



An
Bord
Pleanála

Inspector's Report ABP-315252-22

Development	Construction of a two-storey dwelling house and domestic garage/garden store, sewerage treatment system, and all associated landscaping, site works, and services.
Location	9 Ard na Locha, Bushypark, Dangan Upper, Galway.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	22/164
Applicant(s)	Joan Lynch
Type of Application	Permission
Planning Authority Decision	Grant, subject to 11 conditions
Type of Appeal	Third Party -v- Decision
Appellant(s)	Annette Murphy
Observer(s)	None
Date of Site Inspection	11 th May 2023
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located c. 3km to the north-west of Eyre Square in the north-western outskirts of Galway City. It is bound to the north-east by the N59, which runs initially between Galway City and Clifden. Access to this site is from this national secondary road via Ard na Locha, a scheme of 11 no. house plots, 7 no. of which have been developed to provide detached dwelling houses within their own grounds. The site lies in the northernmost corner of this scheme, on elevated land at the end of a cul-de-sac with a turning head.
- 1.2. The site itself is of regular shape and it extends over an area of 0.36 hectares. It is vacant and overgrown at present. This site adjoins an undeveloped house plot to the south-east and a developed house plot to the south-west, both of which are in Ard na Locha. To the north-west, it adjoins a developed house plot in the neighbouring scheme known as Barnacranny. The roadside boundaries of the site are enclosed by means of stone walls, the boundaries with developed plots are enclosed by means of post and wire fencing/hedgerows, and the remaining boundary with the undeveloped plot is enclosed by means of temporary wire mesh fencing.

2.0 Proposed Development

- 2.1. The proposal would entail the siting of a detached dwelling house in the south-western half of the site. This dwelling house would be of two-storey form, and it would provide five-bed/ten-person accommodation over a floorspace of 752 sqm. The main body of the dwelling house would be accompanied by wings to the east and to the west. Night-time accommodation would be on the ground floor and daytime accommodation and balconies would be on the first floor. Stone and render finishes would be employed. The main roof would comprise multiple fully hipped planes with low pitches.
- 2.2. The dwelling house would be served by a two-pronged driveway, which would afford access to its front (southern) elevation and a double garage in its eastern wing. This dwelling house would be served, too, by a WWTP and a percolation area, which was originally proposed to be sited in the easternmost corner of the site, but which was resited under further information to the northernmost corner. The grounds would be landscaped.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information and clarification of further information, the Planning Authority granted permission, subject to 11 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Under further information and clarification of further information the Planning Authority sought clarification on and elaboration upon the applicant's site characterisation exercise and proposals for a WWTP and percolation area on the site.

3.2.2. Other Technical Reports

- TII: Defers to the PA to uphold the Spatial Planning and National Roads Guidelines.
- Galway City Council:
 - Climate Change & Environment: Further information and clarification of further information requested: No response prior to decision: Case planner attaches Condition No. 10, which addresses the proposed WWTS and percolation area.
 - Transportation: No objection, subject to standard conditions.
 - Galway National Roads Project Office: Confirms that the proposal would not conflict with N6 Galway City Ring Road (GCRR).

4.0 Planning History

Ard na Locha – parent permissions and permissions for plots 8 & 9:

- 99/387: Outline application for 11 no. detached residences together with roads, services and septic tanks: Permitted: Condition No. 8 stated the following:

The finished floor level of the dwellings shall be as stated on the plans submitted on 4/6/1999, except in the case of sites 8, 9 whose finished levels shall be reduced by 1.0m respectively. The roof pitches of the dwellings shall not exceed 30%, and the dwellings shall be bungalows only.*

Reason: In the interests of maintaining the visual amenity of the area.

* 39m OD and 37m OD, respectively.

- 00/324: Details on foot of outline permission for the construction of roads and services: Permitted.
- 01/251: Outline for additional dwelling house and septic tank at the western end of the overall site of Ard na Locha, where previously 2 no. dwelling houses received outline planning permission: Permitted.
- 03/447: Two-storey dwelling house on house plot no. 8: Refused on the grounds that this dwelling house would be of excessive mass, it would be out of character with other dwelling houses in the vicinity, and it would detract from visual amenity. The dwelling house would also contravene the single storey only policy of the CDP.
- 03/868: Two-storey dwelling house on house plot no. 8: Similar to the dwelling house proposed under 03/447, but with 1m reduction in its ridge height: Permitted at appeal PL61.205878: The Board thereby overall ruled its inspector and stated that it had “regard to the topography of the site and its surroundings, and to the particular design proposed, which would integrate into the site contours. The Board did not consider that the development would set a precedent for two storey houses on other sites in the vicinity.”

5.0 Policy and Context

5.1. Development Plan

The Planning Authority (PA) made its decision on the current application on 10th November 2022. The Galway City Development Plan 2023 – 2029 came into effect on 4th January 2023. Accordingly, the PA’s decision was made under the Galway City Development Plan 2017 – 2023. I will set out below the equivalent/relevant provisions of the two CDPs for ease of reference.

Former CDP

The site was shown zoned LDR, wherein the objective is “To provide for low-density residential development which will ensure the protection of existing residential amenity.”

Current CDP

The site is shown zoned R2, wherein the objective is “To provide for sensitive residential infill where such infill will not have an impact on the environmental and visual sensitivities in the area, including those in particular the subject of Policy 5.2 and where such infill can be assimilated satisfactorily through design, layout and amenity impact in a manner that does not detract from the character of the area.”

(Policy 5.2 addresses protected spaces: sites of European, national and local ecological importance).

5.2. Natural Heritage Designations

- Lough Corrib SAC (000297)
- Lough Corrib pNHA (000297)
- Lough Corrib SPA (004042)

5.3. EIA Screening

Under Items 10(b)(i) and (vi) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2023, where more than 500 dwelling units would be constructed and/or where an urban site of more than 10 hectares would be developed, the need for a mandatory EIA arises. The proposal is for the development of 1 dwelling on a 0.36-hectare site. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall well below the relevant thresholds, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

Annette Murphy of 11 Ard na Locha

The appellant states that she set out her concerns at each stage of the application process. However, she considers that these concerns were either not addressed or not properly addressed, and so she reiterates them.

- Water run-off/attenuation
 - Given the extent of hard surfaces proposed, the scope for surface water run-off is considerable and this could, as in the past, affect the appellant's lower lying residential property.
 - While Condition No. 6 attached to the PA's permission addresses surface water, the appellant would have no opportunity to comment on any scheme that may be submitted by way of compliance.
 - Condition No. 6 does not make explicit that an allowance of 20% or preferably 30% should be made for climate change.
- Undertaking in relation to GCRR
 - The appellant requests that a condition be attached disallowing the applicant from making any submission concerning the GCRR, which might affect her residential property.
- Bulk, mass, and area
 - While the appellant requested that cross sections and contiguous elevations of the proposed dwelling house and her dwelling house be submitted, none were requested by the PA.
 - The bulk, size, and siting of the proposed dwelling house would fail to minimise its impact.
 - Attention is drawn to the planning history of No. 8 Ard na Locha, where, under PL61.205878, the height of the dwelling house was required to be reduced, and yet this was a smaller dwelling house than that which is currently proposed.

- The appellant requests that the finished floor level be reduced by 1 – 2m and that the ridge height be reduced by 2m. Under such a scenario the size and design of the dwelling house could otherwise remain the same. If this is not deemed sufficient to address the massing issue, then the proposal should be refused.

6.2. Applicant Response

The applicant begins by summarising the planning history of Ard na Locha, which establishes that it comprises house plots for dwelling houses.

The applicant proceeds to respond to each of the appellant's grounds of appeal, as summarised below.

- Water run-off/attenuation
 - The applicant accepts Condition No. 6.
 - The applicant considers that Condition No. 6 is appropriate in the light of Section 7.9 of the Development Management Guidelines, which envisage such conditions where the matters involved are not of a fundamental nature or such that third parties would be affected. In these respects, the submitted site layout plan did show soak pits, and so the conditioned surface water drainage arrangements would not entail the introduction of a fundamental matter, and, as the appellant's residential property is c. 92m away from the site, it would be unaffected by such arrangements.
- Undertaking in relation to the GCRR
 - The envisaged condition would be highly inappropriate, as it would relate to a third-party project, which is the subject of a separate planning process.
- Bulk, mass, and area
 - As the appellant's dwelling house is c. 120m away from the site and as there is an intervening house plot between her dwelling house and this site, the proposed dwelling house would have no effect upon the amenities of the appellant's residential property.

- The appellant does not acknowledge that her own dwelling house is one of several substantial dwelling houses at Ard na Locha, and so the proposed dwelling house would be in character with the established pattern of development.
- The appellant's suggested revisions to the proposed dwelling house would be "unreasonable, unworkable and unnecessary".
- Attention is drawn to the finished floor levels (FFL) of the dwelling houses to the south-west and to the north-west of the site, which are 37.14m and 40.39m, respectively. The FFL of the proposed dwelling house would be 37.5m. Furthermore, as the site is underlain by granite, the suggested reduction in FFL would have significant economic implications for the applicant, and environmental implications for neighbours, e.g., noise.
- Attention is drawn to the ridgeline, which, if reduced, would result in a dwelling house out of character with existing ones.
- The proposed dwelling house is identical to that at No. 6 Ard na Locha.
- The PA raised no objection to siting and design of the proposed dwelling house.

6.3. Planning Authority Response

None

6.4. Observations

None

6.5. Further Responses

None

7.0 Assessment

- 7.1. I have reviewed the proposal in the light of the Galway City Development Plan 2023 – 2029, relevant planning history, the submissions of the parties, and my own site

visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Planning history and planning policy,
- (ii) Siting and design,
- (iii) Access,
- (iv) Water, and
- (v) Appropriate Assessment.

(i) Planning history and planning policy

- 7.2. Relevant planning history at Ard na Locha is summarised under Section 4.0 of my report. This history indicates that the parent permission for the scheme of 11 no. residences was granted outline permission under application 99/387, subject to conditions, which included Condition No. 8 that required the specification of bungalows and, on house plots nos. 8 and 9 FFLs of 38m and 36m, respectively, in the interest of maintaining visual amenity. Under application 00/324 on foot of this outline permission, detailed approval was granted for the roads and services that have subsequently been provided.
- 7.3. Since the aforementioned applications were determined, the pattern of applications has been one whereby full planning permission has been sought for the development of individual house plots and so Condition No. 8 has not been binding. Accordingly, at the eastern end of the cul-de-sac that serves the current application site, plots 6 and 11 have been developed to provide two-storey dwelling houses. The first of these dwelling houses is identical to the one presently proposed and the second is the residence of the appellant. Both these dwelling houses are sited on plots that are considerably lower than that of the current application site. Plot 7 has been developed to provide a large split-level bungalow, and plot 8 has been developed to provide a part single/part two-storey dwelling house. The former plot is on rising land, and the latter plot is on land that is similar in its elevated position to that of plot 9, the current application site. The planning history of plot 8 involved an initial refusal of permission, followed by a subsequent modified design that received permission from the Board under PL61.205878. This permission was contrary to the reporting inspector's recommendation, and so the Board explained its position by

stating that it had “regard to the topography of the site and its surroundings, and to the particular design proposed, which would integrate into the site contours. The Board did not consider that the development would set a precedent for two storey houses on other sites in the vicinity.” Clearly, the site-specific design of the proposed split level dwelling house, which capitalised upon the contours of the site, was key to the Board’s decision.

- 7.4. Under Section 5.0 of my report, I trace the change in the zoning of the site, which has occurred with the adoption of the current CDP on 4th January 2023, i.e., since the PA’s permission was granted on 10th November 2022. In the former CDP, the site was zoned LDR, wherein the objective is “To provide for low-density residential development which will ensure the protection of existing residential amenity.” In the current CDP, it is zoned R2, wherein the objective is “To provide for sensitive residential infill where such infill will not have an impact on the environmental and visual sensitivities in the area, including those in particular the subject of Policy 5.2 and where such infill can be assimilated satisfactorily through design, layout and amenity impact in a manner that does not detract from the character of the area.” (Policy 5.2 addresses protected spaces: sites of European, national and local ecological importance).
- 7.5. A comparison of the two cited zoning objectives indicates that a change in priorities has occurred from the LDR development that protects existing residential amenity to residential infill that does not have an impact on environmental and visual sensitivities, due to its design and layout, which allows it to be assimilated satisfactorily in a manner that does not detract from the character of the area. The current CDP, therefore, places greater importance on the environmental and visual aspects of residential infill than its predecessor did.
- 7.6. I conclude that the planning history of Ard na Locha and its latest zoning under the recently adopted CDP emphasis the importance of new dwelling houses that safeguard the visual amenities of the area.

(ii) Siting and design

- 7.7. The applicant has submitted a survey of existing levels on the site. This survey shows that levels fall from the westernmost (39m OD) to the easternmost (30m OD) corners of the site, they flatten out in the centre of the site at in and around 35m OD,

and there is a localised mound in the northernmost corner of the site. It also shows the dwelling houses to the north-west and south-west of the site as having FFLs of 40.39m OD and 37.14m OD and main ridgeline heights of 45.85m OD and 44.17m OD, respectively.

- 7.8. The applicant's site layout plan and longitudinal sections, including of the proposed percolation area, show that the proposed two-storey dwelling house would be sited in the south-western half of the site and the proposed percolation area would, as revised, be sited towards the northernmost corner. This dwelling house would have a FFL of 37.50m OD and its main ridgeline heights would be 45.45 and 45.73m OD. The top of the percolation area would be 36.7m OD. The ground floor area would extend over 450 sqm and so the construction of the dwelling house would entail a mixture of cut and fill from the westernmost corner of the site to its centre and the importation of soil, including for the formation of the percolation area.
- 7.9. In the light of the foregoing, site preparation works would inevitably entail the loss of most of the trees and vegetation on the site. While the landscape proposals on the site layout plan indicate considerable replacement planting, there is no doubt that the size, mass, and height of the proposed dwelling house would cause it to be a prominent new feature from public vantage points within its vicinity, especially in the years that would elapse before replacement planting becomes established. Thus, from within the cul-de-sac that serves the site, this dwelling house would be dominant, and it would be seen on the local skyline. Notwithstanding its siting in the south-western rather than the north-eastern half of the site, this dwelling house would be clearly visible to road users on the N59, too. This national secondary road rises slightly towards the west and so eastbound road users, especially, would view it on their approach to Galway City as a conspicuous and unduly imposing building. Its visibility would be heightened by the exclusive specification of render as the finishing material to its northern and western elevations, and by the eye-catching complexity of the design with its projecting/ recessing features and multiple roof elements.
- 7.10. While the longitudinal sections show the adjacent dwelling houses to the north-west and south-west as having similar ridge heights to the proposed dwelling house, their visibility is a lot less than would arise from the proposed dwelling house. The former is a conventional bungalow, which presents to the N59 as being constructed above a

stone clad plinth beyond mature landscaped grounds. The latter is a split-level dwelling house which is barely visible from the N59, and which has a largely stone clad principal elevation that is angled towards the turning head at the top of the cul-de-sac, which serves the site, too. Its profile is eased by trees to the rear, which are on the local skyline.

- 7.11. The appellant draws attention to the size and mass of the proposed dwelling house. She suggests that the FFL and ridgelines be lowered in height to ease the visual impact of this dwelling house. The applicant has responded by drawing attention to the underlying granite on the site and the expense and heightened construction phase noise that would result from its extraction. Instead, she emphasises that the proposed dwelling house would be identical to the one already constructed on plot 6 at Ard na Locha.
- 7.12. During my site visit, I observed that plot 6 is at a lowered level than the application site and, as it is on the southern rather than the northern side of the cul-de-sac to the site, it does not abut the N59. I also observed that plot 8 lies to the south of this site and that they both share an elevated position at the end of the cul-de-sac. The dwelling house on plot 8 exhibits a site-specific design that works with the levels of this plot. I consider that the difficulties associated with the currently proposed dwelling house stem from the quest to site a house type that works well on plot 6 onto the very different plot 9. Instead, a site-specific approach is needed as exemplified by the dwelling house on plot 8. In these circumstances, seeking to adjust the FFLs and the ridgeline heights of the proposed dwelling house would not suffice in ensuring that an appropriate form of development occurs on the site.
- 7.13. I conclude that the siting and design of the proposed dwelling house would fail to respect the visual sensitivities of the site within its context and so this dwelling house would contravene the zoning objective for this site.

(iii) Access

- 7.14. The site would be accessed off the N59 via the existing roads that have been constructed to serve the house plots at Ard na Locha. Traffic generated by the development of this site has, therefore, been allowed for in their design and in that of the junction with the N59.

- 7.15. The site itself would be accessed off the turning head at the western end of the east/west cul-de-sac at Ard na Locha. The existing access point would be utilised in this respect.
- 7.16. The first and third parties to this appeal have interacted over the GCRR project, which would pass to the east of Ard na Locha. The PA's National Roads Project Office has confirmed that the proposal would not conflict with this project. By implication, it would, along with the other development house plots at Ard na Locha, benefit from any revised access arrangements that may ensue.
- 7.17. I conclude that, under the proposal, no access issues would arise.

(iv) Water

- 7.18. Under the proposal, the new dwelling house would be supplied by water from the existing public mains in Ard na Locha.
- 7.19. Under the OPW's flood maps, the site is shown as not being the subject of any formally identified flood risk.
- 7.20. Under the proposal, surface water run-off from impermeable surfaces would be directed to a network of 5 no. soak pits, which would be sited in positions adjacent to the proposed dwelling house and its accompanying two-pronged driveway. Under Condition No. 6 attached to the PA's permission, details of these soak pits would be required.
- 7.21. The appellant expresses concern that surface water run-off from the site would potentially reach lower lying residential properties in the eastern portion of Ard na Locha. She expresses dissatisfaction that the details of the soak pits have been made the subject of a condition and she draws attention to the need to allow for climate change in their design.
- 7.22. The applicant has responded by stating that she accepts Condition No. 6. She also sets out the case for the use of this Condition insofar as it would not introduce any new matter of fundamental significance to the proposal, i.e., the soak pits are shown on the proposed site layout plan, and, given the appellant's residential property would be c. 92m away, she, as a third party, would be unaffected.
- 7.23. During my site visit, I observed that the appellant's residential property is at the foot of the cul-de-sac, which serves the site. This cul-de-sac is fitted with its own

stormwater drainage system, and so any surface water run-off from the site onto it would discharge to this system. The risk of such run-off would be greater during any construction phase, and so this should be addressed by a construction management plan, which could be conditioned. During the operational phase, provided the soak pits are designed to allow for climate change, the site would *prima facie* be capable of servicing its own surface water drainage needs. The essence of Condition No. 6 could be reattached to any permission and modified to make explicit the need to factor-in at least 20% additional volume to allow for climate change.

7.24. Under the proposal, wastewater would be treated by an on-site secondary treatment system and a soil polishing filter. The applicant has completed a site characterisation exercise, the findings of which have prompted her selection of this WWTP and a soil polishing filter that would have a surface area of 15 sqm per PE (cf. Option 2 in Table 10.1 of the EPA's Code of Practice: Domestic Waste Water Treatment Systems (2021) (CoP DWWTSs)). The main findings are summarised below:

- The aquifer is poor and of extreme vulnerability. The groundwater protection response is R2₁. The EPA's CoP DWWTSs: states that this response is "Acceptable subject to normal good practice. Where domestic water supplies are located nearby, particular attention should be given to the depth of subsoil over bedrock such that the minimum depths required in Chapter 6 are met and the likelihood of microbial pollution is minimised."
- Local groundwater is assumed to flow in a north north-easterly direction.
- The trial hole was dug to a depth of 2.8m. Fractured bedrock occurs at a depth of 0.4m, and the bedrock itself occurs at 2.8m. Water was not encountered.
- The "T" (sub-surface/depth of 600mm) and "P" (surface/depth of 400mm) test results were 23.39 min/25mm and 20 min/25mm, respectively. Accordingly, both the sub-soil and the topsoil have suitable percolation properties.

7.25. In the light of the above factors, the site assessor recommends that a secondary treatment system and soil polishing filter be installed, which would discharge to groundwater at an invert level of 36.2m OD. Given the proximity of fractured bedrock to existing ground levels, suitable soil and stones would be imported to form a raised percolation area with the requisite minimum depth of 0.9m between the invert level

and the fractured bedrock beneath. This area would, as revised, be sited towards the northernmost corner of the site in a position where the minimum clearance distances from the proposed dwelling house and the site boundaries would be achieved/exceeded.

7.26. I conclude that the proposal would raise no water issues.

(v) Appropriate Assessment

7.27. The site does not lie in nor beside a European site, and it is not accompanied by any watercourses. Under the proposal, the new dwelling house would be served by a wastewater treatment system, which would discharge to groundwater. The nearest European site is Lough Corrib SAC (000297). I am not aware of any source/pathway/receptor route between the site and this or any other European site. Accordingly, no Appropriate Assessment issues would arise.

7.28. Having regard to the nature, scale and location of the proposed development, the nature of the receiving environment, and the proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

That permission be refused.

9.0 Reasons and Considerations

Having regard to the R2 zoning objective for the site in the Galway City Development Plan 2023 – 2029, it is considered that, due to its size, mass, height, design, and external appearance, and its siting on an elevated site in relation to the N59 and the adjoining cul-de-sac at Ard na Locha, the proposed dwelling house would be a highly visible and unduly dominant addition to the landscape and so it would fail to respect the visual sensitivities of the site within its context. Accordingly, this dwelling house would be seriously injurious to the visual amenities of the area, and so it would contravene the zoning objective for the site. As such, the dwelling house would be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison
Planning Inspector

10th July 2023