



Development

1) Retain and complete partially constructed dwelling house including the lowering of existing roof structure to reduce ridge height. 2) Build new extension to the rear of dwelling house. 3) Construct new effluent treatment system and polishing filter.

Location

Sturrakeen, Omey Island, Co. Galway

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

20496

Applicant(s)

Peter Fitzsimons

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Peter Fitzsimons

Observer(s)

Bernadette Davin

Date of Site Inspection

15th October 2020

Inspector

Colin McBride

1.0 **Site Location and Description**

1.1. The subject site is located in the townland of Sturrakeen on the eastern side of Omey Island, which is connected by a tidal route along the strand from the mainland and Claddaghduff. There is a partly constructed dwelling house well set back on the site, which is accessed via a private lane and gated entrance which connects to the Local Road (L11025) on Omey Island. The new partially completed dormer dwelling is positioned to the east of the site of a former old stone dwelling. It is visible in the landscape across the tidal causeway and from the mainland. There are some single-storey houses on the island to the south east of the site which are less visible in the landscape.

2.0 **Proposed Development**

2.1. Permission is sought to retain and complete partially constructed dwelling house including the lowering of existing roof structure to reduce the ridge height, build a new extension to the rear of the dwelling and construct a new effluent treatment system. The partially constructed dwelling is a two-storey dwelling and is to be retained but altered with a reduced ridge height of 6.35m (single-storey) from its current ridge height of 7.29m. It is proposed to construct a single-storey extension to the rear of 16.665sqm.

3.0 **Planning Authority Decision**

3.1. **Decision**

Permission refused based on one reason...

1. As shown on the plans submitted, the development proposed for retention and completion is different to that previously permitted (Registered references: 06/2831 and (EOD) 11/1713 refer) and the construction of this newly sited dwelling house does not comply with Objective RH06 relative to the replacement of a habitable dwelling or to Objective RH07 relative to the renovation of an existing derelict dwelling/semi-ruinous dwelling. As shown on Map RH02 of the Galway County development Plan 2015-2021 the criteria relative to Objective RH03 – Rural Housing Zone 3 (landscape 3, 4 and 5) and DM Standard 39 (Compliance with landscape

Sensitivity designations – Islands around the coastline have a unique sensitivity) would apply. Having regard to the documentation submitted the applicant has not demonstrated compliance relative to Rural Links or Substantial Rural Housing Need in accordance with this Objective and the definitions applied. The proposed development, which does not cater for locally derived housing needs, would conflict with the policies of the Development plan and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning Report (18/07/20): The planning history noted in that permission was granted for renovation of derelict dwelling on site. The ruins of the existing dwelling on site were demolished as it was deemed unsuitable for renovation and a new dwelling was partially constructed in a different location on site. It is considered that its retention and completion is not in accordance with Objective RH07 or RH06 of the County Development Plan. The dwelling subject to retention is considered to be a new dwelling and subject to Objective RHO3 and there is a need to demonstrate local housing need. The applicant has failed to demonstrate such. Refusal was recommended based on the reason outlined above.

3.3. Prescribed Bodies

3.3.1 None.

3.4. Third Party Observations

3.4.1 Eight submission were received. The issues raised can be summarised as follows...

- All submissions are supportive of the proposed development stating that the reduced scale of the dwelling will not have an adverse visual impact at this location.

4.0 Planning History

4.1 PL07.249327: Permission refused for retention and completion of a partially constructed dwelling house. Refused based on one reason...

1. The development proposed to be retained and completed, in view of its elevated and prominent siting on Omey Island, would break the skyline and be visible from tourist routes including the viewing point from the mainland and is in a highly scenic coastal location in an area of 'Outstanding' Landscape Value Rating as shown on map LCM1, and shown as Class 4 "Special" landscape in the Galway County development plan 2015-2021. As such it would be contrary to Policy LCM 1 which seeks to preserve and enhance the character of the landscape and DM Standard 6 as set out in the said Plan, which seeks to avoid obtrusive locations and provide for assimilation of development into the landscape. Having regard to its prominent siting, it is considered the development proposed to be retained and completed detracts from the character of the landscape and would be contrary to Section 3.3.1 of the "Sustainable Rural Housing Guidelines for Planning Authorities" issued by the Department of the Environment, heritage and Local Government in April, 2005. It is considered that the development proposed to be retained would, therefore, set an undesirable precedent and be contrary to the proper planning and sustainable development of the area.

4.2 11/1713: Extension to duration of permission ref no. 06/2831 granted.

4.3 06/2831: Permission granted to renovate and extend the existing roofless cottage and to install a sewage treatment system and percolation area.

5.0 Policy Context

5.1. Development Plan

The relevant Development plan is the Galway County Development Plan 2015-2021.

Chapter 2 provides the Core Strategy for the County. This includes in Section 2.3 Development Strategy Objectives: Objective DS 6 – Natura 2000 Network and Habitats Directive Assessment.

Section 2.4 provides for the Core Strategy as an integral component of the Spatial Strategy and reference is also made to the Regional Planning Guidelines. S.2.4.8 refers to the Core Strategy and Settlement Hierarchy.

Section 2.6 refers to the Settlement and hierarchy. A Table is provided showing a six tier system. It is noted that the lowest tier of the hierarchy refers to Other Settlements and the Countryside.

Chapter 3 refers to Urban & Rural Housing.

Section 3.7 refers to Single Housing in the Countryside and has regard to the distinction between urban and rural generated housing and the requirement for sustainable rural housing. S.3.8 identifies Rural Area Types – Map RH01 refers – the subject site is located in a Structurally Weak Rural Area. Section 3.8.2 refers and provides the objectives for such areas. This includes: *To protect areas located in Landscape Category 3, 4 and 5.* Map RHO2 shows that Omey Island is located in Zone 3 Landscape Category 3-5. As per Section 3.8.3 the Site is within Rural Housing Zone 3. Objective RHO 3 refers i.e: *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 refers to circumstances relevant to the provision of a Replacement Dwelling.

RHO 7 - Renovation of Existing Derelict Dwelling/Semi Ruinous Dwelling.

RHO 8 - Substantially Completed Single Dwelling.

RHO 9 - Design Guidelines for Single Rural House.

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

Chapter 5 refers to Roads and Transportation.

Chapter 6 includes regard to Wastewater Treatment Systems. Objective WW 5 refers to WWT associated with development in un-serviced areas.

Chapter 9 refers to Heritage, Landscape and Environmental Management Section
Section 9.8 refers to Natural Heritage and Biodiversity and includes regard to Natura 2000 sites. S.9.9 provides the Natural Heritage and Biodiversity Policies and Objectives. NHB 1, NHB2, NHB 3 and NHB 8/10 (protection of coastal zone) are of note. Designated Environmental Sites are provided in Map NHB1.

Landscape Sensitivity categories 1 (low) – 5 (unique), are referred to in S.9.10.2.3. Map LCM1 shows the site is within the High Landscape value rating. Map LCM2 refers to Landscape Sensitivity and shows the site is included within the Class 4 – Special area.

Chapter 13 provides the Development Management Standards and Guidelines. DM Standard 1 refers to Qualitative assessments for urban and rural area. This includes reference to the DoEHLG Sustainable Rural Housing Guidelines 2005. Section 13.4 provides the Rural Residential Considerations and includes DM Standard 5 relative to Rural Housing need and DM Standard 6: Assimilation of Development into Landscape and DM Standard 8 relative to Landscaping.

DM Standard 20: Sight Distances Required for Access onto National, Regional & Local Roads.

5.2. **The Sustainable Rural Housing Guidelines 2005**

This seeks to encourage and support appropriate development at the most suitable locations. Section 3.2.3 concerns Rural Generated Housing and gives an example of Persons who are an intrinsic part of the rural community and Persons working full-time or part-time in rural areas. Appendix 3 provides details of NSS Rural Area Types. Section 3.3 is concerned that the consideration of individual sites will be subject to normal siting and design considerations. These include the following:

- Any proposed vehicular access would not endanger public safety by giving rise to a traffic hazard.
- That housing in un-serviced areas and any on site wastewater disposal systems are designed, located and maintained in a way, which protects water quality.
- The siting of the new dwelling integrates appropriately into its physical surroundings.
- The proposed site otherwise accords with the objectives of the development plan in general.

Section 4.4 is concerned with Access and regard is also had to Roadside Boundaries.

5.3. **Code of Practice Wastewater Treatment Disposal Systems serving Single Houses**

This document (2009) by the EPA relevant to single houses (p.e <10). The objective is to protect the environment and water quality from pollution and it is concerned with site suitability assessment. It is concerned with making a recommendation for selecting an appropriate on site domestic wastewater treatment and disposal system if the site is deemed appropriate subject to the site assessment and characterisation report. The implementation of the Code is a key element to ensure that the planning system is positioned to address the issue of protecting water quality in assessing development proposals for new housing in rural areas and meeting its obligations under Council Directive (75/442/EEC).

5.4. **EU Water Framework Directive**

The purpose of the EU Water Framework Directive (WFD) 'is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater.

5.5. **EU Habitat Directive**

The aim of the EU Habitat Directive is 'to contribute towards ensuring bio-diversity through the conservation of natural habitats and of wild fauna and flora in the European territory of the Member States to which the Treaty applies'.

5.6 Natural Heritage Designations

Omey Island Machair SAC (Site Code 001309) to the north, east and west and 100m away at its nearest point.

West Connaught Coast SAC (Site Code 002998) to the south (550m).

Inishboffin, Omey Island and Turbot Island SPA (Site Code 004231) 200m to the south of the site.

5.7 EIA Screening

5.7.1 In regard to the nature and scale the development which consists of the construction a mixed use development and associated site works 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 A first party appeal has been lodged by S. Hannify & Associates Consulting Engineers on behalf of Peter Fitzsimons. The ground of appeal are as follows...

- The appellant refers to ref no. 17/1037 under which the Council granted permission for retention and completion of the partially constructed dwelling subject to this appeal. It is noted the issue of housing need did not arise in this case and it was subsequently refused on appeal (PL07.249327) on the basis of visual impact/scale. The Council accepted the principle of the development in that case without a requirement to demonstrate housing need.
- It is noted that to refuse permission for the proposal on the grounds of local needs is at odds with the previous assessment of the proposal on site under the same adopted County Development Plan (2015-2021). It is also stated that Boards Assessment of PL07.249327 does not make any reference to housing need with it presumed that this is not an issue in this case.

- The current proposal has been altered with the ridge height to be lowered to address the reason for refusal under PL07.249327. The reduction in ridge height is significant and will have a lesser visual impact that will be acceptable in regards to visual impact and landscape character. Photomontages included in the appeal submission.

6.2. Planning Authority Response

6.2.1 No response.

6.3. Observations

6.3.1 Observation by Bernadette Davin, Claddaghduff, Clifden, Co. Galway.

- The proposal would be contrary Development Plan policy having regard to its prominent location and visual impact in an area designated as being special and sensitive in relation landscape character. The proposal would be visual intrusive and would have a significant impact on the visual amenities of the area. The proposal would contravene a previous decision by the Board under PL07.249327.
- The applicant has failed to demonstrate compliance with development Plan policy requirements regarding local housing need.
- The poor drainage characteristics of the site would pose an unacceptable risk of pollution.

7.0 Assessment

7.1. Having inspected the site and the associated documents the relevant issues are as follows...

Compliance with Development Plan policy

Visual Impact/landscape character

Wastewater treatment

7.2 Compliance with development Plan policy:

7.2.1 The proposal is for a dwelling, detached garage, wastewater treatment system and ancillary site works in the rural area of Galway. The proposal was refused on the basis that the applicant has not demonstrated a local housing need in compliance with Objective RH03 (Rural Housing Zone 3, Landscape Category 3, 4 and 5).

7.2.2 The appellant is of the view that previous assessments of the proposals and permissions granted at this location have been on the basis that the applicant did not require to demonstrate a local housing need and are on the basis of Objective RHO 6 and RHO 7, and that the requirement to demonstrate such in the current proposal is inappropriate and fails to take into account previous assessment of this issue. The history of site is that there were the ruins of a dwelling on the appeal site. The applicant got permission to renovate and extend the existing roofless cottage under ref no. 06/2831. The duration of this permission was extended under ref no. 11/1713. It transpired that the existing ruins were not of sufficient condition to be renovated. The ruins were demolished and the appellant constructed a dwelling (partially constructed) on site positioned further east on site. This dwelling is subject to the proposal for retention, completion, alteration and extension. The history indicates that the Planning Authority granted permission for retention and completion of the dwelling (17/1037), which was subsequently refused on appeal under ref no. PL07.249327 solely on basis of visual impact.

7.2.3 The appellant's contention is that the requirement for demonstration of compliance with local needs under Objective RHO3 was not raised as an issue under previous assessment of the proposal by Galway County Council or the subsequent decision by An Bord Pleanála with the refusal reason only relating to visual impact. The appellant noted that the alterations deal with the issue of visual impact and the issue of rural housing need should not be a factor with the principle of the proposed

development established by the planning history. The appellant is correct that the Council in assessing ref no. 17/1037 did not raise rural housing need as an issue and that the Board in refusing permission did not refuse permission on this basis. I would however disagree that rural housing need is not a relevant consideration in this case and I would also note that the reporting Inspector under ref no. PL07.249327 did raise this as an issue and recommended refusal on the basis of non-compliance with rural housing policy and specifically Objective RH03.

7.2.4 The original permission granted on site was on the basis of renovating and extending a derelict dwelling (roofless). It appears that at time the applicant wished to start work the condition of the existing dwelling was not capable of being renovated and the only option would have been construction of a new dwelling. The appellant chose to clear the ruins of the existing dwelling construct a new dwelling on an alternative footprint without the benefit of a new planning permission. The appellant is now seeking permission for retention, completion, alteration and extension of this partially constructed dwelling. This is a new dwelling and must be assessed in the context of Development plan policy. Even when considered in the context of the former ruinous dwelling on site, the proposal for retention of new dwelling does not comply with development plan policy. Firstly Objective RHO7 relating to renovation of existing derelict dwelling/semi-ruinous dwelling does not apply as the proposal is a new dwelling with the former dwelling clearly not of sufficient structural condition to be renovated based on the information on file. Objective RH06 relates to replacement dwellings and states that “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 will not be subject to an enurement clause”. The case for replacement dwelling also does not apply in this case as the existing dwelling on site was not a habitable dwelling and was the ruins

of old cottage with no roof. The proposal for retention and completion is for a new dwelling and the fact that were former ruins of dwelling on site do not alter consideration of the proposal.

7.2.5 Given the dwelling is a new dwelling and is neither a renovation of an existing dwelling (RH07) or a replacement dwelling (RH06), there is the requirement for demonstration of compliance with local needs under Objective RHO3. Under this objective there is a requirement to demonstrate Rural Links and to submit a substantiated rural housing need. The definition of both is outlined in the planning policy section above. In this case the applicant has not demonstrated compliance relative to Rural Links or Substantial Rural Housing Need in accordance with this Objective and the definitions applied. The proposed development, which does not cater for locally derived housing need, would conflict with the policies of the Development Plan and would be contrary to the proper planning and sustainable development of the area.

7.3 Visual impact landscape character

7.3.1 The previous proposal for retention and completion under appeal ref no. PL07.249327 was refused on the basis that the proposal would have an unacceptable and visually obtrusive impact at a sensitive landscape location. The current proposal has sought to address this reason for refusal by altering the scale of the dwelling for retention and completion and reducing the ridge height from its current height of 7.25m to 6.35m and converting the dwelling from a two-storey to a single-storey dwelling. The appeal site is located in an area of 'Outstanding' Landscape Value Rating as shown on map LCM1, and shown as Class 4 "Special" landscape in the Galway County Development plan 2015-2021.

7.3.2 The dwelling for completion and retention is located on an elevated part of the site and one of the highest points on the Island with the existing structure highly visible, obtrusive both from the mainland area the beach road and the Island itself. The proposal to alter the ridge height and scale of the dwelling is a significant change

and is certainly an improvement over the existing arrangement. The applicant/appellant has submitted photos and indicates that the altered dwelling has a similar scale and impact to the ruins of the former dwelling on site. I would refer back to the previous section of this report. The proposal is for a new dwelling and its relationship with the former dwelling on site as factor for consideration is not relevant. The visual impact of the proposed dwelling should be considered on its merits.

7.3.3 I would acknowledge that the alterations proposed would reduce the overall visual impact of the dwelling on site, however I would still note that such is sited at an elevated and prominent location and would have a significant and obtrusive visual impact in an area designated of 'Outstanding' Landscape Value Rating as shown on map LCM1, and shown as Class 4 "Special" landscape in the Galway County Development plan 2015-2021. I would consider that the development proposed to be retained and completed, in view of its elevated and prominent siting on Omev Island, would still break the skyline and be visible from tourist routes including the viewing point from the mainland and is in a highly scenic coastal location in an area of 'Outstanding' Landscape Value Rating as shown on map LCM1, and shown as Class 4 "Special" landscape in the Galway County development plan 2015-2021. As such it would be contrary to Policy LCM 1 which seeks to preserve and enhance the character of the landscape and DM Standard 6 as set out in the said Plan, which seeks to avoid obtrusive locations and provide for assimilation of development into the landscape. Having regard to its prominent siting, it is considered the development proposed to be retained and completed detracts from the character of the landscape and would be contrary to Section 3.3.1 of the "Sustainable Rural Housing Guidelines for Planning Authorities" issued by the Department of the Environment, heritage and Local Government in April, 2005. It is considered that the development proposed to be retained would, therefore, set an undesirable precedent and be contrary to the proper planning and sustainable development of the area.

7.4 Wastewater treatment:

7.4.1 The Site Layout Plan submitted shows the location of the proprietary wastewater treatment system to the south of the partially constructed dwelling. It is noted that a Site Characterisation Form has not been submitted with the current application. It is proposed to install the proposed a proprietary wastewater treatment system in the location approved under the previous permission. It is provided that all tanks, filters etc. will be installed in accordance with the EPA Code of Practice.

7.4.2. The observer has expressed concerns about the poor drainage characteristics of the site which have significant rock out cropping throughout and in particular having regard to the location of the wwts up gradient and in reasonable close proximity to the island's only potable water supply, Fahy Lough. They are concerned that it would pose an unacceptable risk of pollution to the island's fresh water supply and be prejudicial to public health. The AA Screening Report submitted and provides that there is no significant impact based on the proper installation and maintenance of sewage treatment system according to EPA regulations. They also note that Fahy Lough is approx. 250m to the west of the proposed development and having regard to compliance with the above provide that the ground waters in the area and Fahy Lough will be protected.

8.0 **Appropriate Assessment:**

8.1 An Ecological Assessment and Appropriate Assessment Screening Report has been submitted. It is noted that the site is not located within any designated Natura 2000 site. However, it is surrounded to the north, east and west by Omey Island Machair SAC (site code: 001309) which is a 100m at its nearest point and West Connaught Coast SAC (002998) to the south (500m). A section of the Inishbofin, Omey Island and Turbot Island SPA(004231) occurs 200m to the south of the site. The overlapping nature of these Natura 2000 sites is noted.

8.2 Section 2.0 of the Report has regard to Desk and Field Surveys carried out and provides a description of the site and the habitats and ecology in the area. Section 2.1.3 provides details of the designated sites in the zone of influence. Any potential

for the proposed development to have an effect on these European sites is outlined. For Omev Island Machair SAC the qualifying interests are *Machairs, Hard Water Lakes and Petalwort* and for West Connaught Coast SAC it is the *Common Bottlenose Dolphin*. In regard to Inishbofin, Omev Island and Turbot Island SPA the qualifying interest is the *Corncrake*. It is noted that there will be no direct effect as the development is located entirely outside the designated site. Potential pathways for indirect effects on the Qualifying Interests were identified in the form of deterioration of surface water quality resulting from pollution, associated with the construction and operational phase of the development and potential for some habitat loss proximate to the former.

- 8.3. It is provided that while there may be a short term slight negative effect during construction phase no significant effects are envisaged during operational phase. Also that there will be no negative impact on the water quality of ground and surface water subject to best practice measures being implemented. During operational phase in accordance with Best Practice there should be no significant impact based on the proper installation and maintenance of the sewage treatment systems according to the EPA regulations. The overall conclusion of the AA Screening Report is that there will be no adverse effects as a result of the proposed development, in view of best scientific knowledge and on the basis of objective information, either individually or in combination with other plans or projects on the conservation objectives or overall integrity of any European Site.
- 8.4. It is 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 Sites: Omev Island Machair SAC (site code: 001309), the West Connaught Coast SAC (002998) and the Inishbofin, Omev Island and Turbot Island SPA(004231) or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

9.0 Recommendation

9.0 I recommend refusal based on the following reason...

10.0 Reasons and Considerations

1. The proposed development for retention and completion is different to that previously permitted (ref no. 06/2813 and extension for duration granted under ref no. 11/1713) and the construction of this newly sited dwelling house does not comply with Objective RH06 relative to the replacement of a habitable dwelling or to Objective RH07 relative to renovation of an existing derelict dwelling/semi/ruinous dwelling. As shown on Map RH02 of the Galway County development Plan 2015-2021 the criteria relative to Objective RH03 – Rural Housing Zone 3 (Landscape 3, 4 and 5) and DM Standard 39 (Compliance with landscape Sensitivity Designations – Islands around the coastline have a unique sensitivity) would apply. Having regard to the documentation submitted the applicant has not demonstrated compliance relative to Rural Links or Substantial Rural Housing Need in accordance with this Objective and the definitions applied. The proposed development, which does not cater for locally derived housing need, would conflict with the policies of the Development plan and would be contrary to the proper planning and sustainable development of the area.

2. The development proposed to be retained and completed, in view of its elevated and prominent siting on Omey Island, would break the skyline and be visible from tourist routes including the viewing point from the mainland and is in a highly scenic coastal location in an area of ‘Outstanding’ Landscape Value Rating as shown on map LCM1, and shown as Class 4 “Special” landscape in the Galway County development plan 2015-2021. As such it would be contrary to Policy LCM 1 which seeks to preserve and enhance the character of the landscape and DM Standard 6 as set out in the said Plan, which seeks to avoid obtrusive locations and provide for assimilation of development into the landscape. Having regard to its prominent siting, it is considered the development proposed to be retained and completed detracts from the character of the landscape and would be contrary to Section 3.3.1 of the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the

Department of the Environment, heritage and Local Government in April, 2005. It is considered that the development proposed to be retained would, therefore, set an undesirable precedent and be contrary to the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

20th November 2020