



An
Bord
Pleanála

Inspector's Report

ABP-304493-19

Development	Construction of a house. A Natura Impact Statement was submitted to the planning authority with the application.
Location	Prospect Hill
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	19296
Applicant(s)	Lara Wheelan
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Emily Clarke and Brian Smith
Observer(s)	None
Date of Site Inspection	18 th July 2019
Inspector	Irené McCormack

1.0 Site Location and Description

- 1.1. The subject site is located along the coastline of Mweeloon, 0.7km northwest of Maree Village south of Oranmore, County Galway.
- 1.2. The site is 0.27ha in area and currently forms part of the garden of an existing house. Access to the site is via minor local road and cul-de-sac L-81053. The site is triangular in shape extending in width from back to front.
- 1.3. The western side of the road is characterised by one –off dwellings of varying design. The eastern edge of the road consists of undeveloped agricultural lands. The site is located along a coastal inlet, known as Mweeloon Bay.

2.0 Proposed Development

- 2.1. The proposed development will comprise of the following:
 - Construction of 4-bedron two-storey dwelling,
 - Provision of a sewerage treatment system,
 - All associated site works.
- 2.2. A Natura Impact Statement accompanied the planning application.
- 2.3. Unsolicited further information was submitted on the 11th March 2019 which included a statement in relation to the design, layout and siting of the house and a photomontage of the proposed dwelling on the site.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 12 no. conditions. The relevant conditions are noted below:

- Condition 2 relates to occupancy.
- Condition 3 relates to external finishes.
- Condition 4 relates to use of the domestic garage.
- Condition 5 relates to surface water disposal.

- Condition 6 required a parking space 3 meters wide be provided along the frontage of the site. Details to be agreed with the Area Engineer.
- Condition 7 relates to sightline triangle and overhead lines.
- Condition 8 relates to the type and maintenance of the waste water treatment system to be installed on site.
- Condition 11 refers to the retention of in-situ stone walls and hedgerow.
- Condition 12 relates to development contribution.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

3.2.2. The Area Planners report (17th April 2018) noted that the site is located in a Class 3 landscape area inside the GTPS/Urban pressure area where housing need is required to be established. The report notes the applicant's connection to the area. The house design is noted. It is set out that water supply is via the public system and no issue was raised regarding the treatment of wastewater. Sightlines were considered acceptable. It was noted that the site was not within a flood risk area and there were no statutory designations in the vicinity of the site. It is set out that the Natura Impact Statement concluded that the proposed development will not adversely affect the integrity of any European Site. It was recommended that permission be granted subject to conditions.

3.2.3. **Other Technical Reports**

None

3.3. **Prescribed Bodies**

Department of Culture, Heritage and the Gaeltacht – In their submission dated 5th April 2019 the Dept. note that in assessing this application Galway County Council should observe its obligations under the EC (Birds and Natural Habitats) Regulations 2011 (S.I. 477 of 2011) and ensure that the proposed development will not impact negatively upon Galway Bay European Site.

3.4. **Third Party Observations**

None

4.0 Planning History

Site

Reg Ref No. 19/295

Permission granted in 2019 for the retention of dwelling house and permission to construct a domestic shed and new entrance/exit. (Previous permission ref. 01/766 and 99/2418).

Surrounding (to the south of the site)

Reg Ref No. 19/1142

Permission sought for the construction of a dwelling house. Not yet decided.

Reg Ref No. 18/1408

Permission granted in 2019 for the construction of an extension, garage and shed.

5.0 Policy Context

5.1. Development Plan

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 within 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

5.2.1. Galway County Council Rural “Design Guidelines for the single house”.

5.3. Natural Heritage Designations

The site is located adjacent to the Inner Galway Bay SPA (004031) and the Galway Bay Complex SAC (000268).

5.4. EIA Screening

- 5.4.1. 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

- 6.1.1. The grounds of appeal submitted by Emily Clarke and Brian Smyth are as summarised below:
- It is set out that the development is an inappropriate sub-division of a residential site and would constitute overdevelopment of the site.
 - The character of the area is one of relatively large sites with appropriate spacing between dwellings, which the proposed dwelling would significantly and negatively alter.
 - The development would set a precedent for piecemeal and haphazard development in the area and the building line forward of the established building line is unacceptable.
 - It is set out that the contemporary design is out of character with the area and would lead to material impacts on both existing dwellings, and the wider area.
 - The issue of privacy and overlooking are raised and the perception of overlooking and privacy due to the proximity of the proposed development to both existing dwellings.
 - It is set out that the development is contrary to Development Plan Objective LCM 3 which seeks to “*preserve the status of traditionally open/unfenced*”

landscape” and the mitigation of overlooking through landscaping would be precluded. It is noted that a Landscape and Visual Impact Assessment was not submitted with the planning application.

- Sightlines to not adhere to Table 13.4 of the Development Plan, sightlines are approx. 40m and not the minimum 70m as set out in the planning assessment.
- The resultant intensification of traffic on this access road has not been addressed.
- It is set out that the Site Suitability Report and the Natura Impact Statement do not include the cumulative impact of the cluster of treatment systems in the area.
- It is noted that the documentation demonstrating the applicants “*demonstratable economic and social need*” to reside at the subject site was not publicly available and the appellant has not had the opportunity to review same.
- Reference is made throughout the appeal submission to planning decisions made by An Bord Pleanála in relation to aspects of siting and design.

6.2. Applicant Response

- In relation to the third-party appeal lodged, it is set out that the appeal is invalid as the persons making the appeal do not correlate with the name of the person on the acknowledgment of the submission by the Planning Authority.
- It is set out that the subdivision of the residential property has been established under Pl. Ref. 19/295 (retention works and new domestic shed and new entrance).
- There is no basis for citing previous decisions by An Bord Pleanála or Section 3.4.3 of the Galway County Development Plan.
- Reference is made to a similar permission granted to the east of the subject site (Pl. Ref. 17/150) where permission was granted for a local person to build on family lands accessed via a private road.

- The built character of the area is made up of a wide range of site sizes.
- In relation to the design , the proposal seeks to emphasise the importance of orientation/aspect of the house. The design approach is supported in the Galway County Councils “Design Guidelines for the single house” and the size of the site conforms to DM Standard 7 – Site Size requirements.
- It is set out that additional screen planting will protect privacy and that clusters of houses with narrow spacing in between are found further to the southwest and southeast of the site and the proposed siting of the house would not be out of character in the area.
- It is acknowledged that the eastern side of the road is visually vulnerable and sensitive from a landscape perspective. However, it is set out that the development will be located amongst a cluster of dwelling houses along the western edge of the road and owing to the relatively flat site and the prevailing building heights, the dwelling will not adversely affect the landscape character of the area or result in an adverse visual impact.
- The site is will be served by an existing entrance where sightlines were deemed adequate.
- It is set out that the Site Suitably Assessment indicates excellent ground conditions to facilitate the installation of a wastewater treatment plant.
- A Natura Impact Statement incorporating a Construction Management Plan accompanied the planning application, in accordance with the requirements of the Habitats Directive and relevant case law.
- It is submitted that there is not a high concentration of septic tanks in the vicinity of the site.
- It is set out that the applicant fully compliant with rural housing need policy.

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:

- Principle of Development /Rural Housing Policy
- Design and Layout
- Residential Amenity and Privacy Issues
- Waste Water
- Sightlines and Road Network
- Other Matters
- Appropriate Assessment

7.2. **Principle of Development /Rural Housing Policy**

- 7.2.1. 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 is the daughter of the landowner.
- 7.2.2. 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.
- 7.2.3. 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". Section 3.8.1 Rural Areas under Strong Urban Pressure - GTPS of the development plan determined that these areas exhibit characteristics of growth in population at locations in close proximity to the larger towns and to which the residents of these rural areas commute to in large numbers. The key objective of these areas is to maintain a stable population base in rural

areas within a strong network of small towns and villages. The key objectives of the Council are to facilitate the genuine housing requirements of the local rural community (rural generated housing) and to direct urban generated development to areas for new housing development in the adjoining urban centres, town and villages.

- 7.2.4. It is clear that the applicant grew up in the area and was a pupil at the local national school and secondary school and is a member of the local ladies' football club. Land registry maps dated 28th April 2000 indicate the lands were acquired by the applicant's father in 2000.
- 7.2.5. Policy Objective 19 of the National Planning Framework which provides a more restrictive approach to rural housing requires that the core consideration for the provision of a one-off rural house be based on the demonstratable economic or social need to live in the rural area. With regard to an economic requirement to live in the area it is noted that the applicant is a staff member of Hennigan's Londis Clarinbridge, 5.5km east of the site. There is no indication on file if this is a permanent or part-time position. With regard to a social need to live in the area, it is noted that the applicant has lived in the immediate area of the subject site for the majority of her life. However, having regard to the viability of existing rural villages and settlements and the efficient provision of public services and infrastructure, it is considered that the applicant has not demonstrated a sufficient reason to live in a rural area and in accordance with Section 3.8.1 Rural Area Under Strong Urban Pressure (GTPS) of the Development Plan urban generated housing should be directed into the adjoining urban centre, towns and villages.
- 7.2.6. 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 in the absence of an identified economic or social need to live in the area, it is considered that the proposed development would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would negatively impact on the viability of smaller towns and rural settlements. It is recommended that permission should be refused on this basis.

7.3. Design and Layout

- 7.3.1. The proposed dwelling reflects a contemporary mono-pitch two-storey dwelling reflecting elements of Art-Deco architecture. The maximum ridge height is 7.044m. The site is triangular in shape extending in width from back to front, rising gently in a westerly direction away from the public road.
- 7.3.2. 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 sketch perspective of the proposed dwelling was submitted with the planning application.
- 7.3.3. The grounds of appeal argue that the proposed dwelling will be out of character in the area and represent a haphazard pattern of development. A Design Statement accompanied the planning application which details characteristics of the site, the location and character of those dwellings adjoining the site and the overall design of the dwelling. The statement notes the development is located amongst a cluster of dwelling houses along the western edge of the local road and will not adversely affect the landscape character of the area owing to the relatively flat topography of the site and the prevailing heights of the dwellings adjoining the proposed dwelling.
- 7.3.4. I note the contemporary character of the dwelling, and whilst I consider the principle of a contemporary design approach acceptable and in keeping with the Galway Rural "Design Guidelines for the single house", the proposed dwelling by reason of scale and bulk will be visible from the surrounding area and impact negatively on the high amenity value of the coastline and the protection of this valuable resource should be retained.
- 7.3.5. In relation to the building line, the dwelling is positioned forward of the applicant's family home to the northwest of the site and forward of the appellants property to the south. The dwelling appears to have been positioned at this location in order to retain the existing detached domestic garage on site, located to the rear of the proposed dwelling. The retention of the garage compromises the position of the dwelling on the site and dictates the building line. I consider the siting of the house

forward of the front building line of the adjoining dwellings either side creates a haphazard pattern of development and a visual prominence to the proposed dwelling. In this regard I am not satisfied that the proposed dwelling will successfully integrate into this rural landscape.

- 7.3.6. Having regard to the location of the site along the 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.

7.4. Residential Amenity and Privacy Issues

- 7.4.1. The grounds of appeal raise concerns that the location of the proposed dwelling will adversely impact on the appellant’s amenity due to privacy and overlooking issues. The dwelling is located 4.2m from the boundary of the appellants property. It is pointed out in the applicant’s response to the grounds of appeal, that the site will be enhanced with additional screening to mitigate overlooking and privacy concerns. There is no indication how high the hedgerow could be.
- 7.4.2. The Board will note from the drawings on file that there is a total of eight windows on the south elevation of the proposed dwellings facing the appellant’s property four of which are located at first floor level. Three of the four windows are indicated as obscure glazing and the fourth is a high-level horizontal window. I am satisfied that the screening along the common boundary will ensure that no direct overlooking will occur from the applicant’s house to the windows of the appellant’s house at ground floor level and at first floor level the obscure glazing and horizontal window height ensure that no significant or direct overlooking will take place.
- 7.4.3. In conclusion therefore, I consider the overall impact on the appellant’s amenity to be acceptable.

7.5. Waste Water

- 7.5.1. 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. The cumulative impact of the proposed development on the ground water quality in conjunction with the existing waste water treatment plants in raised by the third-party appellants.

- 7.5.2. 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 (Rk), 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.
- 7.5.3. The trial hole assessment submitted by the applicant encountered no bedrock/ water table at a depth of 2.2m. 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 13.36 min/25mm and a P-test value of 8.50 min/25mm, which is within the acceptable range for a septic tank (Table 6.3) and would indicate good percolation. It is proposed to install a packaged treatment system and polishing filter.
- 7.5.4. Table 6.1 of the EPA guidelines set put the minimum separation distances, where the septic tank should be not less than 50m from a foreshore. The septic tank is c. 70m from the foreshore.
- 7.5.5. 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). 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. 31 dwellings within 500m radius), 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

7.6. Sightlines and Road Network

- 7.6.1. The appellants argue that sightlines do not adhere not to Table 13.4 of the Development Plan and that the sightlines are approx. 40m and not the minimum 70m as set out in the planning assessment. In this regard, I note that access to the site is proposed via the existing entrance serving the family home. Permission was granted under Pl. ref no. 19/295 for a second vehicular entrance to serve the family home. It is proposed that the existing entrance will serve the proposed dwelling and the proposed new entrance will serve the existing family home. No work has commenced on the new entrance. The existing entrance proposed to serve the dwelling is an established domestic vehicular entrance, it is not proposed to alter the location of this entrance and therefore I am satisfied that the entrance is acceptable.
- 7.6.2. The local road fronting the site is a minor local road (cul de sac) approx. 3m in width, and the site is located between two bends in the road which restricts traffic speed and acts as a natural traffic calming measure. I note the condition of the planning authority to remove and set back the roadside boundary. This is in my opinion is not justified and will serve to increase traffic speed along the road and represent a traffic hazard. The existing the cul de sac serves the three dwellings only and the surface condition is relatively good.

7.7. Appropriate Assessment

- 7.7.1. The site is located along the edge of the Galway Bay Complex SAC¹ (site code 00268) and the Inner Galway SPA² (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

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

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

including the erection of a solid fence around the perimeter of the proposed development, 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.

7.7.2. 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.

7.7.3. 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.

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 and building line 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 and Section 3.8.1 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-Karstified with a “Moderate” vulnerability classification. The trial holes were at a depth of 2.2m and not 3m as required in EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009). 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.

Irené McCormack
Planning Inspector

30th August 2019