



An  
Bord  
Pleanála

## Inspector's Report ABP-303128-18

---

<b>Development</b>	Construction of a single storey dwelling house, all associated site works. A Natura Impact Statement has been lodged with the planning application.
<b>Location</b>	Mweeloon, Co. Galway.
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	181275
<b>Applicant(s)</b>	Gerry Martyn.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Gerry Martyn
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	20 <sup>th</sup> of February 2019
<b>Inspector</b>	Karen Hamilton

## 1.0 Site Location and Description

- 1.1. The subject site is a rural field located along the coastline of Mweeloon, 1.9km to the west of Maree Village south of Oranmore, County Galway.
- 1.2. The site is 1.23ha in size and currently in agricultural use. Access into the site is via an overgrow laneway which runs along the east of an existing dwelling and joins the main road to the south.
- 1.3. The area is characterised by one –off dwellings and there is a large derelict dwelling directly south of the site at the start of the access lane.

## 2.0 Proposed Development

- 2.1. The proposed development will comprise of the following:
  - Construction of a single storey dwelling,
  - Extension and resurfacing of the existing site access,
  - Provision of a sewerage treatment system,
  - All associated site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

Decision to refuse permission for two reasons as summarised below:

1. Having regard to the proposed dwelling house close to the coastline at Mweeloon Bay, in an open and exposed Class 3 coastal rural landscape which has a sensitivity rating of “High” and a landscape value rating of “High” in the current Galway County Development Plan, 2015-2021, it is considered that the proposed development, would result in a built form that would not fit appropriately or integrate effectively into this locally elevated and visually prominent coastal rural location. It is considered that the proposed dwelling house and access road, on a highly visible site, would seriously injure the visual amenities of the area and would, accordingly, be contrary to the proper planning and sustainable development of the area.

2. It is considered the proposed development by reason of the location of the proposed dwelling house over 220 metres from the public road behind the established building line and the construction of a substantial internal driveway to access the house, would result in a haphazard, disorderly development, which would be out of character with the area. According to grant the development, as proposed, would infringe an existing building line, would seriously injure the residential amenities and depreciate value of properties in the vicinity, would set an undesirable precedent for similar type of development and would be contrary to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The report of the area planner reflects the decision to refuse permission and refers to the following:

- The planning history on the site including a similar refusal by An Bord Pleanala.
- The applicant currently lives in Boston and no evidence has been submitted that he is returning back.
- The location of the site behind an established building line.
- The designation of the area as a high landscape value rating.

#### **3.2.2. Other Technical Reports**

None received.

### **3.3. Prescribed Bodies**

An Taisce- Submission to planning application summarised below.

### **3.4. Third Party Observations**

A submission from An Taisce referred to the rural housing provision of the development plan, National Policy Objective 19 of the National Planning Framework

(NPF) and the cumulative impact of the existing and proposed wastewater treatment plants on the ground water quality.

## 4.0 Planning History

### **PL07.240751 (Reg Ref 11/1592)**

Permission refused for a dwelling and associated works for reasons of location within “Class 3 – Highly Sensitive” Landscape Sensitivity and Character Area and the design the proposal would seriously injure the visual amenities of the area.

### **Reg. Ref. No. 05/4224**

Planning permission was refused for a development consisting of the construction of a dwelling house with a stated 375.1m<sup>2</sup>, for 3 no. reasons relating to non-substantiated essential housing need within the commuter belt of Galway City, high landscape sensitivity and access onto a substandard non-public road.

### **Reg. Ref. No. 04/4348**

Planning permission was refused for a development consisting of the construction of a dwelling house, detached garage, septic tank and percolation area for 2 no reasons relating to non-substantiated essential housing need within the commuter belt of Galway City and high landscape sensitivity.

### **Reg. Ref. No. 02/4472**

Planning permission was refused for a development consisting of the construction of a dwelling house, septic tank and percolation area for 2 no. reasons relating to high scenic area/ more suitable family lands available elsewhere/ visual amenity and piecemeal disorderly development assessed off a non-public road.

## 5.0 Policy Context

### 5.1. National Policy

National Planning Framework, (2018)

Sustainable Rural Housing-Guidelines for Planning Authorities (2005)

EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009)

## 5.2. Galway County Development Plan 2015-2021

The subject site is located with a “Rural Areas under Strong Urban Pressure” (Galway Transportation and Planning Study, GTPS) where it is an objective to facilitate genuine rural housing needs of the community where there is a genuine need to live.

Landscape Sensitivity Class 3, coastal rural landscape, where landscape sensitivity is high.

### Housing

**Objective RHO1-** Rural Housing Zone 1 (GTPS): Housing need criteria.

**Objective RHO 2-** Statutory Guidelines and County Development Plan.

**Objective RHO 3-** dwellings within Class 3 Landscape must demonstrate a substantiated rural housing need and may be required to provide a visual impact assessment.

**Objective RHO 9 -** Design Guidelines.

**DM 5: Rural Housing-** Justification and connection to rural area for dwelling.

**DM 7:** Site Size.

**DM 6:** Assimilation of development into the landscape

### Landscape

**Objective UHO9-** Ensure that new developments are responsive to their site context and in keeping with the character, amenity, heritage, environment and landscape of **the area**

**Policy LCM 1-** Landscape Sensitivity Classification.

**Policy LCM 2-** Landscape Sensitivity Ratings.

**DM 39- Class 3 –** restriction on development for, including those with substantiated cases for such a specific location and which are in compliance with settlement policies

## Water

**Objective RHO 12** - Waste Water Treatment Associated with Development in Un-Serviced Areas.

**DM 29:** Effluent Treatment Plants to comply with the EPA guidelines

## Transportation

**DM 21:** Building Line- Set back of 35m from the realigned carriageway, in the interest of rural amenities

### 5.3. **Natural Heritage Designations**

The site is located adjacent to the Inner Galway Bay SPA (OO4031) and the Galway Bay Complex SAC (000268).

### 5.4. **Environmental Impact Assessment**

Having regard to the nature and scale of the proposed development 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**

The grounds of appeal are submitted from the applicant in relation to the refusal by the planning authority as summarised below:

- The site location, context and planning history are provided.
- The revised proposal addresses the concerns previously raised by An Bord Pleanála in the refusal PL07.240751, has a minimal impact and the access track will be surfaced with “Grasscrete”.
- The report of the planner failed to reference the LVIA or Design Statement.

### Reason 1

- The submitted LVIA addresses the potential impact of the dwelling on Mweeloon Bay
- The LVIA outlines the predicted landscape impact and the proposed development will not be visible from the approach roads from Oranmore, Renville or Maree due to screening and topography.
- Visual receptor sensitivity is only medium to high given the existence of dwellings in the vicinity.
- Therefore, the magnitude of change and visual effects are deemed low.

### Reason 2

- A Design Statement was submitted with the application and was not referenced in the planners report.
- The statement reports the residential growth and development along the existing road.
- Two other houses (Reg Ref 97/1973 & 01/875) are also close to the shoreline, similar to the proposed dwelling.
- The nearest dwelling is approximately 160m from the proposed dwelling.
- The lowered position on the site greatly reduces the visual impact of the house.
- The proposed driveway makes use of an existing agricultural laneway and the extension would only add 45m of track and would be surfaced with "Grasscrete".

### Rural Housing Need

- The applicant resides in Boston and wishes to return home and build on the farm he grew up on.
- The ruined remains of his grandfather's house remain on the land.
- Evidence has been submitted to prove long-standing links to the area.

## Natura Impact Statement (NIS).

- The NIS and the report of the planner concludes the proposed development would have no impact on any European Designated site.

### 6.2. **Applicant Response**

The appellant is the applicant.

### 6.3. **Planning Authority Response**

None received.

### 6.4. **Observations**

None received.

## 7.0 **Assessment**

7.1. The main issues of the appeal can be dealt with under the following headings:

- Impact on the Visual Amenity
- Rural Housing Policy
- Waste Water
- Appropriate Assessment

### **Impact on Visual Amenity**

7.2. The site is a large rural field located along the coastline of County Galway, south of the settlement of Oranmore. The site is accessed from a local road, characterised by one-off dwellings and further by an agricultural access which has a two-storey dwelling directly to the south, beside the entrance.

7.3. The proposed development was refused for two reasons being the location of the dwelling on an open and exposed landscape and secondly the dwelling was set 220m from a public road behind an established building line.

7.4. The site is located within a landscape designated as Class 3, highly sensitive, in the development plan, where it is an objective to protect these lands from inappropriate



development. Policy LCM1 states that regard must be given to the landscape sensitivity classification of sites in the consideration of any significant development proposals and, where necessary, require a Landscape and Visual Impact Assessment (LVIA) to accompany such proposals. A LVIA was submitted with the planning application.

- 7.5. The grounds of appeal state that the report of the area planner has failed to consider the LVIA and Design Statement which accompanied the application which demonstrates that the proposal will not have a negative impact on the wider landscape.
- 7.6. The LVIA references the Landscape Character Assessment of County Galway, the landscape sensitivity rating and the policies of the development plan for landscape protection. The LVIA includes photomontages of the proposed dwelling as taken from a site on the opposite side of the Bay in order to illustrate the unimposing nature of the dwelling along the coastline.
- 7.7. A Design Statement also accompanied the planning application which details characteristics of the site, the location of those dwellings on the site and the overall design of the dwelling. The statement notes the reduction in the height of the dwelling by 2m (7.08m) and reduction in floor area from 371m<sup>2</sup> to 231m<sup>2</sup>, from the previous refusal (PL07.240751). This previous refusal referred to the excessive scale bulk and height of the design on a highly visible site. The design statement refers to the modest scale and nature of the proposal.
- 7.8. The topography of the site is relatively flat and the proposed dwelling is located in the centre of the site facing towards the Bay (north). The design is relatively modest in comparison to those dormer dwellings in the vicinity and includes a single storey with mon-pitch roof sloping towards the Bay. A submitted landscape plan illustrates the retention of boundary vegetation which is supported with infill planting and additional native tree planting along the north, east and southern boundaries. The proposed access is increased in length and supported by the use of “grasscrete” along the access lane which the applicant states will reduce the impact of any new entrance.
- 7.9. Whilst I note the applicant has reduced the scale of the proposed dwelling it will remain visible from the surrounding area and I consider the location of the site along

the coastline remains of high amenity value and the protection of this valuable resource should be retained.

- 7.10. In relation to the second reason for refusal, the building line, the applicant has submitted an aerial view illustrating the location of existing dwellings c. 160m to the west at a similar location along the coast. The location of the subject site further east along the coast in an isolated location proves more sensitive to development, I note those existing dwellings are clustered and I consider the visual amenity has been negatively impacted.
- 7.11. Having regard to the location of the site along a scenic coastline of Galway Bay rated as being a “Class 3- Highly Sensitive” Landscape Sensitivity and Character Areas and those policies of the development plan which require the protection of the lands within these areas from inappropriate developments, I consider the proposed development would have a significant adverse impact on the visual amenity of the area and to grant permission would set an undesirable precedent for further similar development along the coastline which would further erode this natural resource.

### **Rural Housing Policy**

- 7.12. The site is located in a rural area which has been identified in the development plan as a Rural Area under Strong Urban Pressure (GTPS). The proposal is for a rural dwelling, where the applicant currently resides in Boston, USA.
- 7.13. National Policy Objective 19 of the National Planning Framework (NPF) issued by the Department of Housing, Planning and Local Government in February, 2018 which, for rural areas under urban influence, seeks to 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.
- 7.14. Objective RHO 3 - Rural Housing Zone 3, of the development plan includes criteria for applicants proposing dwellings in Landscape Category 3, 4 and 5 who are required to demonstrate their rural Links to the area and required to submit a “Substantiated Rural Housing Need”.
- 7.15. In addition to the above requirements, Section 7 of Galway County Council “Rural Housing Need Application for Each Individual Adult Associated with an Application for Rural Housing” requires specific evidence for those making a case for a rural dwelling as a “Returning Emigrant”. Documentary evidence required includes

evidence of the family holding in addition to evidence they are actually returning home such as sale of property abroad, resignation of employment, enrolment of children in schools or offer of employment in the locality.

- 7.16. The applicant has submitted a letter of support from a local GAA club, original birth certificate, school attendance from 1976-1979, land registry maps of applicants fathers land ownership and a solicitor's letter confirming the transfer of lands from the applicant's father. The applicant has failed to provide any additional supplementary evidence indicating permanent relocation from America for compliance with Section 7 of the Councils rural housing need which is supported by obj RHO 3 of the development plan, therefore I do not consider the submitted documentation reasonable to justify a link to the rural area or a substantiated rural housing need.
- 7.17. Having regard to the proposal for a one –off rural dwelling, located on a coastal site which is designated as Class 3 medium landscape sensitive, National Policy Objective 19 of the NPF and Objective RH03 of the development plan, it is considered that the applicant has failed to demonstrate a genuine and substantiated rural housing need and therefore there is no requirement for a dwelling at this location.

### **Waste Water**

- 7.18. The proposed development includes a connection to the public water mains system and includes a packaged waste water treatment system with soil polishing filter to accommodate 6 persons. A submission from An Taisce on the planning application raised concern in relation to the cumulative impact of the proposed development on the ground water quality in conjunction with the existing waste water treatment plants.
- 7.19. The site is located in an area identified with a “moderate” vulnerability classification in the GSI Groundwater maps and is located within area defined as a “Regionally Important Aquifer-Karstified (Rf), representing a GWP response of R1 under the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009) (Annex B3). No Karst features were noted in the site characterisation form within 500m.

- 7.20. The trial hole assessment submitted by the applicant encountered no bedrock/ water table at a depth of 2.8m. The site is located within area defined as a “Regionally Important Aquifer-Karstified” and Section 3.2 of the site characterisation form requires a trial hole of a minimum depth of 3m as the potential for groundwater contamination is high where the rock is close to the surface. This was not achieved. No trial holes were available for inspection, although the ground was firm underfoot and there was no evidence of waterlogging on the site. The submitted site characterisation records a T-test value of 8.75 min/25mm, which is within the acceptable range for a septic tank (Table 6.3) and would indicate good percolation and therefore a modified method or P test was not required. It is proposed to install a packaged treatment system and polishing filter.
- 7.21. Table 6.1 of the EPA guidelines set out the minimum separation distances, where the septic tank should be not less than 50m from a foreshore. The septic tank is c. 40m from the foreshore.
- 7.22. Having regard to the location of the site within an area identified as Regionally Important Aquifer- Karstified, I consider the applicant was required to use a 3m trial hole for the purpose of the percolation test (Section 3.2 of the site characterisation form). In addition, it is of note the site is adjacent to Galway Bay SAC, and the proposed septic tank is within 40m of the SAC, which includes marine dominated habitats and the ground water flows from south to north, towards the coastline. This separation distance does not comply with the minimum requirements of Table 6.1 of the EPA guidelines. In the absence of this data and having regard to the significant amount of properties in the vicinity (c. 24 dwellings within 500m), I do not consider the applicant has demonstrated the proposed wastewater treatment can fully meet the requirements of the EPA Guidance. Therefore, I cannot conclude that the proposed development would not have a significant risk of ground water pollution on a site which I consider is located within a sensitive water environment.

## Appropriate Assessment

- 7.23. The site is located along the edge of the Galway Bay Complex SAC<sup>1</sup> (site code 00268) and the Inner Galway SPA<sup>2</sup> (site code 04031). The Galway Bay Complex is a very large (14,408.98ha) marine dominated, made up of subsidiary bays, inlets and islands to name a few and the Inner Galway Bay SPA is a very large, marine dominated, site which supports internationally important wintering populations. A Natura Impact Assessment accompanied the application and concluded there would be no potential impacts on any European Site subject to certain mitigation works including the use of a silt fence along the boundary to prevent any sedimentation of surface water and the use of good practice guidance during construction.
- 7.24. The site is located along the boundary of two Natura 2000 sites and the groundwater flow is directed north towards the Bay. As stated above, I do not consider the applicant has sufficiently demonstrated in the treatment of effluent can fully comply with the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009), therefore there is a potential risk for groundwater pollution on a site which is located on the edge of the Galway Bay SAC and Inner Galway Bay SPA.
- 7.25. Therefore, having regard to the nature, scale and location of the proposed development, and the pattern of development in the vicinity of the site (proliferation of dwellings) and the conservation objectives and distance from the European Sites, on the basis of the information provided with the application and appeal and in the Natura Impact Statement I cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the Galway Bay Complex SAC (site code 00268) and the Inner Galway SPA (site code 04031), or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

---

<sup>1</sup> NPWS (2013) Conservation Objectives: Galway Bay Complex SAC 000268. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht.

<sup>2</sup> NPWS (2013) Conservation Objectives: Inner Galway Bay SPA 004031. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht.

## 8.0 Recommendation

- 8.1. It is recommended that the proposed development is refused for the reasons and considerations as set out below.

## 9.0 Reasons and Considerations

1. Having regard to the location of the proposed development close to the coastline at Mweeloon Bay, rated as being a “Class 3 – Highly Sensitive” Landscape Sensitivity and Character Area and as having a in the current Galway County Development Plan, 2015-2021, it is considered that the proposed house, by reason of its built form would not fit appropriately on this location on a highly visible coastal site and would seriously injure the visual amenities of the area and would, accordingly, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the site within a rural area under urban influence, and to National Policy Objective 19 of the National Planning Framework issued by the Department of Housing, Planning and Local Government in February, 2018 and Objective RH 03 of the Galway County Development Plan 2015-2021 which, for rural areas under urban influence, seeks to 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, having regard to the viability of smaller towns and rural settlements, and in the absence of such compliance, the proposed development would contribute to the encroachment of random rural development in a coastal area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The site is located within area identified as a Regionally Important Aquifer-Kastified and the septic tank is located c. 55m from the edge of the Galway Bay Complex SAC (site code 00268) and the Inner Galway SPA (site code 04031). The trial holes encountered bedrock at 2.8m. It is considered that, taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of development served by septic tanks in an area which is considered to be a highly sensitive water environment. The Board is not satisfied that that effluent from the development can be satisfactorily treated or disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development, would, therefore, be prejudicial to public health.

---

Karen Hamilton  
Planning Inspector

13<sup>th</sup> of March 2019