



An
Bord
Pleanála

Inspector's Report ABP-314895-22

Development	Construction of house, wastewater treatment plant, polishing filter, and all associated site works.		
Location	An Aird Mhóir, Co. Galway.		
Planning Authority Ref.	2260774		
Applicant	Shibeal O' Flaherty		
Type of Application	Permission	PA Decision	Refuse Permission
Type of Appeal	First Party v Refusal	Appellant	Shibeal O' Flaherty
Observer(s)	None		
Date of Site Inspection	5 th April 2023	Inspector	Ian Campbell

1.0 Site Location/and Description.

The appeal site, which has a stated area of 0.34 ha, is located on the southern side of the R340 at An Aird Mhóir (Ardmore), Co. Galway. The appeal site is located in a rural area outside of a settlement and appears to be used in connection with agriculture. The appeal site falls from north to south, with topographical levels indicated as c. 99 metres (OD Malin) to the north of the site and c. 94 metres (OD Malin) at the southern part of the site. Access to the appeal site is via a gated agricultural entrance. A narrow lane connects the main body of the appeal site to

the entrance gate. There is a mobile home located on the appeal site. Drainage ditches/channels traverse the appeal site. There are a number of detached dwellings in the vicinity of the appeal site, including to the north (indicated as the applicant's family home) and to the west. The appeal site enjoys panoramic coastal views.

1.1 Proposed development.

The proposed development consists of;

- Construction of a single storey, 2 bedroom house with mono-pitch roof;
 - stated floor area c. 117 sqm.
 - maximum ridge height c. 4.4 metres.
 - material finishes to the proposed house comprise render and stone for the external walls. The roof covering comprises metal cladding.
- Tertiary waste water treatment system and raised bed polishing filter.
- Decommissioning of existing septic tank on site.

Stone boundary walls are indicated as being retained. The mobile home is to be removed from the site.

1.2 PA's Decision.

Decision: The Planning Authority issued a Notification of Decision to REFUSE permission on the 22nd September 2022 for 1 no. reason, specifically that the proposed development would not assimilate effectively into the sensitive coastal rural landscape, and would contravene materially Policy Objective RH 9, Policy Objectives LCM 1 and LCM 2 and DM Standards 8 and 46 of the Galway County Development Plan, 2022-2028.

Report(s) of PA: The report of the Planning Officer notes that, the applicant complies with Objective RH4 of the Galway County Development Plan 2022-2028 (i.e. housing policy for sites within landscape classification areas 2, 3, and 4; sightlines are considered acceptable; as access to the site was not possible the Planning Authority are unable to confirm the suitability of the site for the treatment of effluent, or to confirm whether there is any connectivity between the site and Kilkieran Bay and Islands SAC; and that notwithstanding the modest scale of the house and the acceptability of its design, the proposal would be disorderly and would negatively impact the visual amenities of the area having regard to the unconventional configuration of the site/recessed siting, which departs from the established pattern

of development in the area, and due to the manipulation of site levels, and would represent ad hoc and piecemeal development.

The report of the Planning Officer recommends a refusal of permission consistent with the Notification of Decision which issued.

Observations to PA;

None received.

1.3 Planning History.

Appeal Site:

PA. Ref. 20/1000 – Permission REFUSED for a house and waste water treatment system. Reasons for refusal concerned impact on landscape and rural housing policy requirements.

1.4 Planning Policy

Code of Practice Domestic Wastewater Treatment Systems (p.e. ≤ 10) 2021 - sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses.

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

National Policy Objective 15 states -

‘Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.’

National Policy Objective 19 states -

‘Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere. 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. In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements’.

Sustainable Rural Housing, Guidelines for Planning Authorities (2005)

The appeal site is located within an area identified as a ‘Structurally Weak Area’ (Rural Housing Zone 4) (see Map 4.2. Galway County Development Plan 2022 - 2028). The Guidelines state that these areas exhibit characteristics such as persistent and significant population decline as well as a weaker economic structure based on indices of income, employment and economic growth. The Guidelines provide that the key development plan objective in these areas should refer to the need to accommodate any demand for permanent residential development as it arises subject to good practice in matters such as design, location and the protection of important landscapes and any environmentally sensitive areas.

Development Plan - The relevant Development Plan is the Galway County Development Plan 2022-2028. The appeal site is not subject to any land-use zoning. The appeal site is located within the Gaeltacht.

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

- Objective RH 4: Rural Housing Zone 4 Rural Housing Zone 4 (Landscape Classification 2, 3 and 4)
- Objective RH 5: Rural Housing Zone 5 (An Ghaeltacht)
- Objective LCM 2: Landscape Sensitivity Classification
- Objective LCM 3: Landscape Sensitivity Ratings
- Objective PVSR 1: Protected Views and Scenic Routes
- DM Standard 8: Site Selection and Design
- DM Standard 28: Sight Distances Required for Access onto National, Regional, Local and Private Roads
- DM Standard 46: Compliance with Landscape Sensitivity Designations

In terms of Landscape Character Type, the appeal site is located within the 'Coastal Landscape' (see Map 1, Appendix 4 of CDP). Regarding landscape sensitivity, the appeal site is located within a Class 3 (see Map 6, Appendix 4 of CDP) 'Special', noted as being 'highly sensitive to change in appearance and character by new development of scale'. The appeal site is not affected by any protected views (see Map 08, Appendix 4). The R340 is indicated as a Maritime Scenic Routes (see Map 09, Appendix 4). Maritime Scenic Routes are described as routes running parallel with the coast, having almost continuous views of marine waters, and fall into two categories, the first where natural processes are dominant, and the second which contain varying degrees of human use and occupation.

1.5 Natural Heritage Designations

Kilkieran Bay and Islands (Site Code: 002111) – c. 0.2 km south of the appeal site.

1.6 The Appeal

1.6.1 First Party (Shibeal O' Flaherty)

This is a first-party appeal by HRA Planning on behalf of Shibeal O' Flaherty against the decision to refuse permission. The grounds for appeal may be summarised as follows;

- The planning history on the site has no bearing on the current application and cannot be relied upon. The previous planning application was made under a previous Development Plan.
- Residential development is supported within Class 3 landscapes.
- The appellant has demonstrated compliance with rural housing policy and this is accepted by the Planning Authority. The appellant satisfies several criteria of Objective RH4, whilst only required to satisfy one.
- The proposal is consistent with Objective RH14 (Backland Development) and Policy RH16 (Access to Regional Roads).
- The appellant has established a case in support the development within a Class 3 landscape in accordance with Objective RH4.
- The proposal is modest in scale and is not visually offensive in the context of its location, or with regard adjacent dwellings in the area. The proposal complies with Objective RH9.

- The proposal works with the natural contours of the site. Cutting and filling of ground levels is limited to the confines of the site and to the general footprint of the proposed house and will not be discernible in the wider landscape. This is an acceptable practice and is advocated in the Design Guidelines for Rural Houses in the Galway County Development Plan (Appendix 5). The proposal does not result in an excessive manipulation of levels and no excessive embankments or mounding are proposed.
- There are no protected viewpoints in the vicinity of the site.
- Class 3 landscapes are not the most sensitive and cover most of the western fringe of the county. Some parts of the Class 3 landscape offer greater opportunity to accommodate development than others.
- Photomontages from 3 no. viewpoints are submitted to assist with an assessment of the proposal.
- The landscape has been modified by rural housing, both along the road edge and at locations set back from the road edge.
- The landscape at this location has capacity to accommodate change, as seen by the established and historical pattern of development.
- The site does not occupy a conspicuous location within the local landscape.
- The effect of the proposal is considered to be between 'slight' and 'imperceptible', and would not be contrary to Objectives LCM1, LCM2 or Objective RH9 of the Galway County Development Plan 2022-2028. The definitions employed (i.e. 'slight', 'imperceptible') have followed those set out in the 2020 publication by Transport Infrastructure Ireland (TII) 'Landscape Character Assessment (LCA) and Landscape and Visual Impact Assessment (LVIA) of Specified Infrastructure Projects - Overarching Technical Document. The contention that the proposal would result in a 'significant' effect requires substantiation. The proposal would not adversely alter, or obliterate sensitive visual characteristics of the visual environment.
- The proposed development would assimilate effectively into this coastal rural landscape and would not interfere adversely with the character or visual amenity of the landscape, or with any view or prospect, nor would it undermine the integrity of the 'Class 3' landscape classification.

1.6.2 P.A. Response

None received.

1.6.3. Observations

None received.

1.7 EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, as well as the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001, as amended, 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.

1.8 AA Screening

The appeal site is located c. 0.2 km north of Kilkieran Bay and Islands SAC. 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.

2.0 Assessment

2.1. Having examined the application details and all other documentation on file, including the appeal and observations, 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 & Visual Impact
- Access (New Issue)

- Waste Water (New Issue)
- Other Issues

2.2. Rural Housing Policy

- 2.2.1. The appeal site is located within an area identified as a 'Structurally Weak Area', and within Rural Housing Zone 4 (see Map 4.1 and 4.2. Galway County Development Plan 2022 - 2028). Objective RH4 of the Galway County Development Plan 2022 – 2028 provides that applicants seeking to construct individual houses in the open countryside in areas located in Landscape Classification 2, 3 and 4 are required to demonstrate economic or social Rural Links or Need as per Objective RH2.
- 2.2.2. Objective RH4 1(e) provides that *'where applicants can supply land registry or folio details that demonstrate that the lands on which they are seeking to build their first home, as their permanent residence, in the area have been in family ownership for a period of 20 years or more, their eligibility will be considered. Where this has been established to the satisfaction of the Planning Authority, additional intrinsic links/need will not have to be demonstrated'*.
- 2.2.3. Land registry documentation relating to the appeal site has been submitted. The appeal site has been in the ownership of the applicant's mother in excess of 20 years. I note that the name of the registered owner of the lands corresponds with the name of the applicant's mother on her Birth Certificate (i.e. Ann-Marie O' Flaherty). On the basis of the information submitted I consider that the appellant has demonstrated compliance with Objective RH4 of the Galway County Development Plan 2022-2028.
- 2.2.4. Objective RH4 of the Galway County Development Plan 2022-2028 provides that an applicant may be required to submitted a visual impact assessment where the proposal is in an area identified as "Focal Points/Views" in the Landscape Character Assessment of the County, or in Class 3 and Class 4 designated landscape areas. The appeal site is not affected by any 'focal points/views' but is within a Class 3 landscape designation. I note that the appellant has submitted photomontages of the proposed development thereby satisfying this element of Objective RH4.

2.2.5. As per the requirements of Objective RH4 an enurement condition applies to permissions for houses granted under this objective and should the Board be minded to grant permission for the proposed development I recommend that an occupancy condition is attached.

2.3. Design & Visual Impact

2.3.1. The Planning Authority refused permission for the proposed development on the basis that it would interfere with the character of the landscape. I note that the Planning Authority considered the proposed dwelling to be modest in scale and acceptable in its design, but raised concerns in relation to the unconventional configuration of the site and the manipulation of site levels, which it considered to be disorderly and piecemeal in the context of the established pattern of development in the area.

2.3.2. Objectives LC1, LCM2 and LCM3 of the Galway County Development Plan 2022-2028 require that in assessing proposals for development consideration is given to the landscape character of the area and the sensitivity of the receiving landscape. In terms of landscape character, the appeal site is located within a Coastal Landscape and has a landscape sensitivity rating of 3 (i.e. Special - the second highest). Coastal landscapes are described as being highly sensitive to change in appearance and character by new development of scale¹. In my opinion, the proposed development could not reasonably be considered to be a development 'of scale' in the context of the wider receiving landscape. The proposed dwelling will be located c. 80 metres south of the R340 and due to the topography of the area it is likely that some views of the proposed dwelling will be possible from the R340. However the landscape in the area is developed, with one-off houses a prevalent feature in the vicinity of the appeal site. The Planning Authority considered the design of the proposed house to be acceptable and I would concur and note that the modest single storey design of the dwelling allows for the effective assimilation of the proposal into the wider landscape.

2.3.3. Regarding the configuration of the site and the manipulation of site levels, I note that the topography of the site is described in the Planning Officer's report as flat whereas the site in-fact falls from north to south and the proposal entails an element of cutting

¹ My emphasis.

an filling in order for the dwelling to be sited on a flat base. Having reviewed the site sections I agree with the appellant that the extent of the manipulations proposed to ground levels would not be discernible beyond the immediate confines of the site and in my opinion would not render the proposal conspicuous in the context of the wider landscape. The configuration of the site is described by the Planning Authority as unconventional. A combination of the topography of the site and the location of the site to the rear of the appellant's family home results in the requirement for a c. 60 metre long access road connecting the proposed dwelling to the access point onto the R340. Access arrangements of this nature are a feature in the area and as such I am satisfied that this element of the proposal would not be incongruous with the pattern of development in the area.

2.3.4. The appeal site is also adjacent to a Maritime Scenic Route. These routes are described in Appendix 4 of the Galway County Development Plan 2022-2028 as *'being punctuated by a number of small settlements, many with a denser old core with facilities such as a pub, shop or post office. Most of these settlements have extensive peripheries of more recent development – consisting mostly of housing with occasional enterprises located at the edges of these settlements'*. It is therefore clear that the character of Maritime Scenic Routes includes areas which are developed and as such I do not consider that the proposed dwelling would have a detrimental impact on this protected route. I am satisfied that the proposed development would accord with Objective PVSR 1 (Protected Views and Scenic Routes) of the Galway County Development Plan 2022-2028 which requires that protected views and scenic routes are preserved from development which could have a negative effect on them.

2.3.5. On the basis of the forgoing, I am satisfied that the proposed development would not result in a significant negative impact on the receiving landscape, and would not therefore be contrary to Objective RH 9, Policy Objectives LCM 1 and LCM 2 and DM Standards 8 and 46 of the Galway County Development Plan 2022-2028. I do not consider that the proposed development would warrant a refusal of permission on the basis of its impact on the visual amenity of the area.

2.4. Access (New Issue)

2.4.1. A vehicular access is proposed onto the R340. The posted speed limit of the R340 at the location of the proposed access is 80kmph. I note however that immediately west of the access the posted speed limit is 50 kmph and on this basis I consider it reasonable to base sightline requirements on a speed limit of 50 kmph to the west. DM Standard 28 (Table 15.3) of the Galway County Development Plan 2022 – 2028 requires sightlines of 160 metres for regional roads with a design speed of 85 kmph and 70 metres for regional roads with a design speed of 50 kmph. Based on the site layout plan submitted with the appeal, I note that the maximum achievable sightlines are 131 metres to the west and 147 to the east, from a setback of 2.4 metres. Works to a boundary wall to the west of the proposed vehicular entrance are indicated to facilitate sightlines indicated, specifically the setting back of the wall. A letter of consent from the relevant landowner has been submitted with the planning application/appeal in respect of these works. I note however that the area concerned is not indicated within the red or blue line boundary of the site and as such should a grant of permission issue, and notwithstanding the submission of a letter of consent to undertake same, these works cannot be specified as a requirement in a planning condition. Having regard to the forgoing, the appellant has not demonstrated achievable sightlines in accordance with DM Standard 28 and I consider that the traffic generated by the proposed development would endanger public safety and would give rise to a potential traffic hazard. This a new issue. The Board may wish to seek the views of the parties.

2.5. **Waste Water (New Issue)**

2.5.1. The Site Characterisation Report submitted with the application identifies that the subject site is located in an area with a ‘Poor Aquifer’ where the bedrock vulnerability is ‘Extreme’. A ground protection response to R2(1) is noted. Accordingly, I note the suitability of the site for a treatment system subject to normal good practice². The applicant’s Site Characterisation Report identifies that there is no Groundwater Protection Scheme in the area.

2.5.2. The trail hole depth referenced in the Site Characterisation Report was 0.6 metres. Bedrock was encountered in the trail hole at a depth of 0.6 metre below ground level (bgl). The water table was encountered in the trail hole at a depth of 0.4 metres (bgl).

² Where domestic water supplies are located nearby particular attention should be given to the depth of subsoil over bedrock such that the minimum depths in Chapter 6 are met and the likelihood of microbial pollution is minimised.

The soil conditions found in the trial hole are described as comprising clay. Percolation test holes were dug and pre-soaked. Due to the elevated water table a T value/sub-surface test was not carried out. A P value/surface value of 34.61 was recorded. Based on the EPA CoP 2021 (Table 6.4) the site is suitable for a tertiary treatment system and infiltration area. The trial hole was not open at the time of my site inspection.

- 2.5.3. 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 secondary wastewater treatment system followed by a tertiary treatment pod and a 30m² infiltration area.
- 2.5.4. There is no foul sewer network located in this area and all of the adjacent dwellings would appear to be served by septic tanks or wastewater treatment systems. Whilst it is likely that separation distances comply the EPA Code of Practice 2021 for individual wastewater treatment systems given the generous plot sizes in the area, the issue of proliferation of individual treatment systems is of concern. Given the existence of approximately 8 dwellings on individual treatment systems/septic tanks within a 150 metre distance of the appeal site, the proposed development would in my opinion be prejudicial to public health.
- 2.5.5. Additionally, during my site inspection I observed an abundance of rushes on the appeal site, which are indicative of poorly drained soils/poor permeability, and ground conditions were wet underfoot. Additionally I note that there are a number of drainage ditches within the vicinity of the appeal site. The EPA CoP³ notes that a high density of streams or ditches tends to suggest either a shallow water table or that there is low-permeability subsoil, allowing effluent to enter ground water too rapidly. Rock outcrops are also evident on the site which are suggestive of an insufficient depth of subsoil to treat waste water. The trial hole results verify this to be the case (i.e. elevated water table). Regarding the suitability of the appeal site to cater for the treatment of effluent, noting the observed site conditions, which are indicative of poorly drained soils/poor permeability, and the information contained in the Site Characterisation Form, I am not

³ See Paragraph 5.4.1. Visual Assessment.

satisfied that appeal site can cater for an on-site waste water treatment system without detriment to ground water.

- 2.5.6. In summation, notwithstanding that the proposal complies with the EPA CoP 2021, and the proposal for tertiary treatment, noting the observed site conditions and the proliferation of septic tanks and waste water treatment systems in the immediate vicinity, I am not satisfied that the treatment of effluent on the site can be catered for without a risk to groundwater and on this basis I recommend that permission is refused. This a new issue. The Board may wish to seek the views of the parties.

2.6. Other Issues

2.6.1. Impact on Residential Amenity.

Having regard to the scale, design and relationship of the proposed dwelling to adjoining property, I am satisfied that the proposed development would not result in any significant negative impacts on the residential amenity of property in the vicinity in terms of overlooking, overshadowing or overbearance.

3.0 Recommendation

- 3.1. Having regard to the above it is recommended that permission is refused based on the following reasons and considerations.

4.0 Reasons & Considerations

1. Having regard to the observed site conditions, and notwithstanding the tertiary treatment proposed, the Board is not satisfied that the site is capable of treating foul effluent arising from the dwelling and considers that the method of foul water disposal will render the treatment of the effluent unacceptable and could increase the risk of serious water pollution. Additionally, the proposed development would result in an excessive concentration of development served by septic tanks and/or individual wastewater treatment systems in the area. Accordingly, the proposed development would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a road at a point where sightlines are restricted in an easterly direction.

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

19th September 2023