



An  
Bord  
Pleanála

## Inspector's Report ABP-307992-20.

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<b>Development</b>	Permission for house.
<b>Location</b>	Townland of Coolagh, Briarhill, Galway.
<b>Planning Authority</b>	Galway City Council.
<b>Planning Authority Reg. Ref.</b>	20/146.
<b>Applicant(s)</b>	Amy Molloy.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Amy Molloy.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	13/10/2020.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The subject site is located in the townland of Coolagh, approximately 5km to the east of the City of Galway. The site lies to the north of the Ardaun Local Area Plan designated area. It is a greenfield site which is accessed via the N6 from Galway City and over the R339, before the local road, which is a cul-de-sac. The site lies outside the line of the N6 Galway Ring Road. The M6 lies to the south of the site.
- 1.2. The road leading to the subject site, off the Regional Road, and zoned R1 Light Residential, in the City Development Plan, comprises a significant ribbon of one-off housing. The Board will note that the zoning changes to the east of the ribbon of development and where the subject site is, the development is less concentrated and sparse. The area includes a number of agricultural buildings.
- 1.3. The site has a stated area of 0.231ha and is currently under grass and used for grazing cattle. The roadside boundary comprises a dry-stone wall and the site as proposed, comprises part of a much larger field.

## 2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for development which will consist of a single dwelling house, domestic garage, proprietary effluent treatment system, percolation area and all associated site services, all at Townland of Coolagh, Briarhill, Galway.
- 2.2. The application included a number of supporting documents including as follows:
  - Plans, particulars and completed planning application form
  - Cover letter which sets out all of the documentation presented to establish the applicants local ties to the area.
  - A Site Characterisation Report and details of the proposed WWTP to be installed.
- 2.2.1. The proposed house comprises a two-storey dwelling with a stated floor area of 220m<sup>2</sup> and a garage with a floor area 60m<sup>2</sup>. The house proposes 4 double bedrooms and is to be served by a proprietary wastewater treatment system.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority decided to refuse planning permission for the proposed development for the following stated reason:

The site is zoned land use zoning objective LAP – Local Area Plan for Ardaun and Murrough under the current City Development Plan 2017-2023. The Ardaun Local Area Plan 2018-2024 sets out the vision, development strategy and policies of the sustainable development of Ardaun as a people and business friendly urban village, well connected with greater city and environs, where a sustainable framework for private and public investment is available. It is considered that the development which will consist of a single dwelling house, domestic garage, proprietary effluent treatment system, percolation area and all associated site services would be contrary to the vision, development strategy and policies of the Ardaun Local Area Plan, and contrary to Policy 10.5 Ardaun of the City Development Plan, which states that it is the policy of the Council to develop the overall area of Ardaun in a strategic and co-ordinated manner that will contribute to the integration of land use, urban form and structure, transportation, and natural heritage to create a sustainable living environment. The proposed development, would if permitted, set an undesirable precedent for similar developments in the area and would therefore be contrary to the proper planning and sustainable development of the area.

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

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

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports and the City Development Plan policies and objectives. The report also includes no Appropriate Assessment Screening Report.

The Planning Report concludes that proposed development is not acceptable on the basis that would be contrary to the vision, development strategy and policies of the

Ardaun Local Area Plan, and contrary to Policy 10.5 Ardaun of the City Development Plan. The Planning Officer recommends that permission be refused for the proposed development, for reason as stated above in Section 3.1 of this report.

This Planning Report formed the basis of the Planning Authority's decision to refuse planning permission.

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

**Transportation Department:** No objection subject to compliance with conditions.

**Environment & Climate Change Section:** Further information required in relation to site suitability and details of the proposed infiltration system to be used. In addition, details of wells on neighbouring properties, if any, are required to be identified. Finally, issues are raised with the Aquifer category and Groundwater Protection Response as presented in the Site Characterisation Form.

### 3.2.3. **Prescribed Bodies**

None

### 3.2.4. **Third Party Submissions**

None

## 4.0 **Planning History**

None

## 5.0 **Policy and Context**

### 5.1. **National Planning Framework – Project Ireland 2040, DoHP&LG 2018**

5.1.1. The subject site lies within the rural, unserviced area around Galway City, and is covered by a Local Area Plan.

5.1.2. The National Planning Framework – Project Ireland 2040 is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF

that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas.

5.1.3. National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations. In rural areas elsewhere, it refers to the need to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.1.4. The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. A number of key policy objectives are noted as follows:

- National Policy Objective 33 seeks to “prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”.
- National Policy Objective 35 seeks “to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.

5.1.5. National Planning Objective 13 provides that “in urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

## **5.2. Sustainable Rural Housing Development Guidelines 2005**

5.2.1. The Rural Housing Guidelines seek to provide for the housing needs of people who are part of the rural community in all rural areas and makes a distinction between 'Urban Generated' and 'Rural Generated' housing need. Chapter 4 of the guidelines

relates to rural housing and planning applications and states that in areas under significant urban influence, applicants should outline how their proposals are consistent with the rural settlement policy in the development plan. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply, including 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

- 5.2.2. The Guidelines further require that new houses in rural areas be sited and designed in a manner so as to integrate well with their physical surroundings and generally be compatible with water protection, roads, traffic and public safety as well as protecting the conservation of sensitive areas.

### 5.3. **Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):**

- 5.3.1. These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:

- quality homes and neighbourhoods,
- places where people actually want to live, to work and to raise families, and
- places that work – and will continue to work - and not just for us, but for our children and for our children's children.

- 5.3.2. The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.

- 5.3.3. Section 5.11 of the guidelines deal with Outer Suburban / 'greenfield sites and such lands are described as being open lands on the periphery of cities or larger towns whose development will require the provision of new infrastructure, roads, sewers and ancillary social and commercial facilities, schools, shops, employment and community facilities. It is advised that the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities, involving a variety of housing types

where possible, should be encouraged generally. Development at densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5ha.

- 5.3.4. Chapter 6 of the guidelines also deals with Small Towns and Villages and specifically advise that development in smaller towns and villages must be plan led, and while higher densities are appropriate in certain locations, proposals for lower densities of development may be considered acceptable at locations on serviced land within the environs of the town or village in order to offer people, who would otherwise seek to develop a house in an unserviced rural area, the option to develop in a small town or village where services are available and within walking and cycling distance.

#### 5.4. **Development Plan**

- 5.4.1. The Galway City Development Plan 2017 – 2023, is the relevant policy document relating to the subject site.
- 5.4.2. The site is located within the LAP area for Ardaun and Murrough, 2018-2024, which was adopted by the members of Galway City Council on the 9<sup>th</sup> April 2018, and it came into effect on the 7<sup>th</sup> of May 2018, following a public consultation period. The LAP complements the implementation of the CDP and Policy 10.5 Ardaun of the City Development Plan states that ‘it is the policy of the Council to develop the overall area of Ardaun in a strategic and co-ordinated manner that will contribute to the integration of land use, urban form and structure, transportation, and natural heritage to create a sustainable living environment.’ The development strategy for the LAP is described as being fourfold including as follows:
- An urban design framework
  - A land use strategy
  - A development phasing approach and
  - Key objectives.
- 5.4.3. In the context of the LAP, the subject site is zoned ‘R’ residential, and high-density residential development, parcel no. 15 in Ardaun North Development Phase 2. The LAP notes that in order to achieve an urban village and promote sustainable densities, making efficient use of infrastructure, sustains local services and public

transport services, densities for the lands within parcel no. 15 are to be between 35-50 houses per ha. The road to the west of the site is also affected by a specific objective to provide a new road and primary cycle and pedestrian network.

- 5.4.4. Ardaun is identified as a key growth area in the City Development Plan 2017-2023 and is capable of delivering up to 4,640 homes and accommodating a population of up to 12,621. Ardaun is designated by central government as a Major Urban Housing Delivery Site under Rebuilding Ireland - an Action Plan for Housing and Homelessness.

## 5.5. **Natural Heritage Designations**

The site is not located within any designated site. The closest Natura 2000 site is the Galway Bay Complex SAC (& pNHA) (Site Code: 000268) and the Inner Galway Bay SPA (Site Code: 004031) which are located approximately 2.4km to the south of the site. Lough Corrib SAC (& pNHA) (Site Code: 000297) is located approximately 5.2km to the west.

The Kiltullagh Turlough pNHA, (Site Code 000287), is located approximately 2.1km to the north of the site.

## 5.6. **EIA Screening**

Having regard to nature and scale of the development, together with the brownfield nature of the site, 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

This is a first party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development. The issues raised are summarised as follows:

- The letter from the applicants' father sets out the circumstances of the applicant.
- The CDP never envisaged to preclude 7<sup>th</sup> generation of a family from obtaining planning permission on their own lands.
- This is the only opportunity for the applicant to secure a mortgage.
- The proposed development complies with all of the goals of the Development Plan and LAP
- LAPs must take account of the provisions of the PD(A)A 2010 and are subject to the Core Strategy of the CDP. The blanket exclusion from granting one-off housing would be contrary to proper planning and would be an infringement on the constitutional property rights for the landowner.
- This is an exceptional case and should be treated as such.
- The proposed development is in keeping with existing dwellings in the area and the roadway will be retained within any future LAP for the Ardaun area.
- The LAP has been in existence since 2012 with the current plan running from 2018-2024. There has been no development in relation to the plan to date.
- The Ardaun landbank comprises approximately 164ha and the draft proposal is to provide for 8,000 dwellings over the next 5 years.
- The infrastructure to service such development cannot be achieved within that timescale and a more realistic target would be the provision of 1,000 dwellings.
- The applicant should not be at a loss as a result of the PAs delay in their statutory obligations.

- As the only point of refusal relates to the LAP, the PA has acknowledged compliance with all matters including housing need.

It is requested that the development be permitted.

## 6.2. Planning Authority Response

The Planning Authority responded to the first party appeal advising as follows:

- Given the zoning afforded to the site under the current City Development Plan, the type of development proposed was never open for consideration, where A zoned lands was to provide for the development of agriculture and to protect the rural character, providing for residential development for immediate family members of farmers / landowners residing in the area.
- The CDP underlines the importance to safeguard these strategic greenfield sites from piecemeal and sporadic development which may undermine the potential of the sites to deliver the Core Strategy and impinge on the preparation of sustainable and holistic framework for the future development as afforded by the LAP.
- The Ardaun LAP is a central tenet of strategic planning policy for Galway City at national, regional and metropolitan level.
- The Regional Spatial and Economic Strategy 2020-2032 identifies Ardaun as a strategic location to meet the NPF growth targets.
- The northern area of the LAP, phase 2, it is envisaged that an estimated 2,005-2,660 residential units can be delivered with a population delivery of 5,454-7,235 people.
- The submitted proposal does not comply with the strategic goals and policies of the CDP, informed by the NPF and RSES. The development of a one-off house would not comply with Policy 10.5 Ardaun of the CDP.
- The roadway referenced services Coolagh Village and existing agricultural lands.
- The implementation of the Ardaun LAP is subject to an adopted monitoring regime and is a designated Major Urban Housing Delivery Site (MUHDS) by

DHPLG and is subject to the Housing Delivery Office Pathfinder comprehensive monitoring system.

- The LAP can be extended beyond its six year life span as prescribed by Section 19(d) of the Planning and Development Act 2000 as amended.
- It is acknowledged that infrastructural projects need to be advanced in order to support the phased delivery of the LAP including transport and water / wastewater services.
- Work is progressing with relevant stakeholders including works to upgrade the Martin Roundabout to multi-modal signalised junction, phase 1 section, have been delayed due to the pandemic, and Irish Water Local Network Reinforcement Project (LNRP).
- Active land management with stakeholders is also being pursued.

It is requested that the Council's decision be upheld.

### 6.3. **Observations**

None.

## 7.0 **Assessment**

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development & Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards
2. Site Suitability Issues
3. Other Issues
4. Appropriate Assessment

**7.1. Principle of the development & Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards:**

- 7.1.1. The subject site lies in the rural area and approximately 5km to the east of Galway City. Under the Galway City Development Plan 2017-2023, the land is zoned 'A' Agricultural where it is the stated objective to provide for a limited type of residential development, where unless a convincing case of need is established, dwellings will not be granted except to the immediate members of families (ie. sons or daughters) of persons who are householders and residing in the immediate area and to farmers and the immediate members of their families. It is noted that the area is not currently served by a public sewer and if permitted, the development will require the installation of a private wastewater treatment system.
- 7.1.2. In addition to the above, the CDP identifies Ardaun in terms of an Area Based Plan and in this regard the Board will note that the subject site is affected by the Local Area Plan for Ardaun and Murrough 2018-2024. The LAP covers an area of 164ha of greenfield land and is identified as a key growth area in the City Development Plan, capable of delivering up to 4,640 homes and accommodating a population of up to 12,621. The site, under the LAP, is zoned for high density residential development, and came into effect on the 7<sup>th</sup> of May 2018.
- 7.1.3. In terms of compliance with the CDP the Board will note that the applicants' father has submitted a letter in support of his daughters' application for a house on the subject site. I note that the applicants' parents reside approximately 6km from the landholding, in Renmore, but that he has farmed the land with his mother since he was 15 years old. I also note that the submitted landholding map identifies house 'B' as the original family home. I am unclear if this is the applicants' grandparents' home, or if she lived here with her family until they moved to Renmore. It is not clear when they moved to Renmore, but I would accept the bone fides of the information submitted in support of the application. The landholding map submitted suggests that the family landholding in this area extends to approximately 4ha.
- 7.1.4. In the context of the National Planning Framework, I consider it necessary to assess the application in terms of National Policy Objective 19. Objective 19 of the National Planning Framework seeks to ensure that in rural areas under urban influence, the provision of single housing in the countryside will be 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. While I would accept that the applicant has provided evidence to suggest that she has strong local links to the area, I am satisfied that the economic need to live on the subject site relates to a mortgage application rather than an demonstrable need to reside there.

- 7.1.5. In terms of the CDP 'A' Agricultural zoning, it is the stated objective to provide for a limited type of residential development, where unless a convincing case of need is established, dwellings will not be granted except to the immediate members of families (ie. sons or daughters) of persons who are householders and residing in the immediate area and to farmers and the immediate members of their families. I note that the farmer – the applicants' father – does not live in the immediate area and in this regard, I am not satisfied that the proposed development would comply with this zoning objective.
- 7.1.6. In addition to the CDP, the Board will note that the site is covered by the Local Area Plan for Ardaun and Murrough 2018-2024. CDP Policy 10.5 Ardaun of the City Development Plan states that 'it is the policy of the Council to develop the overall area of Ardaun in a strategic and co-ordinated manner that will contribute to the integration of land use, urban form and structure, transportation, and natural heritage to create a sustainable living environment.' Ardaun is identified as a key growth area in the City Development Plan 2017-2023 and is capable of delivering up to 4,640 homes and accommodating a population of up to 12,621. Ardaun is designated by central government as a Major Urban Housing Delivery Site under Rebuilding Ireland - an Action Plan for Housing and Homelessness.
- 7.1.7. The subject site is zoned 'R' high -density residential development, parcel no. 15 in Ardaun North Development Phase 2. The LAP notes that in order to achieve an urban village and promote sustainable densities, making efficient use of infrastructure, sustains local services and public transport services, densities for the lands within parcel no. 15 are to be between 35-50 houses per ha. The road to the west of the site is also affected by a specific objective to provide a new road and primary cycle and pedestrian network.
- 7.1.8. The planning authority refused planning permission for the development primarily because a grant of permission for a single dwelling house would be contrary to the

vision, development strategy and policies of the Ardaun LAP, as well as non-compliance with Policy 10.5 Ardaun in the City Development Plan. Notwithstanding the first party submission, I find it difficult to argue with the PA reasoning. Certainly, I would consider that a grant of planning permission as proposed would be premature pending the delivery of strategic infrastructure in the LAP area, would set an undesirable precedent for similar type developments in this area and would prevent the delivery of the policies and objectives of the Ardaun LAP. In this regard, I consider that the development would be contrary to the proper planning and sustainable development of the area.

## **7.2. Site Suitability Issues**

- 7.2.1. In terms of site suitability, the Board will note that the Environment Section of Galway City Council required further information in relation to the proposed development and a number of discrepancies noted in the Site Characterisation Report submitted with the application. It is intended to install a Eurotank Wastewater Treatment system to service the proposed dwelling which will discharge to a raised percolation area. The plans submitted suggest otherwise. It is also noted that the house is to be serviced via a new connection to the public water main.
- 7.2.2. The Site Assessment Report notes that the bedrock was encountered in the trial pit at 1.9m bgl, while the water table was not encountered or identified at this level. The assessment identifies that the site is located in an area where there is a Groundwater Protection Scheme and categorises the site as being a regionally important aquifer (Rk) with extreme vulnerability. A Groundwater Protection Repeal of R2<sup>1</sup> is indicated and this is questioned by the Environment Section of Galway City Council. The topsoil is described as limestone till with subsoil being gravel / sand / clay. The bedrock type is 'pale grey clean skeletal limestone. CDBURR Burren Formation'.
- 7.2.3. \*T tests were carried out on the site at 800mm bgl, yielding an average value of 61.67, and a \*T result of 15.92. \*P tests were also carried out at the site at a level of 0.4m bgl, yielding an average value of 39.00 and a \*P result of 9.86. The report concludes, recommending a packaged wastewater treatment system and a raised percolation area. The system will discharge to groundwater at a hydraulic loading rate of 10l/m<sup>2</sup>.d.

7.2.4. Should the Board be minded to grant planning permission in this instance, and having regard to the information presented, I consider that the concerns raised by the Environment Section of Galway City Council should be addressed. Overall however, I am generally satisfied that the issue of site suitability has been adequately assessed.

### 7.3. **Other Issues**

7.3.1. Visual Impact: The proposed development seeks to construct a traditional style, 5 bay, two storey house with 4 double bedrooms. The house proposes an overall height of 8.37m and a floor area of 220m<sup>2</sup>. A detached double garage is also proposed. I have no objection to the proposed development in terms of visual impacts.

7.3.2. Roads & Traffic: I have no objections to the proposed development in terms of roads and traffic issues.

7.3.3. Development Contribution: The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

7.3.4. Other: The Board will note that the first party has submitted the opinion that the interpretation that the LAP provides for a blanket exclusion from the granting of one-off housing applications is an infringement on constitutional property rights. It is requested that the proposed development be treated as an exceptional case. Having considered this submission, I would advise that I have fully considered the proposed development in terms of both National and local policy frameworks.

### 7.4. **Appropriate Assessment**

The site is not located within any designated site. The closest Natura 2000 site is the Galway Bay Complex SAC (& pNHA) (Site Code: 000268) and the Inner Galway Bay SPA (Site Code: 004031) which are located approximately 2.4km to the south of the site. Lough Corrib SAC (& pNHA) (Site Code: 000297) is located approximately

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects,

would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

## 8.0 Recommendation

I recommend that planning permission be refused for the proposed development for the following stated reason.

## 9.0 Reasons and Considerations

The Board considered that the site is located within a rural and unserved area of Galway City, on lands zoned 'A' where it is the stated objective to provide for a limited type of residential development. In addition, the site is located within the Local Area Plan for Ardaun and Murrough under the current City Development Plan 2017-2023. The Ardaun Local Area Plan 2018-2024 sets out the vision, development strategy and policies of the sustainable development of Ardaun as a people and business friendly urban village, well connected with greater city and environs, where a sustainable framework for private and public investment is available. The site is zoned for high density residential development, parcel no. 15 in Ardaun North Development Phase 2, with a density of between 35-50 houses per ha.

The Board considered that the development of a single dwelling house, domestic garage, proprietary effluent treatment system, percolation area and all associated site services, would be contrary to the vision, development strategy and policies of the Ardaun Local Area Plan 2018-2024, contrary to Policy 10.5 Ardaun of the City Development Plan 2017-2023. The proposed development would set an undesirable precedent for similar developments in the area and would therefore be contrary to the proper planning and sustainable development of the area.

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A. Considine  
Planning Inspector  
19<sup>th</sup> November 2020