



An
Bord
Pleanála

Inspector's Report

ABP-314049-22

Development	Partial demolition of boat shed. Conversion of boat shed and erection of dwelling in lieu. Waste water treatment plant and all associated site works.
Location	Cregg, Rosses Point, Co. Sligo.
Planning Authority	Sligo County Council
Planning Authority Reg. Ref.	22145
Applicant(s)	Brian and Caoimhe McSharry
Type of Application	Permission.
Planning Authority Decision	To refuse.
Type of Appeal	First Party
Appellant(s)	Brian and Caoimhe McSharry
Observer(s)	Dr. Caroline Tansey
Date of Site Inspection	4 th January 2023
Inspector	Deirdre MacGabhann

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1.0 Site Location and Description

1.1. The 0.420ha appeal site lies c.4.5km to the north west of Sligo Town and c.2km to the southeast of Rosses Point in the townland of Cregg, County Sligo. It is situated on the southern side of the R291, the regional road that links Sligo Town and Rosses Point. The regional road, which runs along the northern side of Sligo Harbour, is a designated Scenic Route.

1.2. Access to the site is via an existing gated entrance from the public road. The entrance, with stone wing walls, serves a right of way to the shore and a dwelling and garage (with apartment above) to the west of the right of way and the appeal site situated to the east of the right of way. The appeal site extends from the regional road to the shore and the site slopes away from the public road to the shore.

1.3. On the northern side of the site is a large portal framed shed. The lower part of the external walls are block/concrete and the upper parts of the walls and roof are clad with metal sheeting. On the northern elevation of the building is an open car port and on the southern elevation a lean to brick extension. There is a roller shutter door and pedestrian door on the western elevation and no openings in the eastern elevation. To the south of the shed are mature trees which separate the site from the lower garden area.

1.4. To the east of the site is a large, detached property with separate garage (with apartment above) belonging to the observer. It is separated from the appeal site by mature trees and newer hedgerow planting along the boundary.

2.0 Proposed Development

2.1. The proposed development comprises:

- The partial demolition of the existing boatshed (side extensions) with a total floor area of 265sqm.
- The conversion of the boatshed and erection of a dwelling in lieu, to include the part of the area of the existing extensions (proposed floor area 299sqm). The 4 bedroom dwelling will have a car port (55sqm) on its northern side and substantial glazing to its southern and western elevation (ground floor). A

patio is proposed to the south of the dwelling. The dwelling is finished in green zinc (roof and upper walls) and natural stone (lower walls).

- Wastewater treatment system, comprising a mechanical aeration system, for primary and secondary treatment, to the south of the dwelling and a tertiary system with percolation area to the north of the dwelling.
- All associated site works.

2.2. Water supply for the development will be from the public mains via a new connection. Surface water will be directed to a soakpit (location is not indicated).

The planning application includes:

- Supporting Statement. It addresses reasons for refusal under PA ref. 19103 and concerns raised (then) by observers.
- Site Characterisation Form and details of proprietary wastewater treatment system.
- Visual Impact Assessment.
- Declaration of Housing Need.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 16th June 2022, the PA decided to refuse permission for the development on the following grounds (in summary):

1. Location of proposed development is a sensitive area between a designated Scenic Route and Sligo Bay (shores designated as visually vulnerable) and lack of compliance with criteria set out in Policy P-GBSA-HOU-1 and therefore lack of compliance with this policy.
2. Visual impact in sensitive landscape and conflict with policy P-LCAP-1, P-LCAP-2, P-LCAP-3 and P-DCZ-1 and section 5.3.2 (integrating development into rural landscape).
3. Absence of NIS and risk of adverse effects on Cummeen Strand/Drumcliff Bay (Sligo Bay) SAC and Cummeen Strand SPA. PA therefore precluded from granting permission.

4. Impact on groundwater quality and public health as development would result in additional on-site domestic wastewater treatment system in an area where there are already a significant number and concentration of domestic WWTS and where there is potential for the site to become serviced by a rising main sewer along the R291 in a reasonable timeframe.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 15th June 2022 – Planning Report - Refers to the planning history of the site, pre-planning consultation, relevant policies of the Sligo County Development Plan 2017-2023 (SCDP), 3rd party submissions and internal reports. It refers to the requirement for appropriate assessment (see screening report below), states that the PA is not satisfied that the proposed development would not have a significant effect on European sites and that the PA is therefore precluded from granting permission. The report screens for EIA and considers this is not required (modest scale of development and no real likelihood of significant environmental effects). It assesses the proposed development under a number of headings including:
 - Rural housing policy P-GBSA-HOU-1 - Considers that it is not possible for the applicant to comply with the policy. It refers to the precedent case cited by the applicant but considers this to be materially different to the proposed development.
 - Visual impact/siting/design – Considers that the proposed alterations to the existing structure would be at odds with the typical character and scale of buildings in the area and would have a detrimental visual impact on the designated Scenic Route within the Coastal Zone and in proximity to a visually vulnerable coastline.
 - Residential amenity – Considers that having regard to separation distance and detailed design there would be no loss of residential amenity.
 - Highway safety/traffic/parking – Access to the site would be from the existing entrance and is considered acceptable.

- Wastewater treatment – Considers the application to be potentially premature pending Irish Water’s proposals to upgrade the rising main sewer along the regional road.

The report recommends refusing permission for the development.

- 15th June 2022 – Appropriate Assessment Screening Report. Screens the development for appropriate assessment and concludes that given proximity of the development to Cummeen Strand/Drumcliff Bay (Sligo Bay) SAC and Cummeen Strand SPA and the potential for water pollution during construction and operation, there is a risk of adverse effects on European sites and therefore a requirement for Appropriate Assessment.

3.2.2. Other Technical Reports

- Environmental Services (26th May 2022) – No objections subject to conditions.

3.3. Prescribed Bodies

- None.

3.4. Third Party Observations

3.4.1. On file is third party observation. It is made by the resident of the dwelling to the east of the appeal site. Concerns raised are:

- Location of site in sensitive site (Visually Vulnerable Area, Scenic Route, coastal zone, proximity to Sligo Bay SAC/pNHA and Cummeen Strand SPA).
- The property was originally part of Washington House lands (original house and adjoining apartment sold in 2019).
- Development contravenes condition of PA ref. 02/570 (C4) which required that the boathouse be ancillary to Washington House. Boathouse sited closer to appellant’s boundary than planned and boathouse contains a mezzanine, lean to and car port, which were not permitted.
- Precedent set by PA ref. 19/103.
- Intensification of use of the dwellings on the site (Washington House).
- Proximity of proposed dwelling to observers, at odds with pattern of development in the area and established building line. Ribbon development.

- Inaccurate visual impact assessment. Development will be more visible than indicated (proposed tree and hedge clearing). Inability of landscape to absorb the large development (354sqm).
- Impact on privacy and amenity (proximity, extensive glazing, balconies, clearance of trees and hedgerow, Japanese Knotweed could delay/deter any proposed screening).
- Lack of NIS and potential impact on Cummeen Strand/Drumcliff Bay (Sligo Bay) SAC and Cummeen Strand SPA.
- Planning application should be assessed against Policy P-GBSA-HOU-1 (sensitive location). Limited information to demonstrate compliance with policy. Policy not intended to be used to provide for a dwelling after sale of dwelling house and apartment on family lands.

4.0 Planning History

4.1. The following planning application was determined in respect of the appeal site:

- PA ref. 02/570 – Permission granted to Gerry and Catherine McSharry for dwelling, garage with apartment over, boathouse, sewerage treatment plant and site development works. The site includes the appeal site in a wider landholding (land to the west of it). Condition no. 4 of this permission states that *'The proposed garage, apartment and boathouse shall be used for purposes only incidental to the enjoyment of the dwelling house as such and not for commercial activity of any kind'* (public register).
- PA ref. 04/425 – Permission granted to Gerry and Catherine McSharry for external swimming pool, two sets of entrance gates and wing walls and retention permission for sewage treatment system and percolation area in revised location to that previously approved (PA ref. 02/570). The site includes the appeal site and dwellings to the north west of it.
- PA ref. 19/103 – Permission refused to Gerry and Catherine McSharry for the construction of a new dwelling on the southern part of the appeal site on the grounds of (1) conflict with Policy P-GBSA-HOU-1, inappropriate housing development in rural area lacking services, would set an inappropriate

precedent for development in sensitive coastal location and (2) conflict with Policy P-LCAP-1 and -2, development in prominent coastal location, would result in excessive density of dwelling houses in sensitive coastal location, impact on visually vulnerable area and inappropriate precedent.

4.2. The appellant refers to the following precedent case:

- PA ref. 19199 – Permission granted for the partial conversion of the existing agricultural barn to a residential dwelling, Streedagh, Grange, Co. Sligo.

5.0 Policy Context

5.1. Sligo County Development Plan 2017 - 2023

5.1.1. The current development plan for the subject site is the Sligo County Development Plan 2017 to 2023. The appeal site is located in an area Under Urban Influence of Sligo Town (Fig. 5A, CDP), along a designated Scenic Route, in a Sensitive Rural Landscape and Visually Vulnerable Area (Landscape Characterisation Map, CDP). The following policies are relevant to the proposed development:

Rural Housing Policies

5.1.2. In section 5.3.1 of the CDP, Rural Housing Policy Areas, it is stated that:

- In rural areas under Urban Influence the PA will accommodate those applications with a rural generated housing need, subject to normal planning considerations, as detailed in section 13.4 of the Plan.
- In all rural areas, certain restrictions will apply along Scenic Routes, in Sensitive Rural Landscapes and Visually Vulnerable Areas.

5.1.3. In Section 13.4 it is stated that applications for single houses will be assessed based on the landscape's capacity to absorb new development, with visual impact being assessed according to the landscape designation indicated on the Landscape Characterisation Map. In particular '*Exceptions may be made in the case of applicants who can demonstrate a need to reside in a particular area, in accordance with the housing policy in green belts and sensitive areas (refer to section 5.3.1). However, new development must not obstruct scenic views available from or to the area adjoining the development site*'.

5.1.4. Within this context, the following policies for rural housing apply (in summary):

- *Housing policy in Rural Areas under Urban Influence (P-RAUI-HOU-1):*
Facilitates rural housing in rural areas under urban influence where housing need is demonstrated by specified categories of applicants AND where such persons can demonstrate that the home they proposes is in the interest of the proper planning and sustainable development of the area.
- *Housing policy in green belts and sensitive areas (Scenic Routes, Sensitive Rural Landscapes, Visually Vulnerable Areas) (P-GBSA-HOU 1):*
Accommodate proposals for one off rural houses, subject to normal planning considerations (including Habitats Directive), development management standards for residential development in rural areas (section 13.4 DCP) and where a housing need is demonstrated by specified categories of applicants, A landowners, sons and daughters, who wish to build a first home for their permanent occupation on the landholding associated with their principal family residence, B, persons whose primary employment is in a rural based activity AND where such persons can demonstrate that the home they proposes is in the interest of the proper planning and sustainable development of the area.

Landscape

5.1.5. Section 7.4.4 of the Plan deals with Heritage Landscapes and affords protection under Policies P-LCAP-1 to 4 of landscape character, especially in Sensitive Rural Landscapes , Visually Vulnerable Areas and along Scenic Routes. Of note policy P-LCAP-4 makes an exception for certain development in designated Sensitive Rural Landscapes:

- Policy P-LCAP-4 – *‘Strictly control new development in designated Sensitive Rural Landscapes, while considering exceptions that can demonstrate a clear need to locate in the area concerned. Ensure that any new development in designated Sensitive Rural Landscapes:*
 - *does not impinge in any significant way on the character, integrity and distinctiveness of the area;*
 - *does not detract from the scenic value of the area;*
 - *meets high standards of siting and design;*

- *satisfies all other criteria with regard to, inter alia, servicing, public safety and prevention of pollution*.

Coastal Zone

5.1.6. Section 10.4.4 of the Plan deals with development on the foreshore and nearshore, including P-DCZ-1:

- P-DCZ-1 – ‘Generally restrict development in the coastal zone except where it can be demonstrated that it does not detract from views, visually intrude in the coastal landscape or impact on environmentally sensitive areas. Exceptions will be considered for development between the coastal roads and the sea, exceptions will be considered only for sustainable tourism development, public infrastructural works and development that is contiguous with existing towns and villages and subject to compliance with Habitats Directive’.

5.2. Natural Heritage Designations

5.2.1. The southern boundary of the appeal site joins the northern boundary of Cummeen Strand Special Protection Area (site code 004035). The northern boundary of Cummeen Strand/Drumcliff Bay proposed Natural Heritage Area and Special Area of Conservation (site code 000627) extends slightly into the southern part of the appeal site (see attachments)

5.3. EIA Screening

5.3.1. The proposed development is relatively modest in scale and residential in nature. It is situated in a sensitive coastal landscape however the main issues arising can be dealt with under Appropriate Assessment. Otherwise the proposed development would not, therefore, result in a real likelihood of significant effects on the environment. 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. In summary the grounds of appeal are:

Context

- The proposed dwelling will take form from the boatshed on site and blend seamlessly with the site and its established development. The applicants are the owners of the site and intend to occupy the proposed development as their permanent home. Building line of development will have no impact on surrounding neighbours. All aspects of privacy for neighbouring properties will be retained with no overlooking or overshadowing from what is currently on site. All non-habitable rooms at first floor (bathrooms and storage) feature privacy glazing for ventilation and skylights for natural light.

Reason 1.

- Other policies should be taken into account, notably P-RAUI-HOU-1. The site lies in a Rural Area under Urban Influence and the applicant complies with paragraph C (persons who have no family lands but wish to build their first home for their permanent occupation in the area of their original family home) and D (persons with a link to the rural community in which they wish to build their first home for permanent occupation).
- The applicants (Brian and Caoimhe McSharry) are the son and daughter in law of the previous applicants and landowners Gerry and Catherine McSharry. Brian McSharry's (applicant) original family home, Washington House, was the principal house to the boat shed that forms the application. In recent years the house was sold for personal reasons, however the shed remains in the family. The applicant therefore complies with paragraph C.
- The application site is within the area of the original family home and is c.2km from Caoimhe McSharry's family home in Rosses Point where she was raised. The applicants are currently renting in Rosses Point due to shortage of houses to buy and rent in the local area. Applicants comply with paragraph D and intend the dwelling as a permanent home to raise their family.

- Precedent set by PA ref. 19/199 '*permission for the partial conversion of the existing agricultural barn to a residential dwelling at Streedagh, Grange, Co. Sligo*'. Site lies on a designated scenic route and determined under Policy P-RAUI-HOU-1. Planner's report disregarded P-GBSA-HOU-1 on the grounds that the location of the dwelling did not interfere with the views from the public road. Appellant contests this conclusion and considers that the dwelling did fall within the scenic view (Appendix H) and sets an appropriate precedent for the proposed development i.e. that it be determined under P-RAUI-HOU-1.

Reason 2.

- Development will improve visual impact of the current shed, will not add an additional building or increase density of building. Findings of Visual Impact Assessment (Appendix E) have been disregarded. Development is of a high standard (siting and design), will result in a low magnitude of change and will not seriously injure visual amenities of the area or impact on designated Sensitive Rural Landscape and satisfies requirements of policies cited in reasons for refusal, including P-LCAP-4. Site has a limited road frontage, limited zone of influence from public views and will appear as existing (green zinc). Development will improve views from the scenic route and Sligo Bay. Development is set back from Sligo Bay coastal line and there will be limited views into the site due to its separation distance and topography. Appendix E includes an addendum VIA with 3D visuals of the development comparing it with existing views.
- Given satisfactory report by Environment section and NIS and mitigation measures to prevent pollution, application satisfies development management standards for new houses for public safety and prevention of pollution.

Reason 3.

- No further information requested. Natura Impact Statement submitted. It concludes that with mitigation the development will not have an adverse effect on the integrity of any Natura 2000 site.

Reason 4.

- A full site assessment was submitted and Environmental Services have no objections to the development subject to conditions. The reason for refusal is unreasonable.

6.1.2. In their appeal the appellant sought an Oral Hearing. On the 23rd September 2022 the Board considered this matter and decided that this was not warranted as there was sufficient written evidence on the file to enable an assessment of the issues raised.

6.1.3. On the 26th August the Board requested the applicant to provide revised notices alerting the public to the submission on an NIS. Confirmation of revised site and newspaper notices was received on the 13th September 2022.

6.2. Planning Authority Response

6.2.1. The PA respond to the appeal (12th August 2022) and refer the Board to the Planning Reports prepared in connection with application and decision. The correspondence refers to the applicants additional information in respect of rural housing need, however, they state that this does not alter their assessment of the application. The correspondence also notes the submission of NIS but maintain that the development is contrary to the proper planning and sustainable development of the area.

6.3. Observations/Further Responses

6.3.1. There is one observation on file from the occupant of the dwelling to the east of the site (Dr. Caroline Tansey). It raises the following concerns:

- NIS confirms loss of boundary vegetation. Consequential impact on visual amenity/privacy of dwelling house. No tree survey provided. No assessment of visual impact on adjoining property. Proposed dwelling is increased in height and length far beyond existing shed and will be more visible from public road, shore/SAC and observer's property and would be lit at night. Insufficient distance between observers property and proposed dwelling, materially altering the observers property. NIS indicates that waste water treatment system will run along shared boundary, with potential to impact on amenity of observers property and screen planting (narrow section of the site).

Insufficient space to accommodate tertiary treatment system between extended dwelling house and scenic route. Site assessment is incomplete (inconsistent information in respect of watercourse and ponding of water on site). Applicants do not meet any applicable housing policy.

7.0 Assessment

7.1. Having examined the policy context of the development, application details and all other documentation and submissions on file, and inspected the site, I consider that the main issues in this appeal relate to the reasons for refusing permission:

- Compliance with rural housing policy.
- Visual impact.
- Impact on European sites (addressed under Appropriate Assessment).
- Treatment of wastewater.
- Impact on residential amenity.

7.2. Compliance with Rural Housing Policy.

7.2.1. The appeal site lies in a Rural Area under Urban Influence (see attachments, Fig. 5A, CDP) and on a designated Scenic Route and within a Sensitive Rural Landscape and coastal Visually Vulnerable Area (Landscape Characterisation Map, CDP). In section 5.3.1 of the CDP it clearly states that (a) in rural areas under urban influence applications with a rural generated housing need will be accommodated subject to normal planning considerations, and (b) in all rural areas certain restrictions will apply along Scenic Routes, in Sensitive Rural Landscapes and Visually Vulnerable areas. Further, specific separate policies for housing in Rural Areas under Urban Influence and for Housing in Green Belts and Sensitive Areas apply i.e. P-RAU-HOU-1 and P-GBSA-HOU-1 respectively.

7.2.2. Having regard to these policies, and to the additional restrictions which apply in sensitive areas, I am satisfied that the appropriate rural housing policy which applies to the appeal site is P-GBSA-HOU-1.

7.2.3. Policy P-GBSA-HOU-1 states that it is the policy to accommodate proposals for one off houses in rural area 6by9s in sensitive areas, subject to normal planning considerations, where a housing need is demonstrated by the following categories of applicants:

‘A. landowners, including their sons and daughters, who wish to build a first home for their permanent occupation on the landholding associated with their principal family residence:

B. persons whose primary employment is a rural based activity, with a demonstrated genuine need to live in the locality of that employment base, for example, those working in agriculture, aquaculture, forestry, horticulture or other natural resource based employment’.

7.2.4. Under ‘A’ the policy makes reference to the landholding associated with their ‘principle family residence’. In this case the appellants family have sold the principle family residence. What remains is part of the site associated with the family residence and is therefore simply a landholding within the family.

7.2.5. In the appeal submission, it is stated that the applicant have links to the area having either spent substantial parts of their childhood there or who have grown up in the area. Whilst I am satisfied that links to the local area exist, the applicant has not demonstrated compliance with Category B of the more restrictive policy P-GBSA-HOU-1 in sensitive landscapes i.e. a genuine need to live in the locality due to an employment need that is a rural based activity.

7.2.6. Having regard to the foregoing, I am not satisfied that the applicant has adequately demonstrated a rural housing need to satisfy Policy P-GBSA-HOU-1.

7.2.7. The appellant refers to a precedent case, PA ref. 19199, in respect of a partial conversion of an agricultural barn to a residential dwelling at Streedagh, Grange, County Sligo, where the PA considered the development under P-RAU-HOU-1 and not P-GBSA-HOU-1, despite having a similar sensitive landscape context. I note that the location of this planning application is in a Normal Rural Landscape and whilst situated on a Scenic Road, does not lie between the public road and the shore. I am satisfied therefore that it was determined on its site specific context and relevant policies of the CDP and does not form a relevant precedent for the proposed development.

7.3. Visual Impact

- 7.3.1. As stated, the appeal site lies on a designated Scenic Route and within a Sensitive Rural Landscape and within a coastal Visually Vulnerable Area.
- 7.3.2. The proposed development lies to the south of the public road. It comprises an existing structure set within a mature landscape with substantial trees providing a larger context for the development. Consequently, from the roadside the development is visible but not dominant. Similarly when seen from the south and the shore, it is visually contained by mature trees to the south of the existing boatshed.
- 7.3.3. The proposed development retains the structure of the existing shed, with no change to ridge or eaves height. External materials will mimic existing. However, the length of the building will extend from the existing c.20.7m (with car port and side extension) to a proposed c.23m (including car port) and to a c.28m with car port and external wall to patio area (the extent of which is not clearly detailed). Further, a wastewater treatment system is proposed, both north and south of the boatshed, to be connected by pipework along the western side of the building.
- 7.3.4. The effect of the development and associated site works will be to increase physical size of the structure (in plan and elevation) and its dominance within its landscape setting. Notably, the Existing Site Layout Plan indicates trees to the north, east and south of the shed, encroaching on the proposed patio area and in the location of the wastewater treatment system (secondary and tertiary treatment areas). In order to facilitate the development it would appear that many of these trees will have to be removed. This is acknowledged in section 2.2 of the NIS which states that the development will include felling of trees, in particular immediately south of the proposed location of the dwelling.
- 7.3.5. It is also stated in the NIS that the pipe work connecting the secondary and tertiary treatment systems will be routed east of the boatshed. Whilst not shown in plans for the development, such routing is likely to further impact on existing vegetation.
- 7.3.6. I am not satisfied, therefore, that the applicant has adequately detailed the likely loss of vegetation and mature trees required as a consequence of the development or has accurately depicted the visual impact of the development in the Visual Impact Assessment. I also note that historic OSi mapping indicates a gradual loss of the

wooded environment on this section of the road, as a consequence of residential development.

- 7.3.7. Having regard to the sensitive landscape and the scale of the development, including site works, I consider that the proposed development would be substantially more visible than the current boat shed, dominant in views from the designated Scenic Route and in the sensitive coastal landscape, inappropriately increasing the density of residential development in the area and further eroding and seriously detracting from the rural character of the area.

7.4. Treatment of Wastewater.

- 7.4.1. The Site Characterisation Form indicates that the site overlies a poor aquifer, with high vulnerability and a Groundwater Response R1 (site is acceptable for domestic wastewater treatment system, subject to normal good practice i.e. system selection, construction, operation and maintenance in accordance with the EPAs CoP). Watercourses in the area are identified as lying to the south of the site (Sligo Bay to south) and a drain approximately 30m to the east (not shown on plans). Further, the applicant's survey of the site (referred to in the NIS) indicates a surface water course crossing the site, with flow to the west, with the stream piped beneath the garden to the shore (page 34, NIS). This is not referenced in the site assessment. At the outset, there is therefore a lack of clarity regarding surface water flows in the vicinity of the site.
- 7.4.2. Groundwater flow is to the south. Soils in the location of the trial hole indicate a mix of SILT and sandy gravelly SILT with pebbles, cobbles and boulders. Percolation tests indicate an average subsurface T value of 17.19 and that the site is suitable for a wastewater treatment system with polishing filter. However, due to the limited space available, a secondary package treatment system (mechanical aeration system) with effluent pumped to a tertiary treatment unit (Puraflo modules) with final discharge to a gravel distribution area of 22.5m² is proposed. Plans for the development indicate the location of the mechanical aeration unit to the southwest of the proposed dwelling and the gravel distribution bed with Puraflo units to the north.
- 7.4.3. The arrangements for discharge of foul water, with additional tertiary treatment and reduced distribution area, would be consistent with the EPAs Code of Practice in

respect of Domestic Wastewater Treatment Systems which recommend a treatment area of 40sqm for domestic wastewater treatment systems with a PV of 17.19 and a depth of soil/subsoil between 1.2 and 8m between invert level and bedrock. Further, the arrangements have been deemed to be acceptable by the planning authority's Environment Section.

7.4.4. Notwithstanding the technical acceptability of the proposed wastewater treatment system the planning authority consider that the development would result in additional on-site domestic wastewater treatment system in an area where there are already a significant number and concentration of domestic WWTS and where there is potential for the site to become serviced by a rising main sewer along the R291 in a reasonable timeframe.

7.4.5. The approach of the PA is not unreasonable given the confined nature of the site and reliance on primary, secondary and tertiary treatment, the number of residential dwellings served by domestic WWTSs in the area of the site, the potential for cumulative effects, the proximity to a European site and the potential for connection to the public mains. However, given the absence of information on file regarding the timescale for or certainty of proposed rising main sewer, I recommend that prematurity of development is not pursued as a reason for refusal.

7.4.6. The observer raises concerns that during rainwater events ponding occurs on the appeal site (lawn area to the south of the boathouse). At the time of site inspection, which occurred after heavy rainfall, I noted no water ponding on the lawn area of the site. Notwithstanding this, the proposed percolation area is situated to the north of the site, removed from the lawn area and limited works are proposed in this area of the site (i.e. mechanical aeration system is proposed to the north of the lawn area).

7.5. Impact on Residential Amenity

7.5.1. The observer to the appeal raises concerns regarding the impact of the proposed development on her residential amenity, primarily due to the proximity of the development to her property, inconsistency with established building line, loss of vegetation and potential for overlooking from the subject development of private amenity space.

- 7.5.2. The proposed development seeks to convert an existing boatshed. There is no change therefore to established building lines. However, I would accept that land uses change and the development would result increase in the density of residential development in the area, which would be at odds with the traditional low density of development.
- 7.5.3. The appeal site lies immediately west of the appellant's property. Windows in the eastern elevation of the proposed dwelling are either at ground level or, at first floor, serve bathrooms. Subject to glazing at first floor comprising obscure glass, I do not consider that overlooking from this elevation would occur. To the south, the proposed development provides significant glazing at ground and first floor. This has the potential to overlook the private amenity space associated with the western side of the appellant's property, in particular with the potential loss of further trees from to the south of the proposed dwelling. Notwithstanding the landscape and visual consequence of the development, discussed above, the observers site is substantial and there is scope for further planting within her site and/or on the appeal site (if the Board are minded to grant permission), to prevent obtrusive views of the observer's property and to protect residential amenity.

8.0 Appropriate Assessment

8.1. Screening

- 8.1.1. *Test of likely significant effects.* The proposed development is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.
- 8.1.2. *Screening Report.* The applicant has submitted Natura Impact Statement (July 2022) with the appeal. Section 3 screens for appropriate assessment '3. Screening for Appropriate Assessment: Natura 2000 sites and the potential for significant effects'. The report was prepared in line with best practice. It provides a description

of the proposed development and identifies European sites within a possible zone of influence of the development, having regard to the nature, scale and form of the development. The report makes reference to 'An Extended Phase 1 Habitat Assessment and Habitat Mapping' survey (30.06.22) carried out to gain a better understanding of the site and to inform an assessment of the potential for any adverse effects on the integrity of European sites. There is no copy of the survey submitted with the NIS. The screening report concludes that the proposed development could pose a risk of likely significant effects on Cummeen Strand/Drumcliff Bay (Sligo Bay) SAC and Cummeen Strand SPA, by virtue of the potential for water pollution and disturbance effects. It carries these sites forward for Appropriate Assessment.

- 8.1.3. Having reviewed the documents and related submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.
- 8.1.4. *Brief Description of Development.* The proposed development is described in section 2.0 of this report and in section 2.2 of the NIS. It comprises the partial demolition of the existing boatshed and conversion of the main building to a dwelling, with associated WWTS. The WWTS comprises a primary, secondary and tertiary treatment system, with a gravel percolation area of 22.5sqm situated to the north of the existing boathouse and mechanical aeration system to the south of the boathouse. No annex I habitats are identified within the development footprint.
- 8.1.5. *Submissions and Observations.* The PA raise concerns regarding the potential for significant effects on European sites, given the proximity of the development to Sligo Harbour. The observer to the planning application raised concerns regarding the absence of an NIS.
- 8.1.6. *European sites.* The appeal site adjoins Cummeen Strand Special Protection Area (site code 004035) and the Cummeen Strand/Drumcliff Bay (Sligo Bay) Special Area of Conservation (site code 000627) extends within the boundary of the appeal site. Other European sites lie within 15km of the appeal site (Figure 4, NIS and Table 1, NIS) but can be readily screened out as they are unlikely to be affected by the development given its relatively modest scale, the distance of the appeal site from

these European sites, absence of connectivity and/or substantial body of water through which connectivity is provided. Table 1 below indicates European sites within the zone of influence of the project and their qualifying interests.

Table 1: Summary Table of European Sites within possible Zone of Influence

European Site (code)	List of Qualifying interest /Special conservation Interest	Connections (source, pathway receptor)	Considered further in screening Y/N
Cummeen Strand/Drumcliff Bay SAC (Sligo Bay) (000627)	Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] <i>Juniperus communis</i> formations on heaths or calcareous grasslands [5130] Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210] Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220] <i>Vertigo angustior</i> (Narrow-mouthed Whorl Snail) [1014] <i>Petromyzon marinus</i> (Sea Lamprey) [1095] <i>Lampetra fluviatilis</i> (River Lamprey) [1099] <i>Phoca vitulina</i> (Harbour Seal) [1365]	Hydrological link via surface water (construction) and groundwater (operation) and inappropriate disposal of construction waste on shore.	Yes.
Cummeen Strand SPA (004035)	Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Redshank (<i>Tringa totanus</i>) [A162] Wetland and Waterbirds [A999]	Hydrological link via surface water (construction) and groundwater (operation), inappropriate disposal of construction waste on shore and disturbance to bird species of conservation interest (construction and operation).	Yes

8.1.7. *Identification of likely effects.* There is no direct loss of habitat for any European site as a consequence of the development. Further, the proposed development (boatshed) is situated c.50m north of Cummeen Strand/ Drumcliff Bay (Sligo Bay) SAC and c.60m north of Cummeen Strand SPA. Groundworks and the mechanical aeration system are situated closer to the European sites, with the mechanical aeration system c.36m from the SAC and c.38m from the SPA.

8.1.8. Potential effects on habitats and mobile species of conservation interest arise from:

Cummeen Strand/ Drumcliff Bay (Sligo Bay) SAC

- Localised water pollution during construction (discharge of contaminated surface water).
- Inappropriate disposal of waste during construction (water pollution e.g. from leachate).
- Localised water pollution during operation (discharge of wastewater).

Cummeen Strand SPA

- Temporary disturbance of bird species during construction and potential disturbance during operation.
- Localised water pollution during construction (discharge of contaminated surface water) and operation (discharge of wastewater).
- Inappropriate disposal of waste during construction.

8.1.9. *Mitigation Measures.* No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

8.1.10. **Screening Determination.** The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects could have a significant effects on European Site Nos. 000627 and 004035, in view of the site's Conservation Objectives, and Appropriate Assessment and submission of a NIS is therefore required.

8.2. Appropriate Assessment

- 8.2.1. *The Natura Impact Statement.* The appeal documents include a Natura Impact Statement (July 2022) in respect of the proposed development prepared by the applicant. It examines and assess potential adverse effects of the proposed development on the Cummeen Strand/ Drumcliff Bay (Sligo Bay) SAC and c.60m north of Cummeen Strand SPA. The applicants NIS concluded that with the implementation of mitigation measures, there is no potential for adverse effects on the Natura 2000 sites and their qualifying interests within the zone of influence of the project.
- 8.2.2. Having reviewed the NIS and NPWS documentation in respect of the European sites that may be affected by the development, I am not satisfied that the information allows for a complete assessment of any adverse effects of the development, on the conservation objectives of Cummeen Strand/ Drumcliff Bay (Sligo Bay) SAC and Cummeen Strand SPA alone, or in combination with other plans and projects for the reasons stated below.
- 8.2.3. *Appropriate Assessment of the implications of the proposed development.* The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed. The AA has been carried out with reference to national and European guidelines, including DoEHLG (2009). Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities and EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC.
- 8.2.4. *European Sites – Description and conservation objectives.* Table 1 above sets out the qualifying interests of Cummeen Strand/ Drumcliff Bay (Sligo Bay) SAC and Cummeen Strand SPA. These sites and their conservation objectives are described further below:
- Cummeen Strand/ Drumcliff Bay (Sligo Bay) SAC – This is a large coastal site that extends from Cullamore in the north-west to Killaspug in the south west,

and from Sligo town in the south east to Drumcliffe village in the north east. It encompasses two large, shallow bays, Drumcliffe Bay and Sligo Harbour. The dominant habitats on the site are estuaries and intertidal sand and mud flats. Also present are sand dune habitats (embryonic dunes, Marram dunes and fixed dunes). Both Drumcliff Bay and Cummeen Strand are important for large numbers of waterfowl.

Habitats and communities of conservation interest are mapped in the NPWS Site Synopsis (see attachments). In the area of the appeal site, the following qualifying interests could be affected by the development:

- Estuaries [1130],
- Mudflats and sandflats not covered by seawater at low tide [1140],
- Sea Lamprey [1095],
- River Lamprey [1099],
- Harbour seal [1365].

Impacts may arise from:

- Contaminated surface water (construction e.g. from hydrocarbons and/or other chemicals stored/used on site, sediment from excavation works),
- Inappropriate waste disposal (construction e.g. dumping of hard core/construction waste on shore), and
- Wastewater discharge (operation, with potential to affect ground and surface water discharges from the site),

With direct and indirect effects on habitats and species from a decline in water quality and/or ingestion of pollutants (e.g. plastics).

Conservation objectives are to maintain or restore the favourable conservation condition of the qualifying interests by reference to certain attributes, measures and targets (see attachments).

Cummeen Strand SPA - Cummeen Strand is a large shallow bay stretching from Sligo Town westwards to Coney Island. It is one of three estuarine bays within Sligo Bay and is situated between Drumcliff Bay to the north and Ballysadare Bay to the south. The Garavogue River flows into the bay and forms a permanent channel. At low tide, extensive sand and mud flats are

exposed. These support a diverse macro-invertebrate fauna which provides the main food supply for the wintering waterfowl. A diversity of invertebrate species are present, including eelgrass (*Zostera noltii* and *Z. angustifolia*) beds, which provide a valuable food stock for herbivorous wildfowl. The site is of special conservation interest for wintering waterfowl, wetland and water birds.

The following qualifying interests of the site could be affected by the proposed development:

- Light-bellied Brent Goose [A046],
- Oystercatcher [A130],
- Redshank [A162],
- Wetlands and waterbirds [A999].

Adverse effects could arise:

- Indirectly from water pollution (surface water during construction, wastewater during operation),
- Inappropriate waste disposal (water pollution and/or ingestion), and
- Disturbance during construction.

Conservation objectives are to maintain the favourable conservation condition of the qualifying interests by reference to certain attributes, measures and targets (see attachments).

8.2.5. *Assessment of Effects on Conservation Objectives.* Site specific conservation objectives for the qualifying interests of Cummeen Strand/ Drumcliffe Bay (Sligo Bay) SAC, by reference to attributes, measures and targets, are summarised in Table 3 of the NIS (also see attachments), national pressures and conservation status on the QIs is set out in Table 4 and local threats and pressures in Table 5. Site specific conservation objectives for the QIs of Cummeen Strand SPA, also by reference to attributes, measures and targets, are summarised in Table 6 (also see attachments). For each QI, details of population significance, extent, character and conservation condition are summarised in Table 7 and threats and pressures in Table 8. It is evident from the information presented that adverse effects could arise on the following QIs:

Cummeen Strand/ Drumcliff Bay (Sligo Bay) SAC

- Estuaries and Mudflats and sandflats not covered by seawater at low tide
Mudflats – Inappropriate dumping of materials could result in direct impact on habitat and indirect effects on water quality (leaching). Adverse effects could also arise from the discharge of contaminated surface or ground water. Decline in water quality could adversely affect flora and macro-invertebrate communities associated with the habitats (identified attributes of the QI).
- Sea Lamprey and River Lamprey – Migrating fish pass through the Bay (no spawning or nursery habitat). Water quality impacts may impact indirectly on species (feed source).
- Harbour Seal – Appeal site is removed from breeding and resting sites. Discharge of contaminated surface and groundwater and inappropriate dumping on the shore could result in a decline in water quality, with indirect effects on prey species (fish) and ingestion of material.

Cummeen Strand SPA

- Light-bellied brent goose, oystercatcher and redshank – Construction and operation of the development may give rise to adverse effects on water quality from the discharge of contaminated surface water (construction), inappropriate dumping (construction) and the discharge of wastewater (operation). All of the QI species are identified in Table 4 as having potential to be adversely affected by changes in water quality which affect prey species (aquatic fauna). During construction and operation, the development could result in disturbance to bird species, with potential effects on feeding and roosting.

The NIS states that waders and waterfowl are likely to feed along the edge of the channel that lies to the south of the site. This seems reasonable given the species of QI and their typical diet (e.g. Light-bellied brent goose feeding on eel grass which grows on muddy estuaries; oystercatcher feeding on larger invertebrates along sandy coasts; redshank feeding along the upper shore of estuaries and muddy river channels) and the presence of these communities in the shore to the south of the appeal site (Map 5, Conservation Interests, NPWS). The NIS refers to research on the tolerance of QI species to disturbance when foraging, with this ranging from extreme (Light-bellied Brent Goose, visual intrusion) to relatively tolerant (redshank). It is stated in the

NIS that disturbance is most likely to occur during some stages of construction where there is potential for sudden high sounds, with effects mitigated by the trees, shrubs and other vegetation south of the proposed development which acts as a baffle against construction sounds. The position of the proposed development in between existing dwellings and its separation from the estuary by a retaining wall and small rise in elevation, is considered to mean that there is no likelihood of an increase in continued disturbance on the species resulting from the construction and occupancy of the house.

Effects on roosting is considered to be insignificant given the narrowness of the boulder/pebble beach to the south of the site at high tide and border to north, such that birds are unlikely to feel secure from predation of the site and more likely to move to another main roost site in the estuary.

NPWSs supporting documents for the SPA (Conservation Objectives Supporting Document - see attachments), indicate that the shore area in the vicinity of the appeal site is used by Light-bellied brent geese for foraging, Oystercatcher for both foraging and roosting and Redshank for foraging and roosting. There is little information on the nature of the shore at the appeal site or survey data on the current use of the shoreline by QI bird species. I would consider therefore that the conclusion of the NIS in respect of likely effects of disturbance on species of conservation interest are not supported by sufficient data.

- Wetlands – Again considered to be potentially affected by changes in water quality.

8.2.6. *Mitigation Measures.* Mitigation measures are set out in section 7 of the NIS (summarised below). The NIS states that the control measures to be employed during works are set out in a detailed in a Construction Management Plan. There is no CEMP attached to the NIS or to the planning application or appeal documents.

Water Pollution (construction)

- Adoption and implementation of standard good practice guidelines for controlling pollution and sediments from construction sites.
- Buffer zone (5m) to the existing modified stream within the site.
- Buffer zone (10m) to the shore at the southern end of the site.

- Silt fence along full length of northern boundary (to prevent suspended sediment and cement to watercourse and subsequently SAC/SPA).
- Storage of materials at least 10m from any watercourse.
- Use of silt bags where small to medium volumes of water are pumped from excavations.
- Tree felling within 5m of any buffer zone to be done by hand.
- Minimal fuel stored on site.
- Off-site refuelling.
- Spill kits on site.

Water pollution (operation)

- Compliance with EPA guidelines for on-site wastewater treatment system.

Disturbance

- All vegetation, ground cover to adjacent to and south of the site to be retained until after the main construction are completed (visual and sound screen to Cummeen Strand SPA).
- Tree felling by hand (to reduce visual and sound disturbance).

Inappropriate disposal of waste

- All waste materials arising on site to be taken off site and disposed of at licenced facility.
- All windblown material to be stored in covered/enclosed areas prior to disposal.
- Buffer zone of 10m to shore at southern extent, to be marked off during construction with no vehicular/plant access, works or storage of materials.

8.2.7. *In combination Effects.* In section 6, the NIS, identifies potential for in-combination effects arising from the concurrent discharge of effluent from the existing dwellings on the site (house and apartment) and from other residential (and associated) development to the east and west of the site (Figure 7, NIS). However, additive effects are discounted on the basis that proposed systems complies with EPA standards, with little potential for additive effects. No evidence is provided of the efficacy of the existing WWTS on site/in vicinity of the site.

8.2.8. *Integrity Test.* Having regard to the foregoing, I am satisfied that the proposed measures to mitigate impacts on water quality during construction are reasonable,

based on standard good practices and appropriate to the site. If the Board are minded to grant permission, detailed application of the proposed measures should be included in a site specific CEMP. Similarly arrangements for the management of inappropriate dumping are reasonable and consistent with legal requirements under the Waste Management Act 1996 (as amended). With regard to disturbance effects, I am not satisfied that the applicant has had sufficient regard to scientific data which is available in respect of the foraging and roosting habitats of the QIs of the Cummeen Strand SPA or that appropriate survey work has been carried out along the shore in which to determine likelihood of effects of disturbance during construction.

8.2.9. With regard to operation, I am satisfied that the proposed arrangements for the disposal of foul water are largely acceptable. However, there is an absence of information on the nature of the watercourse that traverses the site and of the efficacy of the existing wastewater treatment system that is on site to support conclusions in respect of cumulative impacts. Once operational, disturbance effects may be little more than those already associated with dwellings in the vicinity of the site. However, in the absence of information on roosting and foraging habitats in the vicinity of the site, this conclusion would be based on probability and conjecture and not on scientific information.

8.2.10. *Integrity Test.* Following the appropriate assessment and the consideration of mitigation measures, I am not able to ascertain with confidence that the project would not adversely affect the integrity of Cummeen Strand/ Drumcliffe Bay (Sligo Bay) SAC or Cummeen Strand SPA in view of the Conservation Objectives of this site. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

8.3. Appropriate Assessment Conclusion.

8.3.1. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects may adversely affect the integrity of the European site No 004035, Cummeen Strand SPA, in view of the site's Conservation Objectives.

8.3.2. This conclusion is based on the lack of clarity regarding:

- Current arrangements for surface water management and efficacy of existing wastewater treatment system in the area of the site,
- Absence of baseline data on the nature of the shore in the vicinity of the site or regard to the NPWS scientific data (Conservation Objectives Supporting Document, Version 1, 2013) that identifies the shore and Sligo Bay in the area of the appeal site as foraging and roosting habitat for the QIs of the SPA and scientific evidence of likely distances at which QIs will be disturbed.

8.3.3. It is not possible to conclude therefore, in the absence of such information, whether or not the proposed development would result in localised water pollution or disturbance effects on the species of conservation interest.

9.0 Recommendation

9.1.1. I recommend that permission be refused for the proposed development.

10.0 Reasons and Considerations

1. The site of the proposed development is located within a Sensitive Rural Landscape, alongside a designated Scenic Road and within a Visually Vulnerable Area . Within such areas it is the Policy of the Sligo County Development Plan 2017-2023 (P-GBSA-HOU-1) to restrict one-off housing development to specific categories of rural housing need and where such persons can demonstrate that the home they propose is in the interest of the proper planning and development of the area. This policy is considered reasonable. The proposed development, in the absence of an identified housing need in accordance with the requirements of Policy P-GBSA-HOU-1, would militate against the preservation of the sensitive rural coastal environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the appeal site in a coastal landscape that is designated in the Sligo County Development Plan 2017 to 2023 as a Sensitive Rural Landscape and Visually Vulnerable Area, alongside Sligo

Bay, and situated on a designated Scenic Route, it is considered that the proposed development, by virtue of its prominent location, scale of development and likely loss of mature trees would result in an excessive density of development at the location, an obtrusive form of development and would seriously detract from the visual amenity and character of the Sensitive Landscape, Visually Vulnerable area and views towards the sea from the Scenic Route. The proposed development would be contrary to policies of the County Development Plan which protect these landscape resources, which are considered reasonable, and set an inappropriate precedent for similar coastal development. The proposed development not therefore be in accordance with the proper planning and sustainable development of the area.

3. On the basis of the information provided with the planning application and appeal and in the Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects, would not be likely to have a significant effect on Cummeen Strand/ Drumcliff Bay (Sligo Bay) SAC (000627) Cummeen Strand SPA (004035), or any other European site, in view of the site's conservation objectives. In such circumstances, the Board is precluded from granting permission.

Deirdre MacGabhann

Planning Inspector

19th January 2023