



An  
Bord  
Pleanála

## Inspector's Report

### ABP-306479-20

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<b>Development</b>	Demolition of dwelling and construction of house with landscaped flat roof and alterations to site entrance and driveway.
<b>Location</b>	Belleek, Clifden, Co Galway.
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	191688
<b>Applicant(s)</b>	Rosemary O Toole.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Rosemary O Toole.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	19 <sup>th</sup> March 2020.
<b>Inspector</b>	Bríd Maxwell

## 1.0 Site Location and Description

1.1. This appeal relates to a scenic coastal site with a stated area of 1.32 hectares located within the townland of Beleek circa 4km to the northwest of Clifden in County Galway. The appeal site is irregular in shape (roughly rectangular) and is located on the cliffside to the south of the local road known as the Lower Sky Road overlooking Clifden Bay. The site is occupied by a modest single storey stone structure with corrugated metal roof with a stated area of 37m<sup>2</sup> sited towards the eastern end of the site and set back c26m from the front roadside boundary at a finished floor level of 41.15m relative to spot level of 48.9m at the roadfront. Within the site a meandering gravelled driveway traverses the northern part of the site from east to west. Within the site there are also a number of stone walls, steps and a shed structure. The remainder of the site is predominantly scrub and cliff coastline. The appeal site is part of a larger landholding which includes land between Upper and Lower Sky Road. The general area is peppered with scattered dwellings and characteristic stone walls. The nearest dwelling is an elevated bungalow located on the northern side of the local road opposite the eastern corner of the site.

## 2.0 Proposed Development

2.1. The proposal as set out in public notices involves permission for the demolition of the existing single storey 'dwelling' 37sq.m and construction of a single storey 4 bedroom house 282 sq.m with landscaped flat roof, alterations to site entrance and driveway new on site water treatment system and all associated site works. Gross floor space of proposed works is 282sq.m. The proposed dwelling is sited in the vicinity of the existing structure and is contemporary in design incorporating stone finish, a concrete canopy and extensive glazing with sliding sections and integrated timber solid sections proposed to the southern elevation. A projecting terrace with 1.6m high glazed screen is proposed to the south of the dwelling. The proposal involves extensive backfill to build up levels on the site.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1 By order dated 18 December 2019 Galway County Council issued notification of decision to refuse permission for the following reasons:

1. The proposed development is located in a coastal, exposed and elevated rural setting which is designated as Class 4 rural landscape , with a landscape sensitivity rating of 'Special' and a landscape value rating of 'Outstanding', as set out in the 2015-2021 Galway County Development Plan, where rural housing needs are generally restricted to essential residential needs of long-standing local rural households. Having regard to the requirements of Objective RHO3, Objective IS2 and DM Standard 39n of the 2015-2021 Galway County Development Plan, 2015-2021, it is considered that the applicant has not demonstrated long standing local intrinsic links in order to qualifying to build a new rural house within a Class 4 landscape. Accordingly, to grant the proposed development would contravene materially objectives and development management standards contained in the county development plan would be contrary to the sustainable rural housing guidelines, would set an undesirable precedent for similar future developments in the area, and therefore would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the exposed elevated and coastal rural setting, within a Class 4 designated landscape, it is considered that the development as proposed with respect to its elongated and suburban form and the extent of cut and fill necessary would constitute hazard and disorderly development, would result in a built form that would not fit appropriately or integrate effectively into this sensitive Class 4 designated rural location, and would contravene materially Objective RHO9, Objective LCM1 and Objective LCM2 of the Galway County Development Plan,. Accordingly, to grant the proposed development would interfere with the character of the landscape, would detract from the visual amenity of the area, would militate against the preservation of the rural environment, would contravene materially a development objectives contained in Galway County Development Plan and would be contrary to the proper planning and sustainable development of the area.

3. Having regard to the following:
- The severe disparity in levels between the subject site and the public road
  - The unauthorised nature of the internal driveway arrangement and
  - The insufficient carrying capacity of the L-5118-15 along site frontage by virtue of its narrow nature.

to permit the proposed development and associated vehicular turning movements would obstruct wider road users, be prejudicial to public safety and contrary to the proper planning and sustainable development of the area.

4. In the absence of water supply to serve the proposed development, the planning authority is not satisfied that the development can be served by a potable water supply and therefore if permitted as proposed the development would materially contravene objective WS12 of the Galway County Development Plan 2015-2021.

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

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

Planner's report notes absence of visual impact assessment a standard requirement given the setting within a class 4 landscape. Enforcement history on the site is noted. In the absence of site history Objectives RHO 6 and 7 do not apply. The design is excessively elongated and out of character with the built form in the vicinity. Excessive cut. Refusal recommended.

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

None

### **3.3. Prescribed Bodies**

No submissions

### 3.4. Third Party Observations

No submissions

## 4.0 Planning History

No planning history on the appeal site.

The following enforcement history is noted in the Planner's report.

**EN034/724** Unauthorised construction of an access road. Unauthorised construction of a vehicle entrance. Closed 2017.

**EN08/149** Unauthorised extension to an existing dilapidated building – Closed statute barred.

## 5.0 Policy Context

### 5.1 National Planning Framework. National Policy Objective 19.

*“Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:*

*In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.”*

### 5.2 Development Plan

5.2.1 The Galway County Development Plan 2015-2021 refers.

The site is located within Class 4 Special Landscape (ratings range from Class 5 unique to Class 1 low) and is rated as Outstanding Landscape and Special sensitivity rating.

**LCM 1 – Preservation of Landscape Character**

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 it, including the preservation and enhancement, where possible of views and prospects and the amenities of places and features of natural beauty or interest.

Landscape Conservation and Management Objectives include:

### **Objective LCM 1 – 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 shall be balanced against the need to develop key strategic infrastructure to meet the strategic aims of the plan, and having regard to the zoning objectives of serviced development land within the Galway Metropolitan Areas.

### **Objective LCM 2 – Landscape Sensitivity Ratings**

Consideration of landscape sensitivity ratings shall be an important factor in determining development uses in areas of the County. In areas of high landscape sensitivity, the design and the choice of location of proposed development in the landscape will also be critical considerations.

### **Objective RHO 3 Rural Housing Zone 3 (Landscape Category 3,4 and 5)**

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 their Rural Links\* to the area and are required to submit a Substantiated Rural Housing Need\*. In addition, an Applicant may be required to submit a visual impact assessment of their 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 and 5 designated landscape 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 condition shall apply for a period of 7 years, after the date that the house is first occupied by the person or persons to whom the enurement clause applies.

### **Objective RHO 6 Replacement Dwelling**

It is an objective of the Council that the refurbishment of existing habitable dwelling houses would be encouraged, as a more sustainable option than the demolition and construction of a new dwelling house, unless a conclusive case for demolition based on technical evidence is made for the Planning Authority's consideration on a case by case basis. It will be a requirement that any new dwelling house be designed in accordance with Galway County Council's *Design Guidelines for Rural Housing* in the countryside. Applicants, who require the demolition of an existing dwelling house shall be accommodated without the requirement to establish a Housing Need or proof of residence and will not be subject to an enurement clause.

### **Objective RHO 7 - Renovation of Existing Derelict Dwelling/Semi Ruinous Dwelling**

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 of this plan, the specific location and the condition of the structure and the scale of any works required to upgrade the structure to modern standards. The derelict/semi ruinous dwelling must be structurally sound, have 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 into habitable use, without compromising the original character of the dwelling. Where the total demolition of the existing dwelling is proposed an Enurement Clause for seven years duration will apply.

## **5.3 Natural Heritage Designations**

5.3.1 The site is not within a designated area. There are a number of designated sites within the vicinity including:

- The West Connacht Coast SAC within 1.5km to the west.
- Slyne Head Peninsula SAC 2km to the south.
- Kingstown Bay SAC 2km to the northwest.
- Inishbofin Orney Island and Turbot Island SPA within 4km to the west

- Cruagh Island SPA within 6km to the northwest.
- Connemara Bog Complex SPA within 6km to the southwest.

## **5.4 EIA Screening**

5.4.1 Having regard to the limited nature of the proposed development and to the nature of the receiving environment, 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 The Appeal**

### **6.1 Grounds of Appeal**

6.1.1 The appeal is submitted by Brian Donovan Architect on behalf of the first party.

- Given that the site is occupied by a dwelling, entrance driveway and associated boundaries the requirement for provision of a new house as set out in the County Development Plan are not applicable.
- Proposal is in conformity with the objectives of the Galway Co Council design for single rural houses. Approach taken was to achieve a long house design as set out in the guidelines and not a suburban form. No significant cut and fill is proposed as the elongated proposal is situated along the entrance drive and represents a natural progression of the original house along the existing and established levels.
- The disparity in levels between the site and road already exist and is not affected by the application. No unauthorised internal driveway arrangement has been carried out however there is a pedestrian walkway which has been gravelled to overcome waterlogging. Entrance is existing.
- Existing water supply in form of a well.
- In order to lessen the scale of the dwelling proposed mitigation includes :



- Elimination of the parapet wall running along the length of the building on its northern elevation and elimination of the proposed fill along this boundary to retain the existing land profile.
- Elimination of the master bedroom and relocation of the structure eastwards retaining the eastern boundary thereby reducing length by 5.1m.

## **6.2 Planning Authority Response**

6.2.1 The Planning Authority did not respond to the grounds of appeal.

## **7 Assessment**

7.1 Having considered the documentation provided on the appeal file and having visited the site I consider that the matters to be addressed in the appeal can be considered under the following broad headings.

- Principle of Development – Settlement Policy.
- Design and Visual impact
- Servicing, Wastewater treatment & Access
- Appropriate Assessment

### **7.2 Principle of Development – Settlement Policy.**

7.2.1 I have noted the Planning Authority's first reason for refusal which relates to location within a class 4 rural landscape with a landscape sensitivity rating of 'special' and a landscape value rating of 'outstanding' and the planning authority's consideration that the applicant does not comply with RHO3 in relation to rural housing need. The grounds of appeal assert that the requirements for the provision of a new house and associated works as set out in the Galway County Development Plan are not applicable as "the property together with its entrance, driveway and associated boundaries already exists". I have noted at 4.0 above the Enforcement History on the site relating to the Unauthorised construction of an access road and unauthorised

construction of a vehicle entrance and unauthorised extension to an existing dilapidated building. Based on the submissions made in connection with the planning application and appeal I would concur that RHO 6 & 7 regarding Replacement Dwelling and Renovation of Existing Derelict Dwelling / Semi Ruinous Dwelling do not apply. Having regard to the alleged unauthorised development on the site the question also arises as to the adequacy of the application in terms of the description “demolition of terms of the requirements of the Planning and Development Regulations 2001, as amended.

7.2.2 Having regard to the scenic qualities of the landscape restrictive policies of the Development Plan are entirely reasonable and consistent with national policy which makes a clear distinction between urban generated and rural generated housing need and recognise the limited carrying capacity of the rural landscape and the need in particular to protect the character of valuable landscapes. The applicant has not demonstrated compliance with Objective RHO 3 Rural Housing Zone 3 and I consider that the established policies of the development plan and national policy context do not support the principle of development on the site.

### **7.3 Design and Visual Impact & Impact on the amenities of the area**

7.3.1 On the issue of siting and design, I note the topography of the site and elevated and exposed siting of the structure. The proposed design involves extensive backfilling and the construction of a retaining wall extending over a distance of circa 50m with the dwelling extending over 38m. The proposed house would clearly be prominent and obtrusive and the nature of the design does not lend itself to integrate successfully into the landscape. The proposed dwelling would represent an entirely discordant structure in terms of the design as Class 4 “Special” landscape in terms of landscape character and “Outstanding” in terms of landscape value. I note that within the grounds of appeal the first party has suggested some design amendments including the elimination of the parapet wall and proposed fill and a reduction in length of the dwelling by 5.1m. Such measures do not render the proposal acceptable. I also note that works to provide for access and servicing of

the site would involve substantial manipulation of ground levels which would have a significant negative visual impact.

7.3.2 I conclude that the proposed dwelling by reason of its siting, scale and design would constitute an obtrusive feature in the landscape and would therefore be contrary to the reasonable policies of the Council to protect the visual amenities of the area.

#### **7.4 Servicing and Wastewater treatment & Access**

7.4.1 On the issue of wastewater treatment and disposal, it is proposed to provide a packaged wastewater treatment system discharging to a raised sand polishing filter constructed on a levelled platform. Site suitability assessment notes that the trial hole excavated to 1.10m and T test was not completed due to the topography of the site. Neither bedrock nor water table were encountered. Soil is described as crumb clay leading at 0.2m to solid gravel with silt elements. P test conducted on a levelled platform determined a P value of 24.25m.

7.4.2 As regards the traffic impact of development on the site I note that the Council's third reason for refusal relates to traffic safety issues arising from increased turning movements onto the public road, the disparity between levels on site and those on the public road and the carrying capacity of the local road. Reference is also made within the decision to the unauthorised nature of the internal driveway arrangement. The first party disputes the contention that any unauthorised development was carried out stating that a pedestrian walkway was gravelled to overcome the sometimes-waterlogged nature of the surface. I consider that concerns regarding the site access are valid given the extreme topography of the site which emphasise the unsuitability of the development as proposed.

7.4.3 The Council's final reason for refusal relates to the issue of water supply. I note that the first party asserts that there is an existing water borewell supply on the site.

## 7.5 **Appropriate Assessment**

- 7.5.1 On the matter of Appropriate Assessment the site is not located within a designated Natura 2000 site, although there are a number of such sites in the vicinity the closest being the West Connacht Coast SAC within 1.5km (for which the qualifying interest is the Common Bottlenose Dolphin) and Slyne Head Peninsula SAC 2km to the south (Qualifying interests Coastal lagoons, Large shallow inlets and bays, Reefs, Annual vegetation of drift lines, Perennial vegetation of stony banks, Atlantic salt meadows, Mediterranean salt meadows, Slender Naiad, Embryonic shifting dunes, Shifting dunes along the shoreline with white dunes, Machairs Oligotrophic waters containing very few minerals of sandy plains, Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. European dry heaths, formations on heaths or calcareous grasslands, Semi-natural dry grasslands and scrubland facies on calcareous substrates meadows on calcareous, peaty or clayey-silt-laden soils, lowland hay meadows, Alkaline fens.)
- 7.5.2 The potential pathways for indirect effects on the qualifying interests would arise in the form of deterioration of surface water quality resulting from pollution, associated with the construction and operational phase of the development and during the operational phase consideration is given to the proper installation and maintenance of the sewage treatment system. Having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the proximity to the nearest European site, it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans and projects on a European site.

## **8.0 Recommendation**

- 8.1 Having read the submissions on file, visited the site and had due regard to the provisions of the Development Plan and all other matters arising, I recommend that permission be refused for the following reasons and considerations.

### **Reasons and Considerations**

1. Having regard to the location of the site within an area designated as Class 4 rural landscape with a landscape sensitivity rating of 'special' and landscape value rating of 'outstanding' as set out in the Galway County Development Plan 2015-2021 and to National Rural Housing Policy as set out in the Sustainable Rural Housing Guidelines and to National Policy Objective 19 as set out in the National Planning Framework, adopted by the Government, which is the policy to distinguish between urban-generated and rural-generated housing need, it is considered that the proposed development would, contravene materially objective RHO3 of the Galway County Development Plan 2015-2021 would be contrary to the Ministerial Guidelines and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the topography, configuration and exposed coastal location of the site within a Class 4 designated landscape with a landscape sensitivity rating of 'special' and landscape value rating of 'outstanding' as set out in the Galway County Development Plan 2015-2021 the proposed development by reason of its exposed position, scale and design would constitute an inappropriate design response to the existing context of the site and would form an excessively prominent and obtrusive feature in the landscape and would thereby seriously injure the visual amenities of the area. It is considered that the proposal, would negatively affect the visual amenity of this designated landscape, and would therefore be contrary to the reasonable policies and objectives, as contained within the development plan to protect these. It is considered therefore that the proposed development would contravene the policies of the development plan and would be contrary to the proper planning and sustainable development of the area.

3. On the basis of submissions made in connection with the planning application and appeal, the Board is not satisfied that the application has been made in accordance with the requirements of the Planning and Development Regulations 2001, as amended, in that the Board is not satisfied that a dwelling on the site was in existence prior to the carrying out of unauthorised development on the site. In these circumstances, it is considered that the Board is precluded from giving further consideration to the granting of permission for the development.

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Bríd Maxwell

Planning Inspector

21<sup>st</sup> April 2020