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Bord  
Pleanála

## Inspector's Report PL 07 247397.

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<b>Development</b>	Construction of House, (268 square metres), garage, (21 square metres) treatment unit and associated services.
<b>Location</b>	Ballyturin, Gort, Co. Galway.
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	16/823
<b>Applicant</b>	Raymond Glynn
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party against Decision to Refuse Permission.
<b>Appellant</b>	Raymond Glynn.
<b>Date of Site Inspection</b>	28th November, 2016.
<b>Inspector</b>	Jane Dennehy



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## **1 Site Location and Description**

- 1.1 The site which has a stated area of 3,800 square metres is in the townland of Ballyturin which is a short distance to the south east of Gort and on elevated land on the west side of the L 4516 local road which is adjacent to Ballyturin Lough. There is an embankment, ditch and indigenous and hedgerow along the front boundary with the road. There is a field entrance at the southernmost end which opens onto a recently constructed gravel track. Fencing is located along at the rear/west side of the site. Farm buildings are to the north west and the farmhouse, which is stated to be the applicant's family dwelling is on the road frontage to the north side of a primary school which adjoins the northern side boundary of the appeal site. The land is steeply sloped eastwards towards the road from the position in which the proposed house is to be located.

## **2 Proposed Development**

- 2.1 The application lodged with the planning authority indicates proposals for the construction of a detached dwelling with a stated floor of 268 square metres with a detached garage to the rear. A sewage treatment system with polishing filter is to the south west of the footprint of the dwelling and a wayleave to source water the well within the applicant's family holding to the north west is also indicated. Access is to be provided the public road at the existing farm entrance at the southern end of the frontage from which a driveway will be constructed parallel to the road frontage and then westwards upslope to the dwelling and garage frontage. A hedgerow is to be planted along the northern boundary of the site.
- 2.2 Included with the application form is a site characterisation form and specification for the treatment system and associated information relating to the ground and drainage, folio details from the land registry and a letter of consent to the application from the applicant's father.

### **3 Planning Authority Decision**

#### **3.1 Decision**

By order dated, 15<sup>th</sup> September, 2016 the planning authority decided to refuse permission for five reasons. In brief outline form the five reasons are:

- Dominant and overbearing impact at the elevated position for the rural location which is materially in contravention of Policy RHO 9 and Development Management Standard DM6 of the Development Plan, seriously injurious to visual amenities, militates against preservation of the rural environment and sets undesirable precedent.
- Lack of Appropriate Assessment Screening report: There is potential for material affect ton the conservation objectives and qualifying interests of Lough Cutra SAC and Sliabh Aughty Mountains SPA and potential material contravention of Objectives NHB1, NHB6 and DS6 of the development plan.
- Traffic hazard at the entrance due to substandard sightlines which cannot be addressed without substantial tree removal affecting the amenities of the area. The unauthorised access track is haphazard and disorderly development.
- Location in area of strong urban influence according to Galway Transportation Study and Rural Housing Guidelines and Rural Housing Zone 1 in current development plan. Failure to demonstrate housing need leading to material contravention of Objective RH 01 in Galway County Development Plan.
- Lack of a satisfactory yield test for the bored well to demonstrate capacity to serve the proposed dwelling in addition to existing supplies: material contravention of Objectives WS12 and WS13 of development plan and potential for the development to be prejudicial to public health.

## **3.2 Planning Authority Reports.**

- 3.2.1 The planning officer in her report notes twenty-four European sites within fifteen kilometres of the site location, indicates satisfaction that the proposed development is not within a flood risk area, a lack of details of surface water disposal arrangements in the application, lack of evidence of a P test having been carried out and site specific manufacturing details for the proposed effluent treatment system. a high concentration of manganese within the local water source and the necessity for extensive mature tree removal to facilitate the achievement of seventy metre sightlines in either direction at the entrance that would result in increasing the exposure of the site within the landscape which would be seriously injurious to the visual amenities of the area,
- 3.2.2 There are no internal technical reports or third party submissions or objections on the file.

## **4 Planning History:**

- 4.1 **P. A. Reg. Ref.11/986:** According to the planning officer's report permission was refused for a house, sewage treatment system, percolation and bored well on the site. The applicant was Margaret Glynn.

## **5. Policy Context**

- 5.1.1 The operative county development plan is the *Galway County Development Plan, 2016-2022* according to which the site is within a Rural Housing Zone 1 area and the Rural Area within the county under Strong Urban Influence (Fig RH01). Policies and objectives for rural housing development are set out in section 3.7 and in particular Section 3.8.1 for rural areas under Strong Urban Influence. Criteria for eligibility in RH01 areas are set out in section 3.9.
- 5.1.2 Objective RHO 9 encourages use of existing /permitted housing stock where high levels of stock are available.
- 5.1.3 Development Management guidance and standards are in chapter 13 within which rural housing considerations in section s 13.3 and 13.4

Objective DM 6 requires assimilation in to the landscape and avoidance of elevated locations.

5.1.4 Heritage, Landscape and Environmental Management Strategic polices, objectives and standards are in Chapter 9.

5.1.5 The location is designated as a Class 2 Landscape.

5.2 According to, *Sustainable Rural Housing; Guidelines for Planning Authorities*: the site location is within an area under strong urban pressure. (DOEHLG 2009.)

## **6. The Appeal**

6.1 An appeal was received from Grealish Glynn Associates on 12<sup>th</sup> October, 2016 according to which:

- The need for specific design to address the delicate site location, views to the lake, the school, thermal gain from the south and assimilation into the Class 2 Landscape is acknowledged. The house, (following the Galway Rural House Guidelines) is traditional, narrow plan (six metres) has a roof pitch of forty degrees, no eaves overhang and natural materials. The storey and a half section at the rear cannot be seen from the lower levels. The applicant is willing to accept a condition that confines the house to one storey.
- The finished floor level is 6.17 metres above the road level and is not elevated in the context of the locality and the field rises further to the south and trees at the front conceal it from the road. The site is mid slope on a hill. Other houses have greater elevations. Images are included to support the argument that the development would not be visible from the public road.
- The location is not within an SPA or SAC. Sliabh Aughty SPA is a large area that was recently designated but it excludes the site location. No unplanted bogs and heath or new and second rotation conifer plantations which are frequently used as nesting sites by hen harriers according to the site synopsis are present at the site. The planner did not receive a report from the NPWS. The applicant is willing to have an appropriate assessment screening report carried out if it is required,

- 70 metres sightlines to the north and south at the entrance can be achieved without tree removal. The signage on the north side of the entrance can be repositioned.
- The applicant submitted evidence to demonstrate compliance with the housing need criteria owing to the site location within the Galway Transportation Study area. These documents are a Birth Certificate, Letter from the national school, folio of the farm holding which includes the family home, evidence of sale of property in Australia and confirmation that his children will be enrolled at the adjoining national school. The area has suffered rural decline and it is the policy of the local authority to recognise the importance of returning emigrants. A primary school at Derrybrien was closed in 2016.
- The applicant submitted water quality tests and a wayleave to the bored well in the family farm. There is a sufficient potable supply available. Lack of evidence of sufficient supply would be hard to prove. The well is six metres above the surface level of the adjoining lake. A yield test, the results of which are included with the appeal is evidence that sufficient supply is available.

The accompanying yield test report prepared by the applicant's agent is based on observations of a pump test over a twenty-four hour period carried out on 5<sup>th</sup> October, 2016. It is stated that 9083 litres per day is more than capacity for current domestic and agricultural use, (1855 litres per day) and the proposed additional domestic use (750 litres per day.) leaving surplus capacity of 6478 litres per day.

## 6.2 Planning Authority Response

There is no submission from the planning authority on file.

## 7. Assessment

7.1 The issues considered central to the determination of the decision and considered below having regard to the reasons attached to the planning authority decision are:

- Impact on character of the landscape and visual amenities of the area.
- Impact on qualifying interests and conservation objectives of European Sites: (Lough Cutra SAC and Sliabh Aughty SPA)



- Traffic Safety and Convenience: standards at proposed entrance off public road and internal route within the site.
- Rural Housing Need
- Capacity of proposed source and means of water supply to serve the development,
- Appropriate Assessment.

## 7.2 Impact on character of the landscape and visual amenities of the area.

7.2.1 The landscape is characterised by steep hills, woodlands and pastureland and lakes. Ballyturin lake is in excess of seven metres below the level of the steeply sloped elevated site location and directly to the east of the site location on the opposite side of the road. This area extending southwards from the site location is of considerable amenity value both in respect of visual amenity and rural landscape character and in this regard, it is noted that the immediate environs is relatively free of urban generated residential development. Based on the information available on Econet Map HL5 within the development plan it has been difficult to distinguish for certain whether the site location comes within a Class 1 or Class 2 landscape. It appears more likely to be within Class 1 but this cannot be confirmed.

7.2.2 The proposed dwelling has a substantial footprint and spread across the site and as such is a structure of considerable size with heights extending up to six and a half metres. It represents a major structural insertion at a highly exposed and elevated location which also involves significant alterations required to facilitate hardstanding within the immediate curtilage and an access avenue. Even if the mature trees along the site frontage are undisturbed, the dwelling and associated development at this elevated location would come into views from the north east and east in particular.

7.2.3 As a result, the rural character and visual amenities of the location would be adversely affected. It is fully accepted that the design of the proposed dwelling design is to be commended. It is the elevated site location within the sensitive rural landscape the renders the proposed development unacceptable. Omission of the

second floor element within the wing at the rear would not be effective in ameliorating the impact on the landscape and it is therefore not recommended that to proposal to accept a condition restricting the development to a single storey dwelling as proposed by the applicant be accepted.

### **7.3 Impact on qualifying interests and conservation objectives of European Sites: (Lough Cutra SAC and Sliabh Aughty SPA.**

7.3.1 It is accepted that the site location is not within the areas of the two European sites but the designated areas at circa three hundred metres distance away are in close proximity. It should also be borne in mind that it is not essential for the site location to come within for the effects on a European site's conservation objectives and qualifying interests to be assessed in that a material adverse impact within a European site may attributable to sources outside the designated area. The planning officer identified twenty-four European site within a fifteen metres of the site which is standard for appropriate assessment purposes. The planning officer also specified some qualifying interests and conservation objective for the Lough Cutra SAC and Sliabh Aughty SPA in respect of which she was not in a position to confirm elimination of risk attributable to the proposed development and consequent potential significant adverse impact on European sites. In addition, she refers also to natural heritage objectives which she considers that the proposed development does not satisfy.

7.3.2 This position is considered reasonable notwithstanding the remarks, in particular in relation to areas used for breeding by the hen harrier in the appeal. The applicant has indicated a willingness to submit an appropriate assessment screening report if required. In the event of possible favourable consideration of the proposed development it is recommended that the applicant be requested to submit a screening report to facilitate appropriate assessment screening and, if necessary, an appropriate assessment. In the absence of a submission prepared by a competent person in this regard it cannot be established as to whether appropriate assessment (stage 2) would be required and the planning officer's statement to this end is supported. (Subsection 7.7: Appropriate Assessment below also refers.)

#### **7.4 Traffic Safety and Convenience: standards at proposed entrance off public road and internal route within the site.**

7.4.1 From either a 2.5 metre or four metre setback from the road side edge, a seated driver of a private car would not be in a position to achieve sight along the edge and across the centre of the carriage way in either direction. There are mature woodlands at the frontage to the south and woodlands and a steep embankment and drain along the frontage of the site northwards. In addition, there are road signs immediately to the north side of the entrance. The school and a public carpark adjacent to the school buildings and grounds are a short distance further to the north. The road is a local road a short distance to the south of a junction with a relatively busy regional route to Gort to the north west.

7.4.2 Although no traffic survey details or studies are available, it is reasonable to assume that there is potential for traffic hazard and conflicting traffic movements in the vicinity of the school and the somewhat concealed entrance to the site. To this end, flexibility to allow for some relaxation of the applicable standards for sightlines at the entrance are not supported. Improvements can be achieved by considerably removal of mature trees and vegetation and possibly some alterations to the embankment. Any such measures would seriously alter the visual and natural amenities of the site location exposing the dwelling and site works. The interventions would also possibly, adversely affect the habitats and species that occupy the trees and hedgerows which could be established by ecological impact and appropriate assessment screening.

7.4.3 The applicant also argues that the signage on the north side of the entrance which partially obstructs vision to the north could be repositioned. This would be a matter that would require the consent of the Roads and Transportation Department and there is no evidence available to suggest that such consent would be forthcoming.

7.4.4 It is of note that no local authority internal technical report is available on the proposed entrance arrangements.

#### **7.5 Rural Housing Need**

7.5.1 The criteria to be satisfied for demonstration of housing need for the site location are the most onerous both with reference to the development plan, statutory

guidance and the Galway Transportation Study. The submitted documents of the applicant, a returning emigrant, indicating his family's place of residence, attendance at the local school and sale of a property in Australia are noted. Further consideration of the eligibility of the applicant would be facilitated by clarification as to any residential properties in the ownership of the applicant within the state and as to current employment or future employment obtained in the state.

7.5.2 The statement that the applicant's spouse is a registered nurse and that the applicant is a carpenter and that there are two young children in the family is noted. Notwithstanding the foregoing, it is considered that the inclusion of the reason that the applicant had not demonstrated genuine housing need having regard to the criteria specified in the development plan may be unreasonable and unjustified. In the event of favourable consideration of the proposed development, an occupancy condition should be attached.

## 7.6 **Capacity of proposed source and means of water supply to serve the development.**

7.6.1 It is desirable and in the interest of good practice planning practice for a separate dwelling unit of an individual site to be served by a single bored well unless there is an established community of public supply available. However, it would appear based on the results within the report provided by the applicant's agent on a pump test conducted at the bored well serving the family farm holding and dwelling that an adequate supply would be available for the proposed development subject to the appropriate Wayleave across the farmlands being in place. It is of note that no local authority internal technical report is available on this matter.

## 7.7 **Appropriate Assessment Screening.**

7.7.1 The closest European 2000 sites are large areas that are circa three hundred metres from the site location. They are the Sliabh Aughty SPA [004168] And the Lough Cutra SAC [000299]

7.7.2 There are further twenty-two European sites within fifteen kilometres of the site location and owing to the distance from the site and the scale and nature of the

development proposed no appropriate assessment issues would arise in relation to these sites and further screening would not be required.

- 7.7.3 The feature of interest in the Lough Cutra SAC [000299] is the Lesser Horseshoe Bat (*Rhinolophus hipposideros*) [1303] (Annex 2 Species) The conservation objective is to maintain or restore the favourable conservation condition of the Annex 1 or 2 species for which the SAC has been selected. Reference is made in the site synopsis to Lough Cutra and its wetland habitats and to woodlands. This area is in relatively close proximity to the location of the site of the proposed development.
- 7.7.4 Features of Interests Sliabh Aughty SPA (004168) are the Hen Harrier (*Circus cyaneus*) [A082] and the Merlin (*Falco columbarius*) [098] The conservation objective is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for the SPA.
- 7.7.5 Mature trees are located on the site and along the road frontage and woodlands and a lake are located adjacent to the sites. An assessment conducted by a competent person is required to establish the presence of any habitats to establish the presence of the named species or otherwise or whether the area is used for breeding or foraging by the named species.
- 7.7.6 The potential direct and indirect effects of the proposed project along and in combination with other projects such as the adjoining school for the lesser horseshoe bat include human activities, light, noise and disturbance and intervention to habitats by way of felling of trees and woodlands and surface water drainage, particularly if it contains contaminants during construction and operational stages.
- 7.7.7 Therefore it must be concluded that on the basis of the information available with the application and appeal and, in the absence of a Natura Impact Statement, the Board cannot satisfy itself that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on Lough Cutra SAC [000299] and/or Sliabh Aughty SPA (004168) in view of these sites' conservation objectives.

## **8. Recommendation**

- 8.1 In view of the foregoing it is recommended that the appeal be rejected and that the planning authority decision to refuse permission be upheld excluding two reasons relating to water supply and to eligibility for rural housing development the having regard to the rural housing need criteria.

## **9. Reasons and Considerations**

- 1 The site of the proposed development is in steeply elevated and visually prominent location overlooking Ballyturin Lough within a sensitive landscape. It is considered that the proposed development would be dominant and obtrusive, seriously injurious to the rural landscape character and visual amenities of the area, would militate against the preservation of the rural environment and would set precedent for further similar development in the area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. The proposed development would endanger public safety by reason of traffic hazard due to additional and conflicting traffic movements at a location on the road where sightlines are restricted at the entrance in both directions.
3. On the basis of the information available with the application and appeal and, in the absence of a Natura Impact Statement, the Board is not satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on Lough Cutra SAC [000299] and/or Sliabh Augthy SPA (004168) in view of these sites' conservation objectives. The Board is therefore precluded from granting permission for the proposed development.

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**Jane Dennehy**  
**Senior Planning Inspector**  
**6<sup>th</sup> January, 2017.**