



An
Bord
Pleanála

Inspector's Report

ABP-316048-23

Development	Retention of works carried out under PA ref 08/55 and build a new house, garage and sewage system.
Location	Camus Oughter, Camus, Co Galway.
Planning Authority	Galway County Council.
Planning Authority Reg. Ref.	2261275.
Applicant(s)	Caroll Tallon.
Type of Application	Permission and Retention Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party versus decision.
Appellant(s)	Caroll Tallon.
Observer(s)	None.
Date of Site Inspection	18 September 2023.
Inspector	Stephen Rhys Thomas.

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1.0 Site Location and Description

- 1.1. The subject site is located in the rural townland of Camus Uachtair. The wider rural area is designated as a Class 3 Landscape (coastal), which has a landscape sensitivity rating of Special. The site comprises part of a larger landholding, with current access to the site via an elongated access laneway. The general area is defined by low quality agricultural land and a number of dwellings some occupied and some older housing stock in ruins. The site is located in the Gaeltacht and maps indicate that it is partially within the Connemara Bog Complex SAC located to the north.
- 1.2. The lands are more or less flat with a large amount of imported material bringing up the levels of the southern portion of the site. There are number of mature hedge and low tree groupings and stone walls to boundaries.

2.0 Proposed Development

- 2.1. The proposed development comprises:
 - The retention of works that have commenced under planning permission number 08/55.
 - Permission for the construction of a new dwelling house of one and half storeys in height and 189 sqm in floor area.
 - A garage of 54 sqm.
 - A domestic wastewater treatment system.
 - All on a site of 0.67ha.

3.0 Planning Authority Decision

3.1. Decision

The planning authority refused permission, for the following

1. The subject site is located in within Class 3 Special Landscape where Policy Objective RH 4 of the Galway County Development Plan 2022-2028 sets out

qualifying criteria for those with a genuine rural generated housing need seeking to construct a dwelling house within the Rural Housing Zone 4. Based on the absence of sufficient details to substantiate the applicant's rural linkage to this area in accordance with the requirements of Policy Objective RH 4 is considered that the applicant has not satisfactorily demonstrated that they meet the housing need criteria set out in the Galway County Development Plan. Therefore, the proposed development is considered contrary to the rural housing provisions of the said county development plan. Accordingly, to grant the proposed development would contravene materially Policy Objective RH 4 contained in the Galway County Development Plan 2022-2028, would set an undesirable precedent for similar future development in the area, and would be contrary to the proper planning and sustainable development of the area.

2. The development site is located partially within Special Area of Conservation: Connemara Bog Complex SAC towards the northern section of the site and is within 100m of Kilkieran Bay And Islands SAC to the south. The Planning Authority note the proximity of the site to said European sites and in the absence of an NIS, and to the concerns in relation to the suitability of the site for the treatment of wastewater arising from the proposed development, the Planning Authority consider that likely significant effects said sites and any other European sites within the zone of influence of the subject site cannot be screened out. Therefore, if permitted as proposed, the Planning Authority cannot be satisfied that the proposal will not adversely affect the integrity of European sites in light of their conservation objectives. Therefore, if permitted as proposed, the development has the potential to adversely affect the qualifying interests and conservation objectives of protected European sites for flora and fauna and would materially contravene Policy Objective NHB1- Natural Heritage and Biodiversity of Designated Sites, Habitats and Species and NHB 2 - European Sites and Appropriate Assessment and DM Standard 50 DM Standard: Environmental Assessments of the Galway County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.

3. In the absence of any details submitted on file from Irish Water relating to the consent to connect to the public water supply to serve the proposed development, it is considered that the development if permitted as proposed would pose a serious

risk to the public health of persons occupying the proposed dwelling house, would be contrary to Policy Objective WS 4 Requirement to Liaise with Irish Water – Water Supply and DM Standard 36 Public Water Supply and Wastewater Collection of the Galway County Development Plan, 2022-2028 and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The basis of the planning authority decision includes:

- site is located in the townland of Camus Uachtar, outside any settlement, in a structurally weak area, in a Special Landscape Sensitivity Class 3 in the Coastal Landscape Category. Housing need has not been demonstrated under Policy Objective RH4.
- Wastewater treatment system proposal noted, however, site sensitivity and proximity to an SAC are of concern.
- There is no confirmation from Irish Water that a water connection can be achieved.
- The development will utilise the vehicular entrance granted permission under 08/55, this is acceptable.
- House design and garage scale acceptable.
- Landscape plan omitted.

Refusal of permission recommended.

3.2.2. Other Technical Reports

None.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

- 3.4.1. Two submissions that raise issues about local housing need, Irish language and rights of way.

4.0 Planning History

4.1. Site

22/61197 – permission sought by Carol Tallon to retain works commenced under planning permissions 08/55 and to build a new dwelling house, garage & sewerage system. Gross floor area of the proposed works: 189.00 sqm. Withdrawn.

22/564 – permission refused to Carol Tallon to retain works commenced under planning permissions 08/55 and to build a new dwelling house, garage & sewerage system in Camus Uachtair. Gross floor area of the proposed works: 358.00 sqm

17/1480 – permission sought by Peadar Tierney to retain the works commenced on the site granted under planning permission 08/55 and to build a new dwelling house, garage and sewerage system. Gross floor space of proposed works 316.0sqm. Deemed withdrawn.

08/55 – permission granted to Peter Tierney to demolish a dwelling house and erect a new dwelling house, garage and sewerage system (Gross floor area 316sqm).

98/3336 – Permission granted to Peter Tierney for upper floor extension to existing dwellinghouse and the construction of a septic tank and percolation system and retention of unfinished extension at site.

5.0 Policy Context

5.1. Development Plan

The Galway County Development Plan 2022-2028 is the statutory plan for the area. The site is located in a Special Landscape Sensitivity and where Policy Objective RH 4 Rural Housing Zone 4 (Landscape Classification 2,3 and 4) applies. The following sections of the development plan are of relevance:

Chapter 4 Rural Living and Development

Section 4.6 – Rural Housing Strategy in the Open Countryside

Section 4.6.2 - Structurally Weak Rural Areas (East and West of GCTPS)

Section 4.6.3 - Rural Housing Development Strategy 2022-2028

Chapter 8 Tourism and Landscape

Chapter 10 Natural Heritage, Biodiversity and Green/Blue Infrastructure

Chapter 13 The Galway Gaeltacht and Islands

Chapter 15 - Development Management Standards

- DM Standard 7 – Rural Housing
- DM Standard 8 – Site Selection and Design
- DM Standard 11 – Landscaping
- DM Standard 28 - Sight Distances Required for Access onto National, Regional & Local Roads
- DM Standard 36 – Public Water Supply and Wastewater Collection
- DM Standard 38 - Effluent Treatment Plants
- DM Standard 46 – Compliance with Landscape Sensitivity Designations
- DM Standard 47 - Field Patterns, Stone Walls, Trees and Hedgerows
- DM Standard 50 – Environmental Assessments
- DM Standard 67 – Sustainable Drainage Systems

Design Guidelines for the Single Rural House (Galway County Council)

5.2. Natural Heritage Designations

- 5.2.1. The site is adjacent to the Connemara Bog Complex SAC (0 km from the site) and 100 metres north of the Kilkieran Bay and Islands SAC.

5.3. EIA

- 5.3.1. Having regard to the nature of the proposed development and even with its location close to sensitive locations and features, there is no real likelihood of significant

adverse 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. A First Party Appeal was submitted to An Bord Pleanála on the 14th March 2023 by the Applicant opposing the Local Authority's decision, the grounds of appeal can be summarised as follows:

- The application is for the retention of works permitted and commenced but not completed and for a new reduced scale of house. This involved the removal of the structure on site and as a replacement dwelling, housing need is not necessary, however, the applicant has already set out housing need.
- The author of the Site Characterisation Report for the application, Emmet McGloin (Site Suitability Assessor and Ecologist), states that the site is not within the Connemara Bogs Complex SAC. A stone wall and roadway separate the site from the SAC and the direction of flow is away from the designated site. The site has already been disturbed and so there will be very little impact from silt, mitigation measures to trap silt will minimise impact. The wastewater treatment system is positioned 220 metres from the sea inlet and water will be treated to a high standard and there is no proliferation of tanks in the area.
- There was already a water connection to the previous dwelling on site and Uisce Éireann confirm the feasibility of connection.

6.1.2. The grounds of appeal include a confirmation from Uisce Éireann that a water supply connection is feasible without network upgrades.

6.1.3. A letter from Emmet McGloin (Site Suitability Assessor), that states the site is not within an SAC and flow direction from the site is away from the designated site. Works have already been done on site and it is unlikely that there will be silt disturbance to affect the Kilkieran Bay and Islands SAC located to the south. Finally,

wastewater will be treated to a high standard and there are few other treatment systems in the area to lead to combined effects.

6.2. Planning Authority Response

None

7.0 Assessment

7.1. Introduction

7.1.1. The main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Rural Housing
- Public Health
- Water Supply
- Appropriate Assessment

7.2. Rural Housing

7.2.1. The site is located in a landscape that is subject to specific classification set out in the development plan. The site is located in a Coastal Landscape with a sensitivity rating of 3 or Special, this area is also a structurally weak area for the purposes of rural housing policy. As such the site is subject to closer examination with reference to housing need and Policy Objective (PO) RH 4 of the Galway County Development Plan 2022-2028 refers. The planning authority refused permission because the applicant had failed to demonstrate a housing need in accordance with PO RH 4. The applicant states that because the site was occupied by a dwelling now demolished in preparation for a new house permitted under 08/55, housing need did not need to be demonstrated. However, the applicant has set out her housing need in documents submitted with the application.

7.2.2. The applicant maintains that the site was occupied by a dwelling, close to ten years ago and it was demolished to make way for a dwelling permitted under 08/55. A house and treatment system was permitted under 08/55 to a Peter Tierney, some groundwork was carried out but nothing since. The applicant understands that because the site was occupied by a dwelling, now gone, there is no requirement to demonstrate a housing need and permission should be given. The applicant has not referenced PO RH 7 Renovation of Existing Derelict Dwelling to assist her case and probably with good reason. There is no derelict dwelling on site and hence no renovation, restoration or modification to take place. I am not satisfied that the

argument presented by the applicant that a dwelling occupied the site over ten years ago means local need is not required. In this instance the site has been cleared, a previous permission has lapsed and therefore a completely new application is required and its applicant should meet the requirements of the rural housing policy for the area.

7.2.3. To support the application for a house, the applicant completed the Rural Housing Need Application form. In which it is detailed that they reside in rented accommodation in Inverin, their occupation involves writing and technology deployment at a unit in An Cheathrú Rua. The reason for selecting the subject site is because it is their home, close to office and team, support network and daily activities. The application is supported by a variety of documentation that includes: a letter to better describe housing need and that work, family, friends, support network, political affiliations and hobbies are all centred in Connemara. Hobbies and interests are also outlined including traditional boat building, the Irish language and supporting the local GAA club.

7.2.4. Policy Objective RH 4 Rural Housing Zone 4 (Landscape Classification 2,3 and 4) sets out that applicants are required to demonstrate their demonstrable economic or social Rural Links or Need. In the first instance housing can be considered through existing and immediate family ties, of which the applicant has none documented. Alternatively, being part of the community, having grown up or schooled in the area and wishing to return counts for something, the applicant cannot meet these requirements. Finally, being functionally dependent in relation to demonstrable economic need on the immediate rural area can be considered, in this case the applicant's place of work is over 16 kilometres to the south at An Cheathrú Rua. Though the applicant sets out a desire to reside at this location and a wide-ranging interest in the area of Connemara, its historical/cultural attractions and the Irish Language, they do not meet the requirements of PO RH 4 as they are set out in the development plan. For this reason, permission should be refused.

7.3. **Public Health**

7.3.1. The second reason for refusal refers primarily to the location of the site so close to the Connemara Bog Complex SAC and Kilkieran Bay and Islands SAC and the uncertainty that likely significant effects to these sites cannot be ruled out. A Natura

Impact Statement (NIS) was not submitted and the effectiveness of the proposed wastewater treatment system cannot be determined with certainty. The applicant has submitted a letter from their Site Suitability Assessor (and Ecologist) that states the site is not within an SAC and flow direction from the site is away from the designated site. Works have already been done on site and it is unlikely that there will be silt disturbance to affect the Kilkieran Bay and Islands SAC located to the south. Finally, wastewater will be treated to a high standard and there are few other treatment systems in the area to lead to combined effects. I examine Appropriate Assessment (AA) and designated sites at section 7.5 of my report below. With reference to the suitability of the site to accommodate a domestic waste water treatment system (DWWTS), I note the following.

- 7.3.2. The applicant prepared a Site Characterisation Report, completed by Emmet McGloin a site suitability assessor. The planning authority noted the contents and findings of the report but highlighted uncertainty that wastewater can be satisfactorily treated and disposed of on site so close to designated sites. From my observations of the site, I can confirm that ground conditions are not good, there is evidence of marshy ground and rocky outcrops. The Site Characterisation Report concludes that a secondary wastewater treatment system and polishing filter will be required and the technical specifications of a Eurotank system have been submitted.
- 7.3.3. The Site Characterisation Report sets out that the site is located on a Poor PI aquifer in an area with extreme vulnerability yielding an R2-2 groundwater protection response. The proximity of the Kilkieran Bay and Islands SAC is noted but not the Connemara Bog Complex SAC. Slope and thus flow direction is southerly. The trial hole was excavated to a depth of 0.9 meters, no water was encountered but bedrock was. No T-test carried out and a P-test yielded a result of 9.50 mins. No specific analysis was carried out with respect to designated sites and the site assessor confirms that water will be treated to a high quality, silt transmission will not occur and no impact will result to nearby designated sites.
- 7.3.4. Ground conditions are challenging on site, and the results shown by the Site Characterisation Report demonstrate this. No account has been taken of groundwater flows and impact upon designated sites, and though a secondary wastewater treatment system and polishing filter may be suitable, for a site with these characteristics no formal analysis has been undertaken to demonstrate this.

Due to the lack of information on file, I am not satisfied that the proposed DWWTS is appropriate at this location and permission should be refused.

7.4. Water Supply

- 7.4.1. The third reason for refusal refers to uncertainty about a water connection. The applicant has submitted a correspondence from Uisce Éireann dated 24th August 2022 that confirms a water connection is feasible without network upgrades. I observed a watermain marker on the boundary of the property with the public road and I am satisfied that the site can be served with a safe water supply. Policy Objective WS 4 Requirement to Liaise with Irish Water and DM Standard 36 have been complied with and no longer merit a refusal of permission.

7.5. Appropriate Assessment

- 7.5.1. The site is located adjacent to the Connemara Bog Complex SAC and 100 metres north of the Kilkieran Bay and Islands SAC. The Connemara Bog Complex SAC is located immediately to the north and NPWS mapping indicates that it takes in the public road and a narrow margin to the front of the appeal site. The applicant has not prepared an Appropriate Assessment Screening Report or Natura Impact Statement and for this reason the planning authority refused permission. Uncertainty arises from the lack of analysis of proximate designated sites and the effectiveness of the proposed wastewater treatment system. The applicant has supported their grounds of appeal with a letter from the site assessor that carried out the Site Characterisation Report. In that letter, the site assessor (and Ecologist) explains that the subject lands are not located within a designated site, a stone wall and road separate the site from the Connemara Bogs Complex SAC. Works have already been carried out on site and so there is little chance of silt arising from excavation impacting designated sites. Lastly, the flat and rugged landscape of the area minimises run-off and the proposed treatment system will only release water treated to a high quality. This information is interesting but hardly scientific and the bar for Appropriate Assessment is set high in that respect.
- 7.5.2. Given the lack of at least an AA Screening Report and the probability that an NIS would be necessary at this sensitive location between two designated sites, I am unable to carry out either screening or AA. For instance, given that the proposed development intends to discharge treated effluent to groundwater, I would expect a

complete hydrological analysis to determine groundwater pathways to the Connemara Bog Complex SAC and the Kilkieran Bay and Islands SAC. Due to the lack of information on file I cannot be certain that the development does not have the potential to adversely affect the qualifying interests and conservation objectives of nearby protected European sites. The Board is, therefore, precluded from granting planning permission for the proposed development.

7.6. Other Matters

- 7.6.1. In terms of the design and scale of dwelling and garage proposed, I note that the planning authority raise no concerns. The proposed development accords with the rural design guide and is set well back on the site and screened behind mature hedging and trees. Though not visible from the road, I am certain that the site is observable from many distant viewpoints. However, given the amount of screening on site, the design and scale of dwelling proposed, adverse impacts upon the landscape at this location are unlikely but would benefit from further analysis such as a visual impact assessment.

8.0 Recommendation

- 8.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

9.0 Reasons and Considerations

1. Having regard to Policy Objective RC 2 Rural Housing in the Countryside of the Galway County Development Plan 2022-2028 that seeks to manage the development of rural housing in the open countryside by requiring applicants to demonstrate compliance with Rural Housing Policy Objectives and specifically policy objective RH 4 that sets out qualifying criteria for those with a genuine rural generated housing need seeking to construct a dwelling house within the Rural Housing Zone 4, it is considered that the applicant has not sufficiently demonstrated an economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements and, therefore, the proposed development does not comply with policies and objectives of the Development Plan. The proposed development would contribute to the encroachment of random rural development in

the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would contravene the provisions of the Development Plan. 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 subject site adjacent to the Connemara Bog Complex SAC and close to the Kilkieran Bay and Islands SAC and having regard to the information provided with the application, including the lack of content and level of analysis with reference to an assessment of the potential impacts of the domestic effluent treatment system design on groundwater pathways, the Board cannot be satisfied, beyond reasonable scientific doubt, that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of the Connemara Bog Complex SAC and the Kilkieran Bay and Islands SAC, in view of the site's conservation objectives and qualifying interests. In such circumstances the Board is precluded from granting planning permission for the proposed development.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Stephen Rhys Thomas
Senior Planning Inspector

23 October 2023