



An
Bord
Pleanála

Inspector's Report ABP-317360-23

Development	Construction of house, effluent treatment system and associated site works.
Location	Saint Clerans, Craughwell, Co. Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	221222
Applicant	Lorna Bradley
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Edel and Winifred Slevin
Observer(s)	None
Date of Site Inspection	17 th January 2024
Inspector	Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site is located on the southern side of a local access road (L-41925-0), c. 5 km east of Craughwell. The appeal site is located in a rural area outside of a settlement.
- 1.2. There are a number of detached dwellings located in the vicinity of the appeal site. The area has a sylvan character and the road side is lined by mature trees. St. Clerans Manor is located to the north-east of the appeal site.
- 1.3. The appeal site is broadly rectangular in shape, has a stated area of 0.55 Ha. and is in agricultural use. There is a level difference of c. 2.5 metres across the site, with topographical levels indicated as 102 metres (OD Malin) in the south-west corner of the site and 99.5 metres along the northern boundary of the site. The boundaries of the appeal site comprise trees and hedgerow. A disused well is indicated on the site layout plan to the south-east of the site. The site layout plan also indicates a blue hatched lined which is denoted as 'ESB' traversing the site from north to south. This appears to correspond with overhead lines.
- 1.4. The lands to the west and south are indicated as being within the applicant's control/ownership, as depicted by the blue line boundary.

2.0 Proposed Development

- 2.1. The proposed development comprises;
 - Construction of a single-storey 2 bedroom house;
 - stated floor area 84 sqm.
 - maximum ridge height 4.85 metres.
 - material finishes to the proposed house are indicated as comprising 'RHS frame' for the external walls and green corrugated (curved profile) cladding (no slate effect) for the roof.
 - positioned c. 29 metres from the roadside boundary.
 - Installation of waste water treatment system and percolation area.
 - Landscaping and associated site works.
 - Vehicular entrance.

3.0 Planning Authority Decision

3.1. Request for Further Information

Prior to the decision of the Planning Authority to grant permission for the proposed development, the Planning Authority requested Further Information.

3.1.1. Further Information was requested on the 8th February 2023 as follows:

Item 1: demonstrate availability of water supply (inc. yield test).

Item 2: submit landscaping proposal.

Item 3: submit revised site layout plan indicating sightlines in accordance with DM Standard 28 of the Galway County Development Plan 2022 – 2028. Submit tree survey in relation to trees to be removed.

3.1.2. Further information submitted on 24th April 2023.

Item 1:

- details of yield test submitted (estimated at 220 gallons per day). Microbiological testing indicates that the water drawn from the site is not suitable for human consumption unless it undergoes appropriate treatment due to the presence of coliforms.

Item 2:

- revised site layout plan submitted (*Drawing No. PL (01) 01*) indicating landscaping proposal for site.

Item 3:

- revised site layout plan submitted (*Drawing No. PL (01) 02*) indicating sightlines from proposed vehicular entrance (i.e. 72 metre to east/180 metres to west). The proposed vehicular entrance requires the removal of 4 metres of mature hedgerow but does not require the removal of mature trees. Hedge trimming is indicated as being required to maintain sightlines.

3.2. Decision

The Planning Authority issued a Notification of Decision to GRANT Permission on the 19th of May 2023 subject to 13 no. conditions. The following condition is of note;

C3

- (a) material finishes to comprise nap plaster and/or natural local stone;
- (d) the colour of the roof slates to be blue/black.

3.3. Planning Authority Reports

3.3.1. Planning Reports

3.3.2. The first report of the Planning Officer generally reflects the issues raised in the request for Further Information.

Request for Further Information recommended.

3.3.3 The second report of the Planning Officer notes that the Further Information submitted is generally considered acceptable.

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

3.3.4. Other Technical Reports

None.

3.4. Prescribed Bodies

None.

3.5. Third Party Observations

1 no. observation was received by the Planning Authority. The issues raised in the third-party observation can be summarised as follows:

- Concern regarding impact of the proposed development on the character and amenity of the area, in particular arising from the loss of trees and an embankment.

- Potential impact on wildlife, including badgers, hares, rabbits, red squirrels, pine martins and foxes, whom it is stated live in an embankment to the front of the site. Observation also notes that there are owls in the vicinity of the site and that otters use a stream in the vicinity of the site.
- Concerns regarding traffic safety at the junction to the west of the site.
- Concerns in relation to the number of houses in the area.

4.0 Planning History

Appeal Site:

None.

Lands to west:

PA. Ref. 22/1221 – Permission GRANTED for house, garage and septic tank.

This application is currently on appeal, ABP Ref. 318073-23 refers.

5.0 Policy Context

5.1. National Policy

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

National Policy Objective 19 states -

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.

5.1.2. 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.

5.1.3. Ministerial Guidance

Sustainable Rural Housing, Guidelines for Planning Authorities (2005)

The appeal site is located within an area identified as a 'Rural Area Under Strong Urban Pressure' (Rural Housing Zone 2 GCTPS, see Map 4.1 and 4.2 Galway County Development Plan 2022 - 2028). The Guidelines state that these areas exhibit characteristics such as proximity to the immediate environs or close commuting catchment of large cities and towns, rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such urban areas, or to major transport corridors with ready access to the urban area, and pressures on infrastructure such as the local road network.

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). The appeal site is located within an area identified as a 'Rural Area Under Strong Urban Pressure (Rural Housing Zone 2 GCTPS' - see Map 4.1 and 4.2 Galway County Development Plan 2022 – 2028).

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

Policy Objective RH2: Rural Housing Zone 2 (Rural Area Under Strong Urban Pressure-GCTPS-Outside Rural Metropolitan Area Zone 1)

DM Standard 28 – Sightline distances required for access onto National, Regional, Local and Private Roads

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

(See Form 1 and Form 2 attached to this report) 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.

6.0 The Appeal

6.1. Grounds of Appeal

This is a third-party appeal by Edel and Winifred Slevin against the decision to grant permission. The appeal submission refers to the submission submitted to Galway County Council in respect of the initial planning application, summarised at paragraph 3.5 (above). The grounds for appeal may be summarised as follows;

- Concerns in relation to the impact of the proposed development on the character and amenity of the area.
- Traffic safety concerns, specifically the risk of collisions at the junction to the west of appeal site.
- Concerns in relation to the impact of the proposed development on the ability of the appellants to enjoy their property.
- Construction activity associated with the proposal will affect the appellants ability to walk on the local road.
- The proposed development will adversely affect wildlife/biodiversity, including foxes, owls, badgers and birds.

6.2. Applicant Response

The applicant's response can be summarised as follows:

- The house is a modest modular unit with a limited footprint and will result in minimal impact during construction. Care has been taken in the design and siting of the proposal and the scheme of planting will enhance the site.
- The traffic accidents referred to are at a different location and have no bearing on the proposal. Sightlines at the proposed access are achieved.
- The proposal will not affect the tranquillity of the area.

6.3. Planning Authority Response

None received.

6.4. Observations

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:

- Rural Housing Policy
- Access/Traffic Safety
- Waste Water (New Issue)
- Other Issues
- Appropriate Assessment

7.2. Rural Housing Policy

7.2.1. The appeal site is identified in the Galway County Development Plan 2022 – 2028 (see Map 4.2) as being within Zone 2 - Galway County Transport & Planning Study (GCTPS), corresponding to an 'Area Under Strong Urban Influence'. Policy Objective RH 2 applies to Rural Housing Zone 2 (Rural Area Under Strong Urban Pressure GCTPS-Outside Rural Metropolitan Area Zone 1) and sets out specified

circumstances where applicants may be considered eligible for a dwelling in a rural area. Having reviewed the information submitted by the applicant I consider that Policy Objective RH2 1 (b) is the relevant criterion in this instance, and provides;

Those applicants who have no family lands, or access to family lands, but who wish to build their first home within the community in which they have long standing demonstrable economic and or social Rural links or Need and where they have spent a substantial, continuous part of their lives i.e. have grown up in the area, schooled in the area or have spent a substantial, continuous part of their lives in the area and have immediate family connections in the area e.g. son or daughter of longstanding residents of the area. Having established a Substantiated Rural Housing Need*, such persons making an application on a site within an 8km radius of their original family home will be accommodated, subject to normal development management.*

To have lived in the area for a continuous seven years or more is to be recognised as a substantial, continuous part of life and also as the minimum period required to be deemed longstanding residents of the area.

Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis.

The following note is provided under Objective RH2:

Substantiated Rural Housing Need: Is defined as supportive evidence for a person to live in this 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. In addition, the applicants will also have to demonstrate their rural links as outlined above.

- 7.2.2. Based on the documentation submitted with the planning application I note that the applicant has resided at the family home (Curraghroe, Loughrea, Co. Galway), which is located in a rural area and is within 8km of the application site, for a duration exceeding 7 no. continuous years. Regarding the requirements of Policy Objective

RH2 1 (b), I am therefore satisfied that the applicant has 'long standing demonstrable economic and/or social Rural Links¹ or Need to the area', has a substantiated rural housing need, and that the proposal is for permission to build the applicant's first home. I therefore consider that the applicant has demonstrated compliance with the Galway County Development Plan 2022 – 2028 in relation to proposals for single housing in the rural area.

7.3. Access/Traffic Safety

- 7.3.1. The appellant raises concerns in relation to the propensity for traffic collisions in the area, specifically at a junction located c. 250 metres west of the appeal site. In terms of traffic generation I note that the proposal entails a single dwelling and as such it would not generate significant traffic volumes. I have travelled through the junction in question and in my opinion it is not atypical in the context of junctions between local roads within a rural area. Furthermore, I do not have any specific concerns in relation to the condition or alignment of the L-41925-0, or the ability of the local road network to cater for the proposal.
- 7.3.2. The default speed limit of 80kmph appears to apply to the L-41925-0 onto which access is proposed, however having regard to the narrow nature of the road I consider that vehicles using the road would likely travel at a lower speed. I note that DM Standard 28 of the Galway County Development Plan 2022 – 2028 requires sightlines of 70 metres for local roads with a design speed of 50 kmph and I consider this to be a more appropriate sightline requirement. Based on my site inspection and the information submitted with the planning application I consider sightlines to be acceptable.
- 7.3.3. Having regard to the forgoing, I do not consider that proposed development would endanger public safety or that a refusal of permission would be warranted on the basis of the local road network in the vicinity of the appeal site.

¹ Rural Links are defined in the Development Plan as '*a person who has strong demonstrable economic or social links to the rural area and wishes to build a dwelling generally within an 8km radius of where the applicant has lived for a substantial continuous part of their life. To have lived in the area for a continuous seven years or more is to be recognised as a substantial, continuous part of life and also as the minimum period required to be deemed longstanding residents of the area*'.

7.4. Waste Water (New Issue)

- 7.4.1. The Site Characterisation Report submitted with the application identifies that the subject site is located in an area with a 'Regionally Important Aquifer' where the bedrock vulnerability is 'High'. A ground protection response to R2(1) is noted in the applicant's Site Characterisation Report. The applicant's Site Characterisation Report identifies that there is no Groundwater Protection Scheme in the area.
- 7.4.2. The trial hole depth referenced in the Site Characterisation Report is 1.65 metres. Bedrock and the water table were encountered in the trial hole at 1.65 metres below ground level (bgl). The soil conditions found in the trial hole are described as comprising silt/clay/gravel/loam. Percolation test holes were dug and pre-soaked. A T value/sub-surface value of 27.64 was recorded. A P value/surface value of 36.28 was recorded. The Site Characterisation Report notes that P/sub-surface tests were inconclusive. Based on the EPA CoP 2021 (Table 6.4) the site is suitable for a secondary treatment system and soil polishing filter and also for tertiary treatment and an infiltration area, as proposed. I was unable to inspect the trial hole at the time of my site inspection.
- 7.4.3. I am satisfied that the proposal complies with the required separation distances set out in Table 6.2 of the CoP 2021. I note that a well is indicated on the Site Layout Plan to the south-east of the site however the well is indicated as disused.
- 7.4.4. I note that the EPA CoP 2021 (paragraph 5.4.2.) requires that *'in all cases where regionally important aquifers underlie the site, or for GWPRs of R22 , R23 , R24, R31 or R32 , the trial hole depth should be at least 3 m (if possible) in order to prove that the existing vulnerability classification, as determined during the desk study, is correct. If the bedrock is met within 3 m of the surface in such cases, when 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 for the site'*. Applying a vulnerability classification of 'extreme' results in a R2(2) Ground Water Response. In relation to a R2(2) Ground Water Protection Response, Table 6.3 of the EPA Cop 2021 requires a minimum depth of unsaturated soil and/or subsoil of 1.2 metres for polishing filters following secondary systems and infiltration area following tertiary systems. Sectional

drawings of the proposed system have not been submitted to demonstrate the depth of soil/subsoil. *Drawing No. PL (01) 01* includes information which would appear to indicate less than the required depth of soil/subsoil, i.e. 300 mm pea gravel, 300 mm soils, gravel 100.325 mm and 250 mm sand. It has not therefore been demonstrated that the proposed treatment system provides the required depth of unsaturated soil/subsoil and polishing filter commensurate with the applicable upgraded Ground Water Protection Response. This is a new issue and the Board may wish to seek the views of the parties.

7.5. Other Issues

7.5.1. Impact on Biodiversity:

The appellants contend that the proposed development will have adverse effects on biodiversity, in particular on rabbits, hares, foxes, owls, badger and birds, which the appellants state use the appeal site/area. The proposed development comprises a single dwelling, and given the nature and scale of the proposed development it would not in my opinion result in any significant adverse effects on biodiversity, or on the species referred to in the appeal. Additionally I note that the proposal entails the supplementary planting of native trees and hedges on and around the boundary of the appeal site. The proposed scheme of planting proposed will enhance the biodiversity of the area and provide opportunities for the species referred to in the appeal submission for feeding, foraging etc. In summation, I do not consider that a refusal of permission is warranted on the basis of its impact on biodiversity.

7.5.2. Impact on Amenity/Character of the Area:

The crux of the appellants' submission is that the proposed development will adversely affect the character and amenity of the area. I note the area has an attractive sylvan appearance, in part due to the tree lined road leading up to Saint Clerans Manor. I do not consider that the proposed development, which comprises a single, modest size, detached dwelling screened by existing trees and hedgerows, and which is to be supplemented with additional trees, would adversely affect the character and amenity of the area. I also note that the appeal site and area in the vicinity is not subject to any protected views or scenic routes in the Galway County Development Plan 2022 – 2028

and that in terms of Landscape Character Type, the appeal site is located within the 'Central Galway Complex Landscape' which has a 'low' landscape sensitivity. In conclusion, I do not consider that the proposed development would result in significant negative impacts on the character or amenity of the area.

7.5.3. Impact on Amenity of Property:

The appellants raise concerns in relation to the impact of the proposed development on the enjoyment of their property. Noting the nature and extent of the proposed development, and importantly the distance between the appeal site and the appellant's property at c. 250 metres, I am satisfied that the proposed development will not result in any significant adverse impacts on the amenity of the appellants' property, or on the amenity of property in the vicinity. Additionally, I do not consider that the proposal will significantly impeded the ability of people to use the local road network for walking.

7.6. **Appropriate Assessment**

- 7.6.1. 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 refused based on the following reasons and considerations.

9.0 **Reasons and Considerations**

1. Having regard to the excavation depth of the trial hole, which is less than the minimum required in the EPA CoP 2021 for areas identified as being underlain by Regionally Important Aquifers, the subsequent requirement as set out in paragraph 5.4.2. of the EPA CoP 2021 for the vulnerability classification to be upgraded to 'extreme', the resultant Ground Water Protection Response of R2(2) and the required depth of unsaturated soil/subsoil and polishing filter, and the information

submitted, it has not been demonstrated that the proposed treatment system provides the required depth of unsaturated soil/subsoil commensurate with the applicable upgraded Ground Water Protection Response as set out in Table 6.3 of the EPA CoP 2021. The Board is not therefore 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. Accordingly, the proposed development would be prejudicial to public health and would 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.

Ian Campbell
Planning Inspector

30th May 2024

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317360-23
Proposed Development Summary	Construction of house, effluent treatment system and associated site works

Development Address		Saint Clerans, Craughwell, Co. Galway		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)			Yes	X
			No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes			EIA Mandatory EIAR required	
No		X	Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes		Class 10, (b), (i) (threshold is 500 dwelling units)	Significantly below threshold.	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: Ian Campbell

Date: 30th May 2024

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-317360-23
Proposed Development Summary	Construction of house, effluent treatment system and associated site works

Development Address	Saint Clerans, Craughwell, Co. Galway	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
<ul style="list-style-type: none">• Nature of the Development• Is the nature of the proposed development exceptional in the context of the existing environment?• Will the development result in the production of any significant waste, emissions or pollutants?	<p>The proposed development comprises 1 no. house and waste water treatment system within a rural area.</p> <p>The proposed development will not give rise to the production of significant waste, emissions or pollutants.</p>	<ul style="list-style-type: none">• No• No
<ul style="list-style-type: none">• Size of the Development• Is the size of the proposed development exceptional in the context of the existing environment?• Are there significant cumulative considerations having regard to other existing and/or permitted projects?	<p>The size of the proposed development would not be described as exceptional in the context of the existing environment.</p> <p>There are no significant developments within the vicinity of the site which would result in significant cumulative effects/considerations.</p>	<ul style="list-style-type: none">• No• No
<ul style="list-style-type: none">• Location of the Development• Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?	<p>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</p>	<ul style="list-style-type: none">• No

<ul style="list-style-type: none"> Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area? 	<p>impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.</p>	<ul style="list-style-type: none"> No
<ul style="list-style-type: none"> Conclusion 		
<ul style="list-style-type: none"> There is no real likelihood of significant effects on the environment. EIA not required. 	<ul style="list-style-type: none"> There is significant and realistic doubt regarding the likelihood of significant effects on the environment. Schedule 7A Information required to enable a Screening Determination to be carried out. 	<p>There is a real likelihood of significant effects on the environment.</p> <ul style="list-style-type: none"> EIAR required.

Inspector: Ian Campbell

Date: 30th May 2024

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)