, waste water treatment system and all associated site works. Gross floor space of proposed works: 298.22 sqm.		
Location	Corrafaireen, County Galway.		
Planning Authority Ref.	22426.		
Applicant(s)	Patrick Nohilly.		
Type of Application	Permission.	PA Decision	Refuse Permission.
Type of Appeal	First Party	Appellant	Patrick Nohilly
Observer(s)	None		
Date of Site Inspection	22/06/23	Inspector	Stephen Rhys Thomas

1. Site Location/ and Description.

The site is located along a local road (L3108), approximately four kilometres north west of Monivea, a small village in county Galway. The site slopes from east to west, slightly downwards from the road. The subject lands are currently in grass with a polytunnel, sheds and allotment style gardens at the western end. There is a water pumping station immediately to the south of the site and there are a number of single houses and groups of houses spread out along the road in all directions. The landscape is broadly flat with some gentle undulations, field boundaries are composed of stone and in some places mature hedgerow. The

roadside boundary to existing housing in the area comprises a combination of rendered block walls and drystone walls to agricultural fields.

2. Proposed development.

A dormer bungalow style dwelling house, shed and waste water treatment system and percolation area.

3. PA's Decision:

A single reason for refusal, that can be summarised as follows: The site is located within the Galway County Transport Planning Strategy (GCTPS), Rural Housing Zone 2 (Rural Area Under Strong Urban Pressure-GCTPS- Outside Rural Metropolitan Area Zone 1, where Policy Objective RH 2 of the 2022-2028 Galway County Development Plan applies, the applicant does not meet the housing need criteria set out in the current plan, and would contravene materially Policy RH 2, set an undesirable precedent for similar development and be contrary to the proper planning and sustainable development of the area.

4. Planning History. None.

5.1. Local Planning Policy

Galway County Development Plan 2022 -2028

The Galway County Development Plan 2022 -2028 was adopted by the PA on 9th May 2022. It has regard to national and regional policies in respect of rural housing, chapter 1 and section 4.6 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.

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 Site is the Lough Corrib SAC (site code 000297) which is located 3.8 kilometres north of the site.

6. The Appeal

6.1 First Party Appeal.

- Documentation on file supports the contention that Patrick Nohilly has long and historical links with the area.
- Land Registry and folio documentation has been submitted and the 1901 and 1911 census show that Patrick's grandfather lived in the area.
- The family have been farming the area and the lands concerned for over a century and Patrick has assisted with farming duties over the years.
- Housing need in accordance with the Development Plan has been demonstrated.

The grounds of appeal are supported by census extracts, and a townland map.

6.2 P.A. Response

- None.

7. 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. AA Screening - The subject site is located approximately 3.8 kilometres south of Lough Corrib SAC (site code 000297). 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 main 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:

- Rural Housing Policy
- Other Matters

2.2. Rural Housing Policy

2.2.1. The planning authority explain that the site is located in Rural Housing Zone 2 (Rural Area Under Strong Urban Pressure – GCTPS - Outside Rural Metropolitan Area Zone 1), an applicant must meet the criteria for a genuine rural generated housing need when seeking to construct a dwelling house. According to the planning authority, the applicant has not adequately demonstrated how they meet Policy Objective RH 2 as set out in the current Galway County Development Plan. Consequently, permission was refused.

2.2.2. The applicant explains that the relevant information was already submitted with the planning application, including Folio 21378, showing family land 5 km to the south west at Kilskeagh. The applicant goes on to explain their links to the area: his grandfather resided in the area (1901 and 1911 census), the family have been farming the site in question and land in the area for over a century, the applicant has often helped out on the farm through the years. The applicant needs a house, as they have been renting in Ballybane for 18 years.

2.2.3. The Galway County Development Plan 2022-2028 includes comprehensive criteria when it comes to assessing if a person needs to build a new house and live at a particular rural location. In this instance the appeal site is located in open countryside 4 kilometres north of Monivea village and 30 kilometres north east of Galway City centre, the appeal site is defined in the development plan under Policy Objective RH 2 as Rural Housing Zone 2 (Rural Area Under Strong Urban Pressure-GCTPS-Outside Rural Metropolitan Area Zone 1).

- 2.2.4. Chapter 1 of the current plan sets out the context that it has been written, and it is explained that the overarching national framework in place is the National Planning Framework (NPF) with three Regional Spatial and Economic Strategies (RSES) providing for the implementation and delivery of the NPF. The county forms part of the North West Region and the RSES includes a Galway Metropolitan Area Strategic Plan. It is stated that the plan has been considered in accordance with this policy framework. The Development Plan goes on to state that it is required to comply with the National Strategic Outcomes (NSOs) and National Policy Objectives (NPOs) contained in the NPF, the provisions of the RSES, and has done so. Moreover, the Plan has been prepared in full consideration and in accordance with Section 28 guidelines, the table on page 14 of the Plan refers. Section 4.6 of the current plan states that the approach of the Rural Settlement Strategy for the county is guided by the NPF and the RSES. The Rural Housing: Guidelines for Planning Authorities (DEHLG 2005) and the new Galway County Transport Planning Strategy (GCTPS).
- 2.2.5. I am satisfied that the policies and objectives as they relate to rural housing and need, have been correctly set out in the plan, in the context of the NPF, RSES and the Sustainable Rural Housing Guidelines (2005). There has been no Ministerial Direction pursuant to section 31 of the 2000 Act, with reference to rural housing policies and the Development Plan. I am satisfied that the Board can assess the issue of rural housing and need as it is set out in the Development Plan without reference to the National Planning Framework and specifically NPO 19. Given, the forgoing I am satisfied that the Development Plan is the primary document to reference when considering if an applicant qualifies with an actual and genuine need to build a new dwelling and live at a specific rural location and the analysis that follows takes account of Policy Objective RH2 of the Galway County Development Plan 2022-2028.
- 2.2.6. 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.

2.2.7. The applicant has supplied a variety of documentation with the initial planning application including, a birth certificate (father of applicant) showing place of birth as Kilskeagh approximately 4 kilometres from the appeal site, a solicitors letter that confirms the legal ownership of the site (Folio GY110908F), a folio map that corresponds to the appeal site and the reference C53PK, a correspondence from the housing body 'Respond' that confirms tenant details. Subsequent to a request for further information, the applicant submitted additional documentation including: their own birth certificate, tax details from 2004 with the address of Carnmore, a letter from Carnaun national school that states the applicant enrolled at the school in 1972 and maps detailing the location of the original home, the site and other lands. Finally, the grounds of appeal includes census documentation to demonstrate familial links with the area from more than 100 years ago. In addition, it is detailed on the application form that the home will be for the applicant as a member of the farm family. At present the applicant is a taxi driver in the Galway/Athenry area and the spouse is employed by a medical device manufacturer in Ragoon, Athenry. The site will be acquired from a brother, Michael Nohilly and has been legally transferred since 2013.

2.2.8. The documentation submitted by the applicant with the planning application and the grounds of appeal demonstrate a connection with the general area. Whilst the documentation submitted indicates a local connection along the lines of the definition of a rural link set out in the development plan, I am not satisfied that an actual need to reside at this rural location has been demonstrated. I note that the assessment of rural links and the facilitation of rural housing is in the context of a case by case analysis of each individual applicant. In this regard, 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 towns 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. In this regard I have considered the application in the context of Objective RH2 1(a), (d) and (e), because the applicant acquired the agricultural land from their brother. However, the applicant and their partner currently reside in

rented accommodation at Ard Alainn, Galloway city, about 25 kilometres away. There is no documentation on file to clarify whether the proposed house construction is the applicant's first home in general or their first home on the existing family farm holding. Though the applicant has links to the area, their place of employment as a taxi driver is in Galway and Athenry, and their spouse is employed in Athenry. Thus, even though the applicant could be considered to have a familial or social link to the area in general, they have no practical or sustainable economic reason to reside at this specific 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 as set out by Objective RH 2 of the Galway County Development Plan 2022-2028.

2.2.9. I do not consider that a demonstrable need to reside in a rural area has been established. I consider that the first party's housing need would be more appropriately met within the urban area of Galway, Athenry or any other town or village in the East Galway area, and not within the rural countryside as selected. In this regard, the proposal could be considered to be partially urban generated, as the first party will travel from the rural area into the urban area for his and the spouse's main employment.

2.3. **Other Matters**

2.3.1. Effluent Disposal – The planning authority have noted the results of the site characterisation form and the proposed use of a proprietary wastewater treatment system and polishing filter. A longitudinal cross section was submitted as further information, compliance with DM Standard 38 is met. I also note the contents and findings of the site characterisation form. The visual assessment notes the existence of the Corrafaireen Booster Pumphouse, I have observed that this pumphouse is located adjacent to the southern boundary of the site. Groundwater is identified as the only risk target and the location of the pumphouse has not been mapped by the applicant. There is an absence of all the necessary information to assist the assessment of the appropriateness of locating a domestic waste water treatment system on this site. Public health is a serious matter that concerns the wider community. However, raising the matter of on site effluent treatment could be considered to be a new issue and so I do not recommend that permission be refused on public health grounds.

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. Having regard to –

(i) Policy Objective RC 2 Rural Housing in the Countryside of the Galway County Development Plan 2022-2028 that seeks to manage the development of rural housing in the open countryside by requiring applicants to demonstrate compliance with Rural Housing Policy Objectives and specifically policy objective RH 2 Rural Housing Zone 2 (Rural Area Under Strong Urban Pressure-GCTPS-Outside Rural Metropolitan Area Zone 1) where it is the policy objective to facilitate rural housing in this rural area under strong urban pressure subject to the criteria listed 1(a) to 1(g),

(ii) the pattern of development in the area which is considered to have the characteristics of rural areas under strong urban pressure,

it is considered that the applicant has not sufficiently demonstrated an economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements and, therefore, the proposed development does not comply with policies and objectives of the Development Plan. The proposed development 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 contravene the provisions of the Development Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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.

Stephen Rhys Thomas
Senior Planning Inspector
21 July 2023