



An
Bord
Pleanála

Inspector's Report ABP-312662-22

Development	Removal of mobile home and outline permission for dwelling with all ancillary site works
Location	Glynsk, Cashel, Co. Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	212078
Applicant(s)	Maureen Keane.
Type of Application	Outline Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Maureen Keane.
Observer(s)	None.
Date of Site Inspection	6 th October 2022.
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. This appeal relates to a remote coastal site in Connemara, Co Galway. The site is in the Gaeltacht within the townland of Glinsk, Cashel and overlooks Bertragboy Bay to the north. The site is approximately 6.3km as the crow flies to the southeast of Roundstone and circa 6km north of Carna. The site takes its access from the termination of a cul de sac off a local road lying to the west of the Regional Road R340.
- 1.2. The site has an area of approximately 0.2 hectares and incorporates an elongated access laneway of approximately 100m in length while the main body of the site is roughly rectangular in shape and is currently occupied by a mobile home structure. According to documentation on file the mobile home has been in situ since the 1990s. The site is landscaped and the mobile home is evidently inhabited with connections to mains water supply, electricity and is served by a septic tank. The site slopes northwards and enjoys fine views over Bertragboy Bay to the north.

2.0 Proposed Development

- 2.1. The application involves removal of the mobile home 40sq.m and construction of a dwelling with attic level accommodation utilising existing services and all ancillary works. Documentation submitted includes plans for a dormer type dwelling 183sq.m to be sited at the location of the mobile home to be removed.

3.0 Planning Authority Decision

3.1. Decision

By order dated 11th January 2022 Galway County Council issued notification of the decision to refuse outline permission for the following reasons:

“1. It is considered that the proposed development, by reason of its siting on this elevated and exposed site and the proposed long driveway to it, would represent disorderly development in an un serviced and high sensitivity Class 3 rural landscape. It is considered that the proposed development, would if permitted result

in a haphazard arrangement which would not fit appropriately or integrate effectively into this setting by way of disorderly development. Furthermore, the proposed house would contravene materially Objective RHO9, Objective LCM 1, Objective LCM 2 and DM standard 6 contained in the Galway County Development Plan, 2015-2021. Accordingly to grant the proposed development would interfere with the character of the landscape and pattern of development in this area, would detract from the visual and general amenity of this exposed and coastal location, would militate against the preservation of the rural environment, would contravene materially a development objectives and a development management standard contained in the current county development plan, would set an undesirable precedent for similar future development in the area and therefore would be contrary to the proposed planning and sustainable development of the area.

2. The proposed development is located in a Class 3 'High Sensitivity' Rural Landscape, where housing needs are restricted to essential residential needs of local persons who have established intrinsic links to the rural area and wish to develop their first family home within the community in which they have long standing connections during their formative years. Having regard to requirements of Objective RHO3 and DM Standard 39 of the Galway County development Plan 2015-2021, the planning authority is not satisfied that the applicant complies with the standard set out in the aforementioned criteria. Accordingly to grant the proposed development would contravene materially objectives and a development management standard in the Galway County Development Plan 2015-2021, would be contrary to the Sustainable Rural Housing Guidelines, and therefore would be contrary to the proper planning and sustainable development of the area.

3. Having regard to the lack of site specific wastewater treatment system and associated ancillary infrastructure to serve the proposed development directly and independently, the Planning Authority is not satisfied that the safe disposal of domestic effluent generated on site in close proximity to the seashore can be guaranteed in accordance with the EPA Code of Practice Manual 2021 for Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.≤10), the

proposal would also be contrary to Objective WW5 of the County Development Plan 2015-2021. Accordingly to gran the proposed development would be prejudicial to public health, would be contrary to the 2021 EPA Code of Practice Wastewater Manual, would seriously endanger the health and safety of persons occupying the structure, would pose an unacceptable risk to surface waters contrary to EU Groundwater Directive (80/86/EEC), would be contrary to ministerial guidelines issued to the planning authorities under Section 28 of the Planning and Development Act 2000, as amended, and therefore, would be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner’s report asserts that a rural housing need has not been demonstrated. Visual impact is of concern. No record of permission for septic tank and no site suitability assessment details have been provided. Concerns arise given proximity to the seashore. Proposal is considered disorderly and injurious to visual amenities of the area. Refusal recommended.

3.2.2. Other Technical Reports

No other reports

3.3. Third Party Observations

No submissions

4.0 Planning History

Planner’s report refers to two previous refusals on the site. (Details have not been provided)

69880 (1994) Refusal of permission for dwelling on grounds of location within area of outstanding scenic amenity, negative visual impact, back land development, prejudice to public health and housing need.

36343 Refusal on grounds of negative Visual impact in area of high scenic amenity. Prejudicial to public health.

5.0 Policy Context

5.1. Development Plan

While the decision of Galway County Council was taken in the context of the Galway County Development Plan 2015-2021 the Galway County Development Plan 2022-2028 now refers. This plan was adopted by Galway County Council on 9th May 2022 and came into effect on 20th June 2022.

In terms of landscape sensitivity (Map 8.2) the site falls into a Class 3 special landscape. The Regional Road is part of the Maritime Scenic Route (Map 8.3).

Viewpoint 13 From Glinsce Pier is of Regional Significance. The focus of the view is the Coastal waters. Cashel Hill and Iorras Beag in the background are important features of the view.

Relevant objectives and policies include:

RC 2 Rural Housing in the Countryside

To manage the development of rural housing in the open countryside by requiring applicants to demonstrate compliance with the Rural Housing Policy Objectives as outlined in Section 4.6.3.

RH 4 Rural Housing Zone 4 (Landscape Classification 2,3 and 4)

Those applicants seeking to construct individual houses in the open countryside in areas located in Landscape Classification 2,3 and 4 are required to demonstrate their demonstrable economic or social Rural Links or Need* as per RH 2, i.e.

1(a) Those applicants with long standing demonstrable economic and/or social Rural Links or Need* to the area through existing and immediate family ties seeking to develop their first home on the existing family farm holding. Consideration shall be given to special circumstances where a landowner has no immediate family and wishes to accommodate a niece or nephew on family lands. Documentary evidence

shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis.

OR

1(b) Those applicants who have no family lands, or access to family lands, but who wish to build their first home within the community in which they have long standing demonstrable economic and or social Rural links or Need* and where they have spent a substantial, continuous part of their lives i.e. have grown up in the area, schooled in the area or have spent a substantial, continuous part of their lives in the area and have immediate family connections in the area e.g. son or daughter of longstanding residents of the area.

Having established a Substantiated Rural Housing Need*, such persons making an application on a site within an 8km radius of their original family home will be accommodated, subject to normal development management.

To have lived in the area for a continuous seven years or more is to be recognised as a substantial, continuous part of life and also as the minimum period required to be deemed longstanding residents of the area.

Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case-by-case basis.

OR

1(c) Those applicants who can satisfy to the Planning Authority that they are functionally dependent in relation to demonstrable economic need on the immediate rural areas in which they are seeking to develop a single house as their principal family Residence in the countryside. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis.

OR

1(d) Those applicants who lived for substantial periods of their lives in the rural area, then moved away and who now wish to return and build their first house as their permanent residence, in this local area. Documentary evidence shall be submitted to the Planning Authority to illustrate their links to the area in order to justify the proposed development and it will be assessed on a case by case basis.

OR

1(e) Where applicants can supply land registry or folio details that demonstrate that the lands on which they are seeking to build their first home, as their permanent residence, in the area have been in family ownership for a period of 20 years or more, their eligibility will be considered. Where this has been established to the satisfaction of the Planning Authority, additional intrinsic links/need will not have to be demonstrated.

OR

1(f) In cases where all sites on the family lands are in a designated area, family members will be considered subject to the requirements of the Habitat's Directive and normal planning considerations

In addition, an Applicant may be required to submit a visual impact assessment of their development, where the proposal is in an area identified as "Focal Points/Views" in the Landscape Character Assessment of the County or in Class 3 and Class 4 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.

RH 5 Rural Housing Zone 5 (An Ghaeltacht)

It is a policy objective of the Planning Authority to facilitate Rural Housing in the open countryside subject to the following criteria:

(a) Those applicants within An Ghaeltacht which are located in Zone 1 (Rural Metropolitan Area) and Zone 2 (The Rural Area Under Strong Urban Pressure-GCTPS) and Zone 4 (Landscape Sensitivity) shall comply with the policy objectives contained in RH 1, RH 2 and RH 4 as appropriate.

(b) It is a policy objective of the Planning Authority that consideration will be given to Irish speakers who can prove their competence to speak Irish in accordance with Galway County Council's requirements and who can demonstrate their ability to be a long-term asset to the traditional, cultural and language networks of vibrant Gaeltacht communities. This consideration will apply to applicants seeking to provide their principal permanent residence, in landscape designations Class 1 and 2. It will extend into Class 3 areas that are not in prominent scenic locations. This consideration will not apply to applicants seeking to build in Zone 1 (Rural Metropolitan Area).

A Language Enurement of 15 years duration will apply to approved developments in this category.

RH 11 Waste Water Treatment provision

Where a connection to the public wastewater network is not available, provide for sustainable rural housing in the county in accordance with the EPA Code of Practice: Wastewater Treatment Systems for Single Houses (2009).

GA 7 Rural Housing in the Gaeltacht

All proposals for rural housing in the Gaeltacht countryside shall comply with Chapter 4 Rural Living and Development.

Policy Objective Landscape conservation and management.

PVSR 1 – Protected Views and Scenic Routes

Preserve the protected views and scenic routes as detailed in Maps 8.3 and 8.4 from development that in the view of the Planning Authority would negatively impact on said protected views and scenic routes. This shall be balanced against the need to develop key infrastructure to meet the strategic aims of the plan.

Rural Housing Design Guidelines are set out at Appendix 5.

5.2. **Natural Heritage Designations**

The site is not within a designated area. There are a number of designated sites nearby including.

Connemara Bog Complex SAC within 500m to the south and west

Rosroe Bog SAC 3.6km to NW

Connemara Bog Complex SPA 5km NE

5.3. **EIA Screening**

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

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1 The first party appeal sets out to refute the three reasons for refusal and is summarised as follows:

- The proposed development is appropriately designed and sited and would integrate well into this sensitive landscape of which rural housing is a key element.
- The Planning Authority has not correctly applied its rural housing objectives. The applicant should be considered to have exceptional circumstances which justify the provision of a permanent dwelling on the lands.
- In relation to wastewater treatment it is intended to seek professional advice as part of the full application.

- Regarding housing need the applicant returned to the area in 1986 and has lived continuously in the Glynsk / Carna area for 36 years and is a respected and generous member of the local community.
- Applicant moved to a 2 bed Galway County Council house in Carna in 2003 and later bought this house from the Council. This house is currently rented and it is intended for sale.
- Mobile home has been on lands for two decades and is connected to public electrical and water supply networks. The applicant has lived here since 2016 and prior to that from 2011 in the family home as carer for her father.
- The family home, a house constructed by the Council under the Part VIII process on the family holding, reverted to the Council on the death of the applicant's father and remains vacant. The applicant sought unsuccessfully to purchase this house. The applicant's first preference is to re-occupy the family home.
- Applicant works part time in Roundstone Health Clinic and also farms the land and has an exceptional need
- Applicant is willing to agree to occupancy and sterilisation agreement.
- The planning authority has mis characterised the site which sits below the prevailing ground level to the south in the dip between the land and steeper slopes down to the coast. Dwelling would integrate with natural contours of the land rather than being on an artificial platform or natural promontory.
- Site is hidden from view from the south and from the north the mobile is one of several visible dwellings on the coastline.
- Driveway is consistent with the established pattern of development.
- Applicant is willing to consider other sites on the land but proposed site considered suitable as it sits below the land to the south and is protected visually by tree cover to the north.
- Even sensitive landscapes can accommodate manmade structures without being materially changed. Rural houses are a feature of the landscape
- Planning Authority has been inconsistent in the application of rural housing policy and examples are cited.

- Refusal on basis of waste water treatment is inappropriate as this is an outline application. Relevant technical surveys and expertise will be engaged for permission consequent application.

6.2. **Planning Authority Response**

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

7.0 **Assessment**

7.1 Having examined the file, considered the prevailing local and national policies, inspected the site, and assessed the proposal, the planning history, and all submissions, I consider the key issues arising in this appeal can be assessed under the following broad headings

Principle of Development – Settlement Policy

Visual impact and impact on the amenities of the area

Site Suitability - Wastewater treatment

Appropriate Assessment

7.2 **Principle of Development – Settlement Policy**

7.3.1 As outlined at Section 5.0 Policy Context above, the current Galway County Development Plan 2022-2028 was adopted since the decision of the Planning Authority and came into effect on 20th June 2022.

7.3.2 The Planning Authority's second reason for refusal was referred to rural housing policy RH03 Rural Housing Zone 3 Landscape category 3, 4 and 5 and questioned

the applicant's local connection and rural housing need. The relevant policy in the new plan is RH4 which requires,

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1(a) Those applicants with long standing demonstrable economic and/or social Rural Links or Need* to the area through existing and immediate family ties seeking to develop their first home on the existing family farm holding. Consideration shall be given to special circumstances where a landowner has no immediate family and wishes to accommodate a niece or nephew on family lands. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis.

OR

1(b) Those applicants who have no family lands, or access to family lands, but who wish to build their first home within the community in which they have long standing demonstrable economic and or social Rural links or Need* and where they have spent a substantial, continuous part of their lives i.e. have grown up in the area, schooled in the area or have spent a substantial, continuous part of their lives in the area and have immediate family connections in the area e.g. son or daughter of longstanding residents of the area.

Having established a Substantiated Rural Housing Need*, such persons making an application on a site within an 8km radius of their original family home will be accommodated, subject to normal development management.

To have lived in the area for a continuous seven years or more is to be recognised as a substantial, continuous part of life and also as the minimum period required to be deemed longstanding residents of the area.

Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis.

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1(c) Those applicants who can satisfy to the Planning Authority that they are functionally dependent in relation to demonstrable economic need on the immediate rural areas in which they are seeking to develop a single house as their principal family Residence in the countryside. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis.

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1(d) Those applicants who lived for substantial periods of their lives in the rural area, then moved away and who now wish to return and build their first house as their permanent residence, in this local area. Documentary evidence shall be submitted to the Planning Authority to illustrate their links to the area in order to justify the proposed development and it will be assessed on a case by case basis.

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1(e) Where applicants can supply land registry or folio details that demonstrate that the lands on which they are seeking to build their first home, as their permanent residence, in the area have been in family ownership for a period of 20 years or more, their eligibility will be considered. Where this has been established to the satisfaction of the Planning Authority, additional intrinsic links/need will not have to be demonstrated.

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1(f) In cases where all sites on the family lands are in a designated area, family members will be considered subject to the requirements of the Habitat's Directive and normal planning considerations

In addition, an Applicant may be required to submit a visual impact assessment of their development, where the proposal is in an area identified as "Focal Points/Views" in the Landscape Character Assessment of the County or in Class 3 and Class 4 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.

7.3.3 The current application is somewhat unusual and the applicant sets out in detail the unique circumstances of the case. The applicant jointly, with her brother, owns and farms the lands (landholding 6.9ha with a further share of extensive commonage) while working also part time in the medical centre in Roundstone. While having previously lived, and still owning a dwelling in the village of Carna, the applicant returned to live at the family home to care for her father in 2011 and since 2016 has lived on the mobile home on the appeal site. The applicant notes that the family home which was constructed on the family lands has remained unoccupied since the death of her father in 2016. It would be her preference to buy this house.

7.3.4 Having considered the unique circumstances in this case I consider that a strong rural link has been demonstrated and therefore I consider that refusal based on housing need is not applicable and the proposed development should be assessed on its planning merit.

7.4 Visual impact and impact on the amenities of the area

7.4.1 The appeal site is located within a coastal category 3 special landscape area which has a high sensitivity to change. Policy LCM1 seeks to preserve and enhance the character of the landscape. Whilst the first party appeal argues that scattered housing is a feature of the landscape, the landscape clearly has a limited carrying capacity in terms of rural housing. I note that there is no record of a permission for the mobile home or septic tank on the site therefore their existence should not prejudice the determination of the suitability of the site for residential use. The proposal involves outline permission for a dormer type dwelling on an elevated rugged site located within 30m of the coastline. I note that the mobile home on the site and the agricultural shed located approximately 50m to the southwest (also on the landholding) are visible from the Regional Road R340 which is part of the designated Maritime Scenic Route within the development plan. I would concur with the local authority planner that the proposed dwelling would be unduly obtrusive in the landscape, would set an undesirable precedent for similar such development, and it would therefore be contrary to the proper planning and development of the area.

7.4 Site Suitability – Wastewater Treatment

7.4.1 On the issue of site suitability for effluent treatment I note that no information has been submitted in terms of evaluation of site conditions or assessment of the suitability of the site for the safe disposal of wastewater. No details have been provided with regard to the intended location of the proposed treatment system. Within the grounds of appeal, it is outlined that following discussion with a local engineer with experience in such matters it is envisaged that the system would likely

involve the provision of a 'raised system' located to the south of the dwelling. I note numerous difficulties with regard to the provision for on-site treatment in terms of the achievement of the minimum separation distances, proximity to the foreshore, site topography and depth to bedrock. The application fails to demonstrate compliance with the EPA Code of Practice: Wastewater Treatment Systems for single Houses (2021) and would be prejudicial to public health.

7.5 Appropriate Assessment

7.5.1 On the matter of appropriate assessment having regard to the nature of the proposed development and/or nature of the receiving environment and/or proximity to the nearest European sites, potential for significant effects, including direct indirect and in-combination effects on the integrity of the European sites in view of their conservation objectives can be ruled out.

8 Recommendation

I have read the submissions on the file, visited the site and had due regard to the development plan and all other matters arising. I recommend that the decision of the planning authority is upheld and permission is refused for the following reasons.

Reasons and Considerations

1. It is an objective of the Galway County Development Plan 2022-2028 LCM1 to preserve and enhance the character of the landscape where, and to the extent that, in the opinion of the planning authority the proper planning and sustainable development of the area requires it, including the preservation and enhancement, where possible of views and prospects and the amenities of places and features of natural beauty or interest. It is considered that the construction of a house on the site, by reason of its exposed location and sensitivity in a scenic category 3 special coastal landscape and visible from the Maritime Scenic Route would represent an obtrusive development which would negatively impact on the landscape. The

proposed development would contravene materially established objectives set out in the development plan and would therefore be contrary to the proper planning and sustainable development of the area.

2. The Board is not satisfied that the proposed development would not be prejudicial to public health as it has not been demonstrated that the site is suitable for the treatment of septic tank effluent.

Brid Maxwell
Planning Inspector

2nd December 2022