



An
Bord
Pleanála

Inspector's Report ABP303251-18

Development	(a) Retention of Planning Permission for house as constructed and (b) Permission for a new effluent treatment system and all ancillary site works.
Location	Errisbeg West Townland, County Galway.
Planning Authority	Galway County Council.
Planning Authority Reg. Ref.	18/1373.
Applicant	Catherine O'Toole.
Type of Application	Permission and Retention of Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party -v- Refusal.
Appellant	Catherine O'Toole.
Observers	None.
Date of Site Inspection	20 th March, 2019.
Inspector	Paul Caprani.

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1.0 Introduction

ABP303251-18 relates to a first party appeal against the decision of Galway County Council to issue notification to refuse planning permission for the retention of a house and to grant permission for a new effluent treatment system together with all ancillary site works at Errisbeg West, County Galway. Galway County Council issued notification to refuse planning permission on the grounds that the applicant failed to demonstrate sufficient housing need in accordance with the requirements of the development plan, would adversely impact on the visual amenities of a designated coastal landscape and that the site in question is not suitable to accommodate an on-site wastewater treatment system.

2.0 Site Location and Description

- 2.1. The townland of Errisbeg West is located along the R341 between the villages of Roundstone and Ballykennelly in West Galway. The subject site is located approximately 3.5 kilometres west of Roundstone and 10 kilometres to the south-east of the village of Ballykennelly.
- 2.2. The subject site is located on the northern side of the R341 at the foot of Errisbeg Mountain which rises to the north/rear of the site. The site faces southwards onto the R341 and looks over the coastal area of Dogs Bay and Gorteen Bay to the south. The R341 is characterised by large scale ribbon development along its alignment. Most of the houses are located on the northern side of the road and comprise of detached single and two-storey dwellings facing southwards towards the bay. The overall area is characterised by scrubland but largescale rocky outcrops and dry stone walls. Many of the houses which are set back c.50 to 150 metres from the road, on more elevated land, and are linked to the regional route by narrow gravel tracks.
- 2.3. The appeal site is located approximately 120 metres to the north of the regional road and is accessed via one of these gravel tracks. The site is roughly rectangular in shape and is accessed via a shared driveway which serves an existing single storey dwellinghouse to the south closer to the regional road, to the front of the appeal site.

A copse of conifer trees are located between the appeal site and the single storey dwelling to the front of the appeal site. The house for which retention of planning permission is sought is of relatively modest size comprising of a two-bedroomed bungalow rising to a ridge height of just 5 metres. The dwellinghouse is L-shaped with the two bedrooms located to the rear and the main living accommodation (kitchen/sitting area) located to the south facing towards the bay. The dwelling incorporates a nap plaster finish. The area of the site is stated in the planning application documentation as 0.27 hectares while the house for which retention of planning permission is sought is 87 square metres in size.

- 2.4. The area surrounding the house is characterised by mounds of inert material, discarded construction materials scrubland and rocky outcrops. The WWTS is located to the front /south of the dwelling in amongst relatively poorly drained soils.

3.0 Proposed Development

- 3.1. Planning permission is sought for the retention of planning permission for the existing dwellinghouse constructed on site. Details of the original dwelling granted permission are not contained on file. According to the grounds of appeal the original structure was 4.4 meters in height and c.50m in size. Permission is also sought for a new effluent treatment system with polishing filter as well as all ancillary site works. It is proposed to provide a new on-site wastewater treatment system with a pressurised pipe pumping treated effluent into a raised polishing filter comprising of washed gravel overlying a sand filter. The new treatment system and polishing filter is to be located to the south of the dwellinghouse.

4.0 Planning Authority's Decision

Galway County Council refused planning permission for three reasons which are set out below:

1. The proposed development is located in a Class 4/Rural/Coastal Landscape where housing needs are restricted to essential residential needs of local households and family farm business and locally resourced enterprises. Having regard to the Objective RHO3 and DM Standard 39 of the Galway County Development Plan 2015 – 2021, and the insufficient housing need

documentation included with the planning application, it is considered that the applicant has not established long standing local intrinsic rural links to the area under the aforementioned rural housing policies and development management standards in this sensitive Class 4 Rural Landscape.

Accordingly, to grant the proposed development would contravene materially the objectives of the development management standards contained in the county development plan, would be contrary to the sustainable rural housing guidelines, and would therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the design, scale and siting of the existing unauthorised house located on a locally elevated site within a Class 4/Rural/Coastal (Special) Landscape in close proximity to the coastline, it is considered that the proposed development would result in a dominant and overbearing built form that would not fit appropriately or integrate effectively into this rural location. Furthermore, the proposed house development would contravene materially Objective RHO9, Objective LCM1, Objective LCM2 and DM Standard 6 contained in the Galway County Development Plan 2015 – 2021. Accordingly, to grant the proposed development would interfere with the character of the landscape, would detract from the visual amenities of the area, would militate against the preservation of the rural environment, would contravene materially a development objective and a development management standard contained in the current county development plan, would set an undesirable precedent for similar future development in the area, and would therefore be contrary to the proper planning and sustainable development of the area.
3. Having regard to the heavily saturated nature of the site, the on-site characteristics and evidence of a very high water table on site, the Planning Authority is not satisfied that the safe disposal of domestic effluent on the site can be guaranteed in strict accordance with the EPA Code of Practice Manual 2009 for Wastewater Treatment and Disposal Systems Serving Single Houses. Accordingly, to grant the development as proposed would be contrary to the EPA Wastewater Manual, would materially contravene Objective WW5 of the Galway County Development Plan 2015 – 2021, would

be prejudicial to public health, would pose an unacceptable risk to receiving waters, therefore has the potential to adversely affect the integrity and conservation objective of protected European sites for flora and fauna and would be contrary to the proper planning and sustainable development of the area.

4.1. Documentation Submitted with the Planning Application

- 4.1.1. The application was accompanied by a completed planning application form, public notices, planning fee and associated drawings. The application was also accompanied by a site characterisation form in accordance with the EPA Code of Practice.
- 4.1.2. The trial hole excavated on site encountered the water table at 0.8 metres below ground level. T tests were not conducted as part of the site suitability tests. A P test of 10 was recorded on site. It is recommended that a package wastewater treatment system together with polishing filter should be constructed on site to discharge to ground water.

4.2. Planning Authority's Assessment

- 4.2.1. The planner's report prepared on foot of the application expresses concerns in relation to the suitability and capability of the site to accommodate an on-site wastewater treatment system. Specific reference is made to the high-water table on site. Concerns are also expressed that the dwellinghouse as currently exists bears no relationship to the previous consent granted under Reg. Ref. 09/2330. The development as proposed is considered inappropriate and unsympathetic to a rural coastal setting and is therefore contrary to numerous policy statements contained in the development plan. The planning assessment also sets out the planning history associated with the site.
- 4.2.2. On the above basis it is recommended that planning permission be refused for the reasons set out in the Planning Authority's decision.
- 4.2.3. The Planning Authority's decision was dated 22nd November, 2018.

5.0 Planning History

- 5.1. The extensive planning history associated with the site is set out in the local authority planner's report.
- 5.2. Partial details of three applications determined by Galway County Council are contained in a pouch to the front of the file.
- 5.3. Under Reg. Ref. 09.2330 Galway County Council granted planning permission to the current appellant to restore, reconstruct and extend an existing derelict/semi-ruinous building as a dwellinghouse with a private wastewater treatment plant and access road subject to 12 conditions.
- 5.4. Under Reg. Ref. 12/1520 planning permission was granted for an extension to the existing dwellinghouse with all associated works and ancillary services with a gross floor area of 9.6 square metres.
- 5.5. Under Reg. Ref. 15/1132 Galway County Council issued an extension of duration to restore, reconstruct and extend the existing derelict/semi-ruinous building as a dwellinghouse for the private wastewater treatment system and access road granted under Reg. Ref. 09/2330.

6.0 Grounds of Appeal

- 6.1. The decision was subject of a first party appeal by Catherine O'Toole. It states the following:

The land, the subject of the recent application has been in the applicant's family since the late 1940s and the family home was constructed in the 1960s. It comprises of 3.96 hectares in total.

The applicant for the previous 18 years has worked for the Irish Wheelchair Association as a personal assistant/carer with people with physical and sensory disabilities. Under Reg. Ref. 02/2913 planning permission was sought for a 7-bed holiday accommodation to cater for people with disabilities. This application was subsequently withdrawn.

In 2009 the applicant applied to refurbish an existing semi-ruinous dwelling at the current location. This application was made under Policy HP24 which encouraged

the redevelopment of semi-ruinous buildings which had its original walls largely intact and where the property could be adequately serviced. It is stated that the applicant was not required to prove a housing need. Reference is made to the current county development plan which has a similar Objective RHO7 and it should be noted that under this objective where total demolition of the existing dwelling is proposed an enurement clause for 7 years will apply. The appellant has no objection to this enurement clause. It is noted that under the previous grant of planning permission all major issues regarding roads, effluent and assimilation were never raised as a problem. The applicant subsequently applied and received for an extension of duration which was granted until 28th October, 2020.

- 6.2. In relation to the current application, this application relates to a retention application for a slightly larger building than that granted under 09/2330. However, it is much more user friendly for people with disabilities.
- 6.3. In relation to the design of the proposed development, it is stated that the house is constructed in largely the same location and alterations made to the existing room was made on the existing footprint as previously granted by Galway County Council. The property is well screened by the existing property to the south and the house as constructed is a single-storey house. Visual concerns were not raised in the planning assessment under the parent permission (09/2330).
- 6.4. In relation to effluent treatment this was not raised as an issue when assessing the application. The Planning Authority considered that tertiary treatment should be provided as part of the wastewater design solution under the previous application. The system that was designed is similar to other houses in the area.
- 6.5. In relation to housing need it is stated that the applicant's older sister has deteriorating physical health and sight loss. In designing the house, the applicant sought to accommodate her long-term needs and provide comfort in the family home. The sole reason to construct the property was to ensure that the property was accessible for the disabled. On the original property granted under 09/2330 did not meet these needs.
- 6.6. In conclusion therefore it is argued that the house is largely in compliance with the parent permission and An Bord Pleanála are therefore requested to overturn the decision of Galway County Council.

7.0 Appeal Responses

It appears that Galway County Council have not submitted a response to the grounds of appeal.

8.0 Observations

There are no observations contained on file.

9.0 Development Plan Provision

- 9.1. The site is governed by the policies and objectives contained in the Galway County Council Development Plan 2015 – 2021. The subject site is not located on lands that are governed by any land use zoning objective.
- 9.2. In terms of rural housing zoning objectives Objective RHO3 states that those applicants seeking to construct individual houses in the open countryside in areas located in landscape categories 3, 4 and 5 are required to demonstrate the rural links to the area and are required to submit a substantiated rural housing need. In addition, an application may be required to submit a visual impact assessment of the development, where the proposal is located in an area identified as “focal points/views” in the landscape character assessment of the county or in Class 4 or Class 5 designated areas. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis. An enurement policy shall apply for a period of 7 years after the date the house is first occupied by the person or persons to whom the enurement clause applies.
- 9.3. Objective RHO7 relates to the renovation of existing derelict dwellings/semi-ruinous dwellings.
- 9.4. It is an objective of the Council that proposals to renovate, restore or modify existing derelict or semi-derelict dwellings in the county are generally dealt with on their merits on a case by case basis having regard to the relevant policies and objectives in this Plan, the specific location and the condition of the structure and scale of any works required to upgrade the structure to modern standards. The derelict/semi-ruinous dwelling must be structurally sound, has the capacity to be renovated and/or

extended and have the majority of its original features/walls in place. A structural report will be required to illustrate that the structure can be brought back to habitable use without comprising the original character of the dwelling. Where the total demolition of an existing dwelling is proposed an enurement clause for 7 years duration will apply.

9.5. Objective RHO8 substantially complete single dwelling. Where planning permission has elapsed on a previous permitted development that has been substantially completed and the dwelling remains unfinished it will not be requirement to establish a rural housing need if it were not a condition of the previously granted permission.

9.6. Objective RHO9 – Design Guidelines.

It is an objective of the Council to have regard to Galway County Council's Design Guidelines for Single Rural Houses with specific reference to the following:

- (a) It is an objective to encourage new dwellinghouse design that respects the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape.
- (b) It is an objective to promote sustainable approaches to dwellinghouse design and encouraging proposals to energy efficient in its design and layout.
- (c) It is an objective to require the appropriate landscaping and screen planting of proposed developments by using predominantly indigenous/local species and groupings.

9.7. Objective RHO12 – Wastewater Treatment associated with development in unserviced areas.

Permit development in unserviced areas only where it is demonstrated to the satisfaction of the Planning Authority that proposed wastewater treatment plant is in accordance with the Code of Practice Wastewater Treatment Disposal Systems Serving Single Houses EPA (2009) and subject to compliance with the objectives of the EU Water Framework Directive.

9.8. Chapter 9 of the Development Plan relates to heritage, landscape and environmental management.

9.9. Policy LCM seeks to preserve and enhance the character of the landscape where, and to the extent that, in the opinion of the Planning Authority, the proper planning

and sustainable development of the area requires that, including the preservation and enhancement, where possible of views and prospects and amenities of places and features of natural beauty or interest.

9.10. Policy LCM1 – Landscape Sensitivity Classification

The Planning Authority shall have regard to the landscape sensitivity classification of sites in the consideration of any significant development proposals and where necessary require a landscape/visual impact assessment to accompany such proposals. This should be balanced against the need to develop key strategic infrastructure to meet the strategic aims of the plan, having regard to the zoning objectives of serviced development land within the Galway Metropolitan areas.

The subject site is located within a Class 4 Rural/Coastal Special Landscape (Class 1 being the least sensitive and Class 5 being the most sensitive).

9.11. Objective LCM2 requires the consideration of landscape sensitivity ratings as being an important factor in determining the development uses in the areas of the county.

In areas of high landscape sensitivity, the design and choice of location of the proposed development in the landscape will also be a critical consideration.

9.12. The site is given a landscape value rating of “high”.

9.13. Chapter 13 of the development plan sets out development management standards and guidelines.

9.14. DM Standard 6 relates to the assimilation of development into the landscape. It states that all permissible buildings should avoid locally obtrusive elevated locations and should be located on mid slopes or lower slopes of rising ground where possible. Development should seek to preserve the traditional field patterns and established hedgerows and woodland. A visual impact assessment may be required where the proposal is located in an area identified as “focal point/views” in the landscape character assessment of the county or in Class 4 and 5 designated landscape sensitivity areas.

9.15. DM Standard 39 relates to compliance with landscape sensitivity designations.

9.16. In relation to Class 4 areas “special” development shall be restricted to essential residential needs of local households, family farm businesses and locally resourced enterprises.

10.0 Natura 2000 Designations

10.1. The subject site is not located within a designated Natura 2000 site. The nearest Natura 2000 site are as follows:

The closest Natura 2000 site is located approximately 225 metres to the north and is the Connemara Bog Complex SAC (Site Code: 002034).

The Dogs Bay SAC (Site Code: 001257) is located approximately 650 metres to the south.

There are numerous other Natura 2000 sites including SACs and SPAs within a 15 kilometre radius of the subject site.

11.0 Planning Assessment

I have read the entire contents of the file, visited the site in question and its surrounding and have had particular regard to the issues raised in the Planning Authority's reasons for refusal. I consider the Board can restrict its deliberations to the issues raised in the reason for refusal namely:

- The Issue of Housing Need
- The Size and Scale of the Dwelling for which Retention of Planning Permission is being Sought
- On-site Wastewater Treatment Issues

11.1. The Issue of Housing Need

11.1.1. The first party appellant in the grounds of appeal states that the original application was assessed under the provisions of a previous development plan and in particular Policy HP4. I have consulted the previous development plan (Galway County Council Development Plan 2009 – 2015) which was the operative plan at the time under the original parent permission. This policy states that the Planning Authority shall encourage the redevelopment of derelict/semi-ruinous buildings for commercial, residential or economic purposes. The policy also states that an enurement clause will not be imposed where the property is in the ownership of the local farm holder and their holding. While the Planning Authority did request further information in relation to the parent permission, (see details of planning application contained on

file and in particular FI letter dated 24th February 2010), the issue of housing need was not raised as an issue. It can be reasonably inferred therefore that Galway County Council were satisfied that the proposal was in accordance with the housing policy set out in the previous development plan including policies in relation to rural housing need as a grant of planning permission was issued in respect of the said application.

- 11.1.2. Under Reg. Ref. 15/1132 Galway County Council issued an extension of duration of permission on 29th October, 2015. The planner's report notes that at the time of writing in October, 2015 that no development had commenced on foot of the 09/2330 planning permission. Nevertheless, it was recommended that an extension of duration of the appropriate period be granted. The Board will note that the extension of duration permission was granted under the provisions of the current Development Plan (2015 – 2021). Again, no issue in relation to housing need was raised in granting the extension of duration.
- 11.1.3. The planner's report in the case of the current application, again in the assessment makes no detailed reference to the issue of housing need, but merely states in the recommendation that a refusal of planning permission is recommended on house type/design, housing need and wastewater. While there is reference in the assessment in relation to house type/design and wastewater issues there is no reference to the issue of housing need. Furthermore, I note that there has been no material change in circumstances in relation to the policies on housing need under which the extension of duration of permission granted in October, 2015 and the current application before the Board. In my considered opinion it is both inappropriate and inconsistent that the Planning Authority would grant an extension of duration of permission under Reg. Ref. 15/1132 and yet planning permission would be refused for a dwellinghouse on the same site on the grounds of housing need.
- 11.1.4. While undoubtedly issues do arise in relation to what was actually built on site and what was actually granted planning permission, the principle of development in the context of housing policy has not changed. In this regard I do not consider it appropriate that the Board would refuse planning permission for the retention of the dwellinghouse on the basis that the applicant under the current application fails to comply with the policies set out in the development plan in relation to housing need.

11.1.5. Finally, in relation to this issue, the applicant has stated in the grounds of appeal and has submitted a letter stating that she works in the local area as a carer and that the home in question is used as a respite home for people with disabilities. If the Board consider it appropriate to take into consideration the issue of housing need they may wish to take the particular circumstances of the applicant into consideration. However, I reiterate that I do not consider it appropriate that the Board take this issue into consideration having regard to the extant permission on site and the extension of duration of this permission.

11.2. Design Considerations

11.2.1. Full details of the planning history pertaining to the subject site are not contained on file. In particular, the design and layout of the original dwelling granted under Reg. Ref. 09/2330 are not contained on file. However, it is clear that the current application which relates to a retention of permission implies that the proposal was not carried out in accordance with the plans and particulars lodged with the Planning Authority. Furthermore, the grounds of appeal refer to the fact that the house granted under the parent permission was a modestly sized house at 49.7 square metres with a ridge height of 4.414 metres. Under the current application the footprint of the dwelling has been substantially increased from 47.9 square metres to 87 square metres an increase of over 40%. The ridge height of the dwelling constructed on site at 5 metres, is just over half a metre above that permitted. There are two important issues to be assessed in relation to the design and layout of the building actually constructed on site. Firstly, whether or not the building as constructed materially impacts on the visual and landscape amenities of the area as suggested in Galway County Council Planning Report and secondly the issue of precedent which a grant of retention of planning permission might create were the Board to grant planning permission in this instance.

11.2.2. In relation to visual amenity considerations, notwithstanding the 40% increase in floor area over that permitted, the proposed dwelling at less than 100 square metres in size and being single-storey in nature, cannot be considered an excessively large dwelling particularly in the context of surrounding dwellings many of which are much larger and two-storey in nature. I do acknowledge however that the subject site is on elevated ground to the rear of many of the existing houses which front onto the road. The house however is located behind both the family home and the band of conifer

trees which results in the dwelling not being visible from vantage points along the R341. Views of the dwelling are not apparent when viewed along the regional road to the west of the site either. I have visited the site and its surrounds and I note, (and see photo's attached to this report) that the dwelling is not at all visible from vantage points along the R341, nor is it visible from the roads which lead southwards towards the Bays. The dwelling is completely obscured from view due to the screening of the family house to the front of the site, the copse of trees to the rear of the family house and the natural topography around the site.

11.2.3. Therefore while the house is located in a coastal area of high landscape value and it is the Planning Authority's policy to consider the landscape sensitivity as an important factor in determining development in the county, the dwelling is not visible within this landscape setting. The change in the design and size of the house has no material impact on the visual amenities of this area of high landscape value.

11.2.4. In relation to the issue of precedent, I acknowledge that a grant of planning permission in this instance could set an undesirable precedent for breaches of planning permission for larger, more visually obtrusive developments on such sensitive landscapes. And this in my view, would provide the only viable reason for refusal in the case of the planning application and appeal before the Board.

11.3. **On-site Wastewater Treatment Issues**

11.3.1. Having visited the site, I would have serious concerns in relation to the subject site's ability to adequately accommodate and attenuate wastewater generated from the dwellinghouse. It is clear from the GSI groundwater vulnerability map that the subject site is located in an area classed as 'extremely vulnerable' in terms of groundwater vulnerability with rock at or near the surface. The site characterisation form submitted with the application indicated that the site accommodates a high water table (0.8 metres below ground level) and bedrock relatively close to the surface (1.3 metres below ground level). My site inspection supports the conclusions of the GSI groundwater vulnerability mapping that the subject site is located in an area classed as being extremely vulnerable, with rock outcrops apparent within the site and surrounding area. It is noted that the EPA Code of Practice requires a trial hole to be at least 2 metres in depth. This is unachievable in the case of the current site.

- 11.3.2. I also noted from my site inspection that in addition to the many rock outcrops on the subject site and in the wider area where soils did exist on the site these soils appear to be poorly drained. The presence of a drainage ditch in proximity to the trail hole also suggests that the drainage characteristics of the soil are less than adequate.
- 11.3.3. The area is characterised by ubiquitous hilly rock outcrops interspersed with hollowing where dourly drained heath and bog has accumulated. It is within one of this hollows that the proposed proprietary waste water treatment system is to be located to the front of the house.
- 11.3.4. The hydrogeological characteristics of the site have not changed since the grant of planning permission for the parent application in 2009 and for this reason I consider that planning permission for a dwellinghouse reliant on an on-site wastewater treatment plant should not have been permitted in the first instance. Notwithstanding this Galway County Council granted planning permission for a dwellinghouse and proprietary wastewater treatment system on site provided that such a treatment system was operated and maintained in accordance with the EPA's Code of Practice (condition no. 12 refers).
- 11.3.5. A covering letter submitted with the current application by Enda O'Malley (Chartered Engineer and Planning Consultants) states that the justification for a change of the existing treatment system comes from a recent site inspection which determined that the existing septic tank and percolation area was not fit for purpose and thus an EPA Report was carried out on same to determine the most suitable system for the existing property. On this basis it was proposed to install a packaged wastewater treatment system and sand polishing filter discharging to groundwater. It appears from the drawing submitted that the polishing filter and percolation area is to comprise of a mounding system with effluent being pumped from the treatment system into the mounded polishing filter. The package treatment system is to comprise of a mechanical aeration system designed to treat effluent to secondary standard prior to discharge to the polishing filter.
- 11.3.6. In my professional opinion that it might be somewhat challenging to construct a mounded polishing filter on the subject site given the slope of the site to ensure that all effluent arising from the dwellinghouse is adequately attenuated. The success of the polishing filter will ultimately depend on the attention to detail in constructing the

polishing filter. With the proper construction and maintenance of the system, it may be possible to treat effluent to EPA standards, however the provision of packaged WWTS would undoubtedly be preferential to treating effluent by way of a conventional septic tank on the site in question.

11.3.7. While I have reservations in relation to the suitability of the site to accommodate an on-site wastewater treatment system there is however no doubt in my mind that the system proposed and in particular the mechanical aeration package treatment system to be installed prior to discharge to the polishing filter will ensure that any effluent treated on site will be treated to a higher standard than that associated with a more conventional septic tank or proprietary wastewater treatment system which is currently installed on the site. In essence therefore, while I consider that the site is inherently unsuitable for a proprietary wastewater treatment system I am mindful of the fact there is an extant permission for a dwellinghouse **and a wastewater treatment plant** on the subject site and the proposed treatment package before the Board is very likely to represent a significant improvement over that which is currently installed and operational on site. On this basis it may prove difficult for the Board to refuse planning permission for a new package wastewater treatment plant which would represent a significant improvement over that which has been installed and is currently operational on site on foot of an extant permission.

12.0 Conclusions and Recommendation

Arising from my assessment above I would conclude the following:

- (a) Extension of duration of permission was granted for the proposed development under the current development plan where the issue of compliance with Galway County Council's Policies on Housing Need were not raised as a material consideration. In the interest of consistency therefore I do not consider it appropriate that it be raised as a material consideration in determining the current application.
- (b) I acknowledge that the dwelling on site is of relatively modest size, and that the dwelling is not visible from vantage points in the area notwithstanding the fact that the subject site is located on elevated ground and is located in an area where the landscape value and sensitivity are classed as high/special.

While the alterations in dwelling design represent a significant departure from that permitted, the fact that the alterations will have no material impact on the visual amenities of the area, is a valid consideration in determining the application.

- (c) Finally, in relation to the on-site wastewater treatment system I consider that the site is inherently unsuitable for the accommodation of an on-site wastewater treatment system having regard to the hydrogeological characteristics of the site and its surroundings. Notwithstanding this conclusion I note that the current application for a new proprietary wastewater treatment system and polishing filter represents a significant improvement over that granted under the extant permission and for this reason I do not consider that planning permission should be refused for the proposed proprietary wastewater treatment system.

I would therefore recommend that the Board in this instance overturn the decision of the planning authority and grant planning permission for the packaged wastewater treatment plant and retention of planning permission for the dwelling.

13.0 Appropriate Assessment

There are a number of designated Natura 2000 sites in the vicinity. Only two of which in my considered opinion could potentially be affected by the proposed development. These are the Connemara Bog Complex SAC (Site Code: 002034). This Natura 2000 site at its closest point is approximately 200 metres to the north of the appeal site.

The Dogs Bay SAC (Site Code: 002157) is located approximately 650 metres to the south of the site.

The potential impact which could arise as a result of the proposed development is the potential contamination of waters associated with a non-performing septic tank/proprietary wastewater treatment system serving the dwelling. There must therefore be a hydrological link between the subject site and the Natura 2000 sites in question.

The Connemara Bog SAC is located on higher ground to the rear of the site and is therefore not in danger of receiving any potentially contaminated wastewater from the appeal site.

The Dogs Bay SAC is located downgradient of the appeal site but is located a significant distance from the site. The features of interest associated with the Dogs Bay SAC include the following:

- Annual vegetation of drift lines.
- Embryonic shifting dunes.
- Shifting dunes along the shoreline with *ammophila arenaria*.
- Fixed coastal dunes with herbaceous vegetation.
- European dry heaths.

The features of interest associated with this SAC are not dependent on water quality and therefore do not have the potential to be affected by the proposed development. The proposed development will in no way physically impinge upon or result in the fragmentation of the habitats in question.

It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 001257 or any other European site, in view of the site's conservation objectives and a Stage 2 Appropriate Assessment and a submission of an NIS is therefore not required.

14.0 EIA Screening Determination

Having regard to the nature of the development comprising of a retention of a dwellinghouse together with a new proprietary wastewater treatment system it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can, therefore, be excluded by way of preliminary examination.

15.0 Decision

Grant retention of planning permission for the dwelling as built and planning permission for the proposed packaged treatment system based on the reasons and considerations set out below:

16.0 Reasons and Considerations

17.0 Reasons and Considerations

It is considered that the retention of the dwelling house as constructed which is not visible from public vantage points in the vicinity of the site will have no material impact on the visual amenities of the area, notwithstanding the designated sensitivity of the surrounding landscape. Furthermore it is considered that the proposed new effluent treatment system with polishing filter subject to conditions below would not be prejudicial to public health and would otherwise be in accordance with the proper planning and sustainable development of the area.

18.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements including the attenuation of surface water shall be the subject of detailed agreement with the planning authority prior to the commencement of development.

Reason: In the interests of public health.

3. The external finishes of the dwelling shall be the subject of written agreement of the planning authority.

Reason: In the interest of visual amenity.

4. The site shall be landscaped, using only indigenous deciduous trees and hedging species in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
 - (a) the establishment of a hedgerow along all side and rear boundaries of the site, and
 - (b) planting of trees at 3 metre intervals along the southern, eastern and northern and western boundaries of the site.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

5.
 - (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 1st day of October, 2018, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
 - (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.

- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.
- (e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

Paul Caprani,
Senior Planning Inspector.

3rd April, 2019.