



Development	House and domestic waste water treatment system.		
Location	Rathcosgry, Ardrahan, Co. Galway.		
Planning Authority Ref.	2260585.		
Applicant(s)	A. Costello.		
Type of Application	Permission.	PA Decision	Grant.
Type of Appeal	Third.	Appellant	Lisa and Jonnie Morgan.
Observer(s)	None.		
Date of Site Inspection	12 August 2023	Inspector	Stephen Rhys Thomas

1.0 Introduction

1. Site Location/ and Description. The site is located in the townland of Rathcosgry, 6 kilometres south of Craughwell, a village in mid County Galway with a railway station. The site is located at the end of a narrow laneway in a field adjacent to a traditional farmyard. The agricultural field slopes gently up from the lane and boundaries are comprised of stone walls and mature trees. There are a

number of houses along the narrow laneway and a concentration of houses in the vicinity of the site.

2. Proposed development. The erection of a part single and part two storey house, a garage and a domestic waste water treatment system (DWWTS). Site area 0.2 Hectares.

Further information slightly altered the house design and refined details to do with flood risk, surface water management, noise measures, wastewater treatment, access and construction traffic plan.

3. PA's Decision:

The planning authority issued a notification to grant permission subject to 17 conditions, all of standard or technical nature.

Planners Report: Applicant meets the requirements of Policy Objective RH2 of the Galway County Development Plan. Reservations concerning the proposed effluent treatment system's compliance with the minimum separation distances set out within Table 6.2 'Minimum Separation Distances from the Entire DWWTS' of the EPA's Code of Practice; specifically, landscaping encroachment and lack of distance to site boundaries. Kiltiernan Group Water Scheme Co-Op Society Limited confirmation of connection. Surface water proposals acceptable and vehicular access can be achieved safely. House design requires adjustment. Landscaping proposals are acceptable in this class 1 landscape area.

Further information with regard to flood risk, house design, surface water management, wastewater treatment, access arrangements, traffic management during construction and noise management close to the railway line.

Further information received deemed acceptable, grant permission.

Technical Reports: None.

Prescribed Bodies: None.

Submissions: Observer highlights flooding, traffic, servicing and rural housing need policy issues.

4. Planning History.

None on site. 4 permissions for houses within 200 metres of the site.

In the wider area 07.JA0035 Dunkellin River and Aggard Stream Flood Relief Scheme, was approved by the Board on the 11th March 2016.

5.1. National/Regional/Local Planning Policy

- Galway County Development Plan 2022-2028 was adopted by the PA on 9 May 2022. The overarching national framework is the National Planning Framework with three Regional Spatial and Economic Strategies providing for the implementation and delivery of the NPF. The county forms part of the North West Region and the RSES and includes a Galway Metropolitan Area Strategic Plan. The Development Plan has considered this policy framework and it has been set out in accordance therewith, specifically:
- Policy Objective RH 2 - Rural Housing Zone 2 (Rural Area Under Strong Urban Pressure-GCTPS Outside Rural Metropolitan Area Zone 1)
- Policy Objective RH 9 – Design Guidelines
- Policy Objective LCM 3 – Landscape Sensitivity Ratings
- Policy Objective WW 6 – Private Wastewater Treatment Plants
- Policy Objective WW 10 - Surface Water Drainage
- Policy Objective FL 2 - Flood Risk Management and Assessment
- DM Standard 11 – Landscaping
- DM Standard 28 - Sight Distances Required for Access onto National, Regional, Local and Private Roads
- DM Standard 37 - Group Water Scheme and Private Wells
- DM Standard 38 - Effluent Treatment Plants
- DM Standard 47 - Field Patterns, Stone Walls, Trees and Hedgerows
- DM Standard 68 - Flooding

5.2 Natural Heritage Designations

- There are no natural heritage designations, in the vicinity.

6. The Appeal

6.1 Third Party Appeal.

- Flood Risk – there is a risk of pluvial/groundwater flooding on the land down towards the railway line. This is evidenced during wet spells and results in significant waterlogging. The applicants report refers to the site alone and not the impacts to other property.
- Disputed Entrance – the applicant does not have control over the lands in order to access the site.
- Public Health - the trial holes for the percolation area were located outside of the site boundary. The trial holes are located closer to the rail line, were dug during a dry spell and not visible to the visiting Planner. There could be inaccuracies in the Site Assessment report, as the report author also prepared similar assessments for the applicant's siblings (2260579 and 2260580).
- Road safety – contrary to the Planner's assessment, the roadway is busy and an additional house will make matters worse.
- Construction Impacts – during construction, traffic will pass close to our property and cause damage. Bin lorries do not traverse the road because it is too narrow.
- Residential Amenity – there could be overlooking of gardens.

In summary, the third party appeal refers to flood risk, ownership, public health, road safety, construction impacts and residential amenity.

6.2 P.A. Response: None.

6.3 Applicant Response:

Flood Risk – a Commensurate Flood Risk Assessment was submitted as further information and deemed acceptable, recent flood relief drainage works have benefited the area (Dunkellin/Aggard river widening).

Agricultural Entrance – the lands are in control of the family (see folio maps).

Trial Holes – A new Site Suitability Test has been undertaken and is submitted with the response to the grounds of appeal. The results support the details submitted with the planning application.

Road Safety – the Planner's Report is noted, the road has the capacity to take more traffic and a traffic management plan will be prepared.

Construction Traffic Plan – the L82521 can accommodate heavy farm traffic without damage to boundary walls. A plan will be prepared for approval with the Council.

Site Assessment Report – note above comments.

Overlooking – a distance of over 60 metres will separate houses, this is adequate.

The submission includes: a letter from the applicant, FRA, Land Registry Folios, Site Characterisation Form dated February 2023 and an Outline Construction Traffic Management Plan.

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 PDR's, 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.

8. AA Screening - Having regard to the modest nature and scale of development, location in a rural area and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as 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. 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 headings:

- Flood Risk
- Entrance
- Public Health
- Road Safety
- Construction Impacts

- Residential Amenity
- Other Matters

2.2. Flood Risk

- 2.2.1. The appellant highlights the risk of pluvial and groundwater related flooding and that the proposed development has not considered off site flooding impacts. The appellant has supplied video clips and photographs showing ponding on their site and flooding adjacent to the railway line. During the planning application process the planning authority considered it necessary to seek further information with respect to flood risk. The planning authority sought the submission of a Commensurate Flood Risk Assessment to identify on site and off site flood risks. The applicant prepared a Commensurate Flood Risk Assessment (FRA) prepared by Savithri Senaratne Consultant Engineering Hydrologist and dated October 2022. The FRA sought to study the site specific flood risks, examine methods of mitigation of any flood risks, if present and whether the development or mitigation measures would exacerbate flood risks elsewhere.
- 2.2.2. According to the applicant's report, the entire site is in Flood zone C and the FRA states that fluvial flood risk is very low and groundwater flood risk areas as identified by the Geological Survey Ireland are not in the vicinity of the site. The overall conclusion is positively disposed towards the proposed scheme and ultimately the development will not cause flood risks at site or elsewhere. The planning authority agreed with the applicant's FRA findings and permission was granted.
- 2.2.3. I note the information submitted by the appellant with reference to the occurrence of flooding after heavy rainfall and whilst this may be the case on occasion, the FRA prepared by the applicant does not highlight issues to do with pluvial or groundwater flooding. I can understand how the appellant has concerns about how the proposed development will impact the wider drainage regime of the area, when at present waterlogging seems to occur after heavy rainfall. In this respect I note that the FRA has taken into account the site layout initially proposed, and which shows a considerable amount of the site under hardstanding and buildings. Since the initial assessment of the proposal in the FRA was carried out revised layout and landscape drawings show a reduced area of impermeable surfaces and the provision of a gravel driveway. These modifications would improve matters and I am satisfied that

based on the layout revisions and the conclusions of the FRA, the proposed development would not lead to an increased flood risk beyond the site.

2.3. Entrance

- 2.3.1. Access to the site is disputed by the appellant, lands shown to be in the applicant's control are not. According to the appellant, the blue line ownership layout map shows ownership up to a shed wall, this is not the case. The applicant supplied land registry folios and maps to detail family land ownership in the area. In addition, in their response to the appellant's concerns, the applicant reiterates their claim to lands the subject of the application. Specifically, folio GY75016F and its plan seem to accord with the layout drawings and other plans. With reference to land ownership and folio maps I am minded by the Registration of Deeds and Title Act 2006, amendment of section 85 that states:

(1) Registered land shall be described and identified by reference to the registry maps concerned in such manner as may be prescribed.

(2) Except as provided by this Act, neither the description of land in a register nor its identification by reference to a registry map is conclusive as to its boundaries or extent.

- 2.3.2. Maps provided by the Property Registration Authority (PRA) are therefore illustrative and not definitive. However, the access arrangements to the site appear to be within the ownership of the applicant and access to the entrance appears to be over a right of way. In any case, these are not planning matters but legal matters, that would require agreement between parties if development were to progress. Finally, I am minded by section 34(13) of the Planning and Development Act 2000 (as amended) that states:

A person shall not be entitled solely by reason of a permission under this section to carry out any development.

No further action is required in this matter.

2.4. Public Health

- 2.4.1. The trial holes were dug outside of the site outlined by the applicant and the appellant thinks that the results of the site characterisation report may have been taken from other planning applications in the area, PA ref 2260579 and 2260580

refer. In response, the applicant has repositioned trial holes and conducted a new assessment based upon a new Site Characterisation Form, a similar outcome results and the same domestic wastewater treatment system (DWWTS) is proposed.

- 2.4.2. The proposal entails the installation of a new proprietary wastewater treatment system to serve the new dwelling. The initial planning application was accompanied by a Site Characterisation Form, with the examination carried out on the 14th May 2022. Upon receipt of further information to clarify certain aspects of the Site Characterisation Form, the invert trench level was revised from 0.9 metres to 1.2 metres and the site specific conditions reflect this change. I have selected my figures from the body of the report and not section 4.0 Conclusions of Site Characterisation, where both surface and sub-surface results are the same throughout all tests carried out. The area of drip disposal remains at 22.5 sqm and the same proprietary treatment system is proposed.
- 2.4.3. To help with clarity, the applicant has submitted a new test for trial holes, results are similar, previously an average T value of 47.67 was recorded, the revised test returned 38.67. The previous subsurface percolation value of 12.72 was returned and the new amount equals 10.19, both passes. The results of each test fall broadly within the same parameters, with similar outcomes and the same propriety treatment system and disposal surface area is recommended. The percolation values are within the standards that would be considered acceptable for the operation of a wastewater treatment system set down under the EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses. The drawings submitted meets the required separation distances set down under the EPA Code of Practice (based on site size and separation from site boundaries). However, the applicant has not provided a layout plan to show the location of trial holes and I am left to assume that they are located in the position where the domestic wastewater treatment system is proposed in other drawings on file. I also note that the location of the proposed system is omitted from the landscaping plan and in fact trees are located in its position. The planning authority also note this anomaly and condition 10 seeks to rectify the matter.
- 2.4.4. I do note inconsistencies between all three Site Characterisation Forms, for instance the conclusions reached in section 4.0 of the form are identical, yet the body of the assessment returns different figures throughout. I note that the planning authority

requested further information with respect to wastewater disposal and the planning authority were satisfied that the test results mean that the site is suitable for domestic waste disposal and the proprietary treatment system and percolation area all acceptable, conditions 10 and 13 refer. I am aware that percolation tests can vary throughout a single field and in this instance a variety of test results can be seen. However, all test results appear to be within the necessary parameters and the applicant has recommended the use of a solution that includes a tertiary effluent treatment system and infiltration treatment area. The Board may wish to consider that the site is suitable to accommodate a DWWTS, based on the acceptability of results from three Site Characterisation Forms, note that groundwater was not encountered during any test. However, I am concerned that the level of inconsistencies may result in public health issues and for the uncertainty raised by the inconsistencies note above, permission should be refused. Specifically, I note that section 5.0 *Selected DWWTS* of the Site Characterisation Form received by the planning authority 3rd June 2022 states that the invert level of the trench/bed gravel or drip tubing will be 0.9 metres, this is the same conclusion reached in the revised test provided to the Board on appeal. However, the further information sought by the planning authority, received 14th November 2022, sets the invert level at 1.2 metres and it is upon this information that permission was granted. I am uncertain which set of Site Characterisation Form results to rely on and it therefore difficult to recommend permission is granted under these circumstances.

2.5. Road Safety

- 2.5.1. The appellant has concerns that an additional house will increase traffic on the narrow laneway and this would be dangerous for all road users. The applicant disputes this issue and points out that the laneway is already used by farm traffic on a daily basis and the addition of another house will make little difference. The planning authority agree that an additional house will not impact road safety either during construction or when completed.
- 2.5.2. I visited the site and traversed its length in a car and part of it on foot, during the duration of my visit I encountered no other vehicles or pedestrians. The laneway runs for a length of just over 600 metres and serves up to six houses, most are occupied, the lane also serves farmyards and agricultural fields. The lane is single track and narrow with sharp right angle bends and numerous domestic and farm

entrances. I note that the access lane serving the site and other existing residences and farms is substandard in terms of width, alignment and the surface treatment in places is poor. The addition of another dwelling would inevitably increase the traffic on this lane, that in my view is already of a poor standard in terms of alignment and width. Additional traffic, either vehicular or otherwise could lead to conflicts as there is little room on the narrow lane to give way or seek refuge. I am not satisfied that a lane of the width, alignment and surface treatment is the correct infrastructure to accommodate additional development that would generate a greater volume of traffic. I consider that permission should be refused having regard to the substandard width, alignment and surface treatment of the access laneway. These factors combine to create a significant traffic hazard in my view and the additional traffic generated by the proposed development would endanger public safety by reason of traffic hazard.

2.6. Construction Impacts

- 2.6.1. During construction works it is a concern of the appellant that construction vehicles could cause damage to the property. I note that condition 8 of the Notification to Grant Permission refers to the outline Construction Traffic Management Plan submitted as further information. I also note that the applicant has submitted the same plan in their response of the grounds of appeal. I have already stated that the site is located at the end of a lane that is narrow, presents right angle turns and has poor surface treatment in places. The outline Construction Traffic Management Plan recognises the constraints of the access laneway and advances various measures to ensure the safe movement of construction related vehicles. It is, therefore, appropriate to require a suitably detailed construction traffic management plan to ensure that during the construction period traffic safety is maintained. I am satisfied that the outline Construction Traffic Management Plan responds to the issues raised by the appellant and a suitably worded condition can be attached if permission is to be granted.

2.7. Residential Amenity

- 2.7.1. According to the appellant, the proximity of the proposed dwelling will increase the possibility of overlooking and loss of privacy. Layout drawings submitted by the applicant show that over 60 metres separates the proposed dwelling from the gable

of the appellant's dwelling. This is a sufficient distance to ensure that no overlooking between dwellings will occur. I note that the proposed dwelling will alter the appearance of the area and with it the rural character that defines the countryside at this location. However, in terms of residential amenity as it is defined by the development plan, I do not anticipate any loss of privacy because of the separation distances involved and the storey and half design of the proposed dwelling.

2.8. Other Matters

- 2.8.1. The appellant has not raised any issue in the grounds of appeal with respect to the eligibility of the applicant to obtain planning permission for a dwelling based upon their rural housing need. However, I note that in their initial submission on the planning application, the appellant urges the planning authority to apply a diligent assessment of housing need. It is in this context that I set out the following analysis.
- 2.8.2. The site is located in a rural area of County Galway that is defined as the Central Galway Complex with a landscape sensitivity of Low. It is a site located in the Galway County Transport and Planning Study (GCTPS), this is defined in the plan as a rural area under strong urban pressure. The objective of these areas is to maintain a stable population base in rural areas within a strong network of small towns and villages. Consequently, objective RH2 of the development plan refers and it is a policy objective to facilitate rural housing in this rural area subject to certain criteria.
- 2.8.3. The applicant will receive the site from their parents, Billy and Lorraine Costello. The applicant has completed part B of the planning application form that deals with rural housing need. The applicant is a teacher and hopes to take up employment in Galway when they return from travelling, they were enrolled in the Craughwell national school, involved in the local parish, attended secondary schools in the wider area, numerous other documents confirm that they have a rural link with the area.
- 2.8.4. Section 4.6.1 of the development plan states that in GCTPS outside the metropolitan area, that is the areas under urban pressure, the applicant will be required to demonstrate an established and substantiated rural housing need. A substantiated rural housing need is defined as supportive evidence for a person to live in a particular area and who does not or has not ever owned a house/received planning permission for a single rural house or built a house (except in exceptional circumstances) in the area concerned and has a strong demonstrable economic or

social need for a dwelling for their own permanent occupation. It is clear that the applicant has a rural link to the area, they intend to build on family land, however, they have not demonstrated an economic or social need to reside at this location. The applicant is a teacher by profession and currently works abroad, it is their wish to work in Galway, though no specific school is mentioned. Though the applicant's desire to reside at this location is strong, their primary source of income will be from teaching, and so a demonstrable economic need has not been proven. In terms of a social need, though the applicant's past involvement in the local community is well documented, this involvement can just as easily be met by residing within an existing town or village and not just the site earmarked for a new house. Section 4.6.1 of the development plan states that the objective of the GCTPS is to maintain a stable population base in rural areas within a strong network of small towns and villages. The village of Craughwell is located just 6 kilometres to the north, it is a growing settlement with existing commercial and social services and a functioning railway station. The proposed development will not meet this town and village network objective as the site is located outside of any established town or village. In my view permission should be refused on this basis, however, the issue was not raised in the grounds of appeal and the Board may consider it to be a new issue.

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. The site is located at the end of a laneway that is substandard in terms of width, alignment, and surface treatment. Having regard to the scale of the proposed development and the traffic to be generated by it in the context of the existing traffic and road environment, it is considered that the additional traffic associated with the proposed development would endanger public safety by reason of traffic hazard and would lead to conflict between road users, that is, vehicular traffic, pedestrians and cyclists.

2. The proposed development would be prejudicial to public health because the Board could not be satisfied, on the basis of the information on the file, and specifically the inconsistencies between Site Characterisation Forms to determine the suitability of the site for the treatment of septic tank effluent, it cannot with absolute certainty be ascertained if the site is suitable for the treatment of septic tank effluent, notwithstanding the proposed use of a proprietary wastewater treatment system. 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

24 August 2023