



An  
Bord  
Pleanála

# Inspector's Report

## ABP-316161-23

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<b>Development</b>	A storey and half style dwelling house, waste water treatment system and percolation area.		
<b>Location</b>	Barranny, Annaghdown, County Galway.		
<b>Planning Authority Ref.</b>	2261009.		
<b>Applicant(s)</b>	Martin and Clodagh Newell.		
<b>Type of Application</b>	Permission.	<b>PA Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party.	<b>Appellant</b>	Martin and Clodagh Newell.
<b>Observer(s)</b>	None.		
<b>Date of Site Inspection</b>	3 November 2023.	<b>Inspector</b>	Stephen Rhys Thomas.

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## 1.0 Introduction

### 1. Site Location/ and Description.

The site is located on agricultural farmland, 3.4 kilometres west of Clonboo, a small scattered settlement of houses with a small amount of commercial activity along the N84. Annaghdown is located 3 kilometres to the north and comprises some houses, a church and a national school. The town of Claregalway is located

17 kilometres to the south east and Corrandulla, a large village, is 7 kilometres to the north east.

The site comprises an irregularly shaped agricultural field overgrown with grass beside a detached two storey dwelling of recent construction. There are a large number of other houses strung out along this narrow country road in both directions but particularly along the entire section from the site back to the scattered settlement of Clonboo. The field is broadly level and the boundaries comprise stone walls and some mature trees and hedging. The wider landscape comprises agricultural farmland of varying quality, mostly in grass, punctuated by detached dwellings at various intervals along the country road. The road along the frontage of the site is narrow with a curving geometry in both directions and an upwards gradient to the north east.

## **2. Proposed development.**

A storey and half style dwelling house and waste water treatment system and percolation area.

Further Information was submitted with reference to Uisce Éireann confirmation and to demonstrate compliance with rural housing policy.

## **3. PA's Decision:**

The planning authority issued a decision to refuse permission for a single reason, as follows:

Based on the information received, the Planning Authority are not satisfied that the applicant has adequately demonstrated compliance with Policy Objective RH 2 of the Galway County Development Plan 2022-2028 to develop their first home in a rural area which is under strong urban pressure within the GCTPS. 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 RH2 contained in the Galway County Development Plan 2022-2028, would be contrary to ministerial guidelines issued to the planning authorities under Section 28 of the Planning and Development Act 2000 (as amended), 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.

Planning report 1 states that the site is located in the Gaeltacht and the GCTPS. Further information on local need and water supply are required. Sightlines are achievable, 70 metres in both directions.

Planning report 2, notes the further information submitted as unacceptable and permission is refused.

#### **4. Planning History.**

##### **Subject site**

2260658 – permission refused for a dwelling and wastewater treatment system.  
Single reason - Local need not met.

#### **5.1. Local Planning Policy**

Galway County Development Plan 2022 -2028

The Galway County Development Plan 2022 -2028 was adopted by the PA on 9<sup>th</sup> May 2022. It has regard to national and regional policies in respect of rural housing, chapter 1 and section 4.6 of the plan refer.

The subject site is located in a Low Landscape Sensitivity 1 area, in the Central Galway Complex Landscape, within the GCTPS (Galway County Transport Planning Study Area), as set out in Section 4.6.1 of the Galway County Development Plan 2022-2028 where housing need is required to be established by the applicant.

Relevant policies and objectives include:

- RC 1 Sustainable Development in Villages
- Policy Objective RC 2 Rural Housing in the Countryside - To manage the development of rural housing in the open countryside by requiring applicants to demonstrate compliance with the Rural Housing Policy Objectives as outlined in Section 4.6.3.

- Policy Objective RH2 Rural Housing Zone 2 (Rural Area Under Strong Urban Pressure-GCTPS-Outside Rural Metropolitan Area Zone 1).
- Policy Objective RH 9 – Design Guidelines
- Policy Objective LCM 3 – Landscape Sensitivity Ratings
- Policy Objective WW 6 – Private Wastewater Treatment Plants
- Policy Objective WW 10 - Surface Water Drainage
- Policy Objective FL 2 - Flood Risk Management and Assessment
- DM Standard 11 – Landscaping
- DM Standard 28 - Sight Distances Required for Access onto National, Regional, Local and Private Roads
- DM Standard 37 - Group Water Scheme and Private Wells
- DM Standard 38 - Effluent Treatment Plants
- DM Standard 47 - Field Patterns, Stone Walls, Trees and Hedgerows
- DM Standard 68 - Flooding

Appendix 5: Design guidelines for the single rural house

AD 2 Agricultural Lands - To protect good quality agricultural lands from development which could be accommodated elsewhere and that would undermine the future agricultural productivity of the lands or irreversibly harm the commercial viability of existing or adjoining agricultural land.

## **5.2 Natural Heritage Designations**

- The closest designated European Sites are the Lough Corrib SAC and SPA located 460 metres south of the site.

## **6. The Appeal**

### **6.1 First Party Appeal.**

- Rural Links and Substantiated Rural Housing Need – lived in family home for more than twenty years. The housing need information already submitted with the application is put forward as the case for which permission should be granted. Enclosures include Application Form B, Birth Certificate, Certificate of Baptism, National School attendance letter, Land Registry details, letter of employment with a plumbing and heating company

(1997-2011), house for sale brochure (Chicago USA), letter of support and offer of accommodation from the applicant's brother.

- Precedent is not relevant in this instance PA ref 22/60540 is a far more sensitive site.

#### **6.2 P.A. Response**

- None.

**7. EIA** - Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site as well as the criteria set out in Schedule 7 of the PDR's, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

**8. AA Screening** - The subject site is located approximately 460 metres north of the Lough Corrib SAC and Lough Corrib SPA. Having regard to the scale and nature of the proposed rural house development and to the location removed from any European Sites no Appropriate Assessment issues arise. 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.

## **2.0 Assessment**

### **2.1. Introduction**

2.1.1. 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 Policy
- Other Matters

### **2.2. Rural Housing Policy**

2.2.1. The appeal site is located in the Galway County Transport and Planning Study (GCTPS) area, and Policy Objective RH 2 of the Galway County Development Plan

2022-2028 refers. RH 2 seeks to facilitate rural housing in this rural area under strong urban pressure subject to a variety of criteria regarding demonstrable economic and/or social rural links or need. The planning authority refused permission because they were not satisfied that RH 2 could be met by the applicant even after further information was requested. The applicant has appealed the decision to refuse permission, they maintain that their rural links to the area are strong and they have a substantiated rural housing need as already set out in the application documentation.

- 2.2.2. Based upon the documentation on file, I note that the applicant has completed Part B of the Galway County Council Planning Application form, provided supporting information and also further documentation submitted at the request of the planning authority. The contents of form B state that they currently reside in accommodation that is not their own, the site is in their ownership, that they have lived in the Barranna area for some time and now they wish to build their first house in this area. Form B goes on to explain at length that the applicant grew up, was schooled and worked in the local area, and that numerous relatives all live nearby (drawing 2208-AA-00-00-DR-A-PP-0001 refers). The purpose of the proposed dwelling is for the use of the applicant and to provide living accommodation for a care-giver daughter hoping to return from the USA.
- 2.2.3. Supporting documentation includes: a birth certificate showing dwelling place of father as Baranna, Currandulla; a baptismal certificate (date 25 May 2022); confirmation of attendance at Naomh Breandán national school (1957 to 1966) and that a returning daughter has children that wish to attend the school; land registry documentation and accompanying map showing the site is in the ownership of the applicant (2004) and a letter detailing occupation as plumber in the area between 1997 and 2011.
- 2.2.4. The planning authority noted the submission of the above documentation but required the submission of further information (FI) to determine evidence of residency during the years 1997 to 2011, a chronological history of previous places of residence and any residential properties owned in County Galway. The applicant submitted material that was received by the planning authority on the 23 February 2023. Firstly, the applicant points out that their health has deteriorated, they have been hospitalised and no discharge date has been given, and this amplifies the need

for the dwelling sought. The applicant provided drawings of their long standing residence at 32 John Coogan Park, Westside, Galway City, before moving to their brother's home located at nearby Shankill. It is explained that the FI drawings submitted illustrate that the Galway City dwelling is not suitable for the applicant's needs once released from hospital. The applicant points out that the proposed house is the only economically viable option to provide a residence, that maintains dignity, comfort, and quality.

2.2.5. Legal advice was sought by the applicant, and this was submitted as further information, in summary it queries the need for FI at all when sufficient information and documentation has already been submitted. Notwithstanding, with reference to places of residence, the applicant stated the following:

- Newell Family Home, as indicated on previously issued documentation - Barranna, Annaghdown, Co Galway, Years 1951 – 1973 (22 years continuous)
- Shankill, Annaghdown, Co Galway (Approx. 2 Nights per week between 1997-2011)
- 32 John Coogan Park, Westside, Galway City Years 1973 – 2023
- Shankill, Annaghdown, Co Galway Years 2023 - Ongoing

2.2.6. Despite all of this supporting information and documentation, the planning authority were not satisfied that this was the applicant's first home in a rural area in the GCTPS. From my reading of the reason for refusal, it seems that the planning authority are not disputing the applicant's local links and they do seem to be strong. The issue at stake is the matter of a first home in a rural area which is under strong urban pressure and specifically the planning authority are not convinced of this.

2.2.7. Policy Objective RH 2 sets out a wide range of criteria, from 1(a) to 1(g), within which an applicant must seek to meet just one of the criteria, the imposition of an OR rather than an AND determines this. From my reading of RH 2, there are two relevant criteria to be met as follows:

1(b) Those applicants who have no family lands, or access to family lands, but who wish to build their first home within the community in which they have long standing demonstrable economic and or social Rural links\* or Need and where

they have spent a substantial, continuous part of their lives i.e. have grown up in the area, schooled in the area or have spent a substantial, continuous part of their lives in the area and have immediate family connections in the area e.g. son or daughter of longstanding residents of the area. Having established a Substantiated Rural Housing Need\*, such persons making an application on a site within an 8km radius of their original family home will be accommodated, subject to normal development management.

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

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

OR

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

2.2.8. In terms of RH 2 1(e), it appears that the site was acquired in 2004. It is not clear if the lands were acquired from a relative or not. I am not satisfied that these lands have been in family ownership for more than twenty years, RH 2 1(e) does not apply.

2.2.9. With reference to RH 2 1(b), the applicant has no demonstrable economic need to live at this location, they are retired and on a pension. But they do have a rural link to the area through relations and having grown up in the area. This is not the applicant's first home and RH 2 1(b) includes definitions and specifically one that requires a demonstration of a Substantiated Rural Housing Need, sets out need as follows:

Is defined as supportive evidence for a person to live in this particular area and who does not or has not ever owned a house/received planning permission for a single rural house or built a house (except in exceptional circumstances) in



the area concerned and has a strong demonstrable economic or social need for a dwelling for their own permanent occupation. In addition, the applicants will also have to demonstrate their rural links as outlined above.

2.2.10. The first sentence of the definition is split by / and I take this to mean OR, thus an applicant seeking to demonstrate rural housing need must not ever have owned a house or received permission for a single rural house or built a house (except in exceptional circumstances) in the area. The applicant has not received permission for a house or built a house in the area, however, they do own a house in Galway. The applicant has and continues to own a house at 32 John Coogan Park, Westside, Galway City. The applicant points out that this house is no longer fit for purpose given their current health requirements and a desire to have their daughter return to Ireland in order to provide care. I do not consider this to be an exceptional circumstance, ill health and ageing is not uncommon. Whilst the applicant may wish to return to the rural area they grew up and may well have rural links, they have no actual rural housing need, strong demonstrable economic need or social need. They already own a home, the plans of which have been supplied by their architect. The applicant's existing home is located in an urban area, where all the relevant social supports and health care infrastructure already exist to assist a person in retirement and faltering health. I see no reason why the existing dwelling cannot be adapted, as many others are, with the addition of ancillary accommodation subject to the relevant planning consent. This is not the applicant's first home, consequently they do not have a rural housing need, permission should be refused.

### 2.3. **Other Matters**

- 2.3.1. Precedent – The applicant refers to the issue of a precedent case, PA ref 22/60540 refers, where permission was granted for a much more sensitive site (built and natural heritage) and with less than certain local need reasons given by the applicant. I have not referred to this case, there is no documentation on file to examine. I am satisfied that the merits of the case on hand are sufficient to allow a decision to be made without looking to other cases where comparisons are difficult to make.
- 2.3.2. Access – I note that the planning authority consider the access arrangements to be safe and that adequate sightlines can be achieved in both directions when exiting the

site. Reference is made to 70m sightlines in accordance with DM Standard 28 of the Galway County Development Plan 2022-2028. However, I note that the applicant did not submit a drawing that clearly details sightlines in both directions, none are shown on the site layout drawing. From my observations of the site, the frontage is narrow, the road bends away to the left and right and the road slopes upwards to the left when exiting. The road is narrow, with multiple house entrances along its length. I am not satisfied that a proper analysis has been undertaken by the applicant with regard to the adequacy of sightlines and there is no technical report from the planning authority with respect to access/egress arrangements on the file. Lastly, I have concerns about the multiplicity of house entrances along this narrow and poorly aligned road and I anticipate the possibility of a traffic hazard if another entrance is permitted. Traffic hazard is a serious matter and though not raised in the grounds of appeal or the reason for refusal issued by the planning authority, I consider that permission should be refused for traffic safety reasons.

- 2.3.3. Public Health – The planning authority accept the findings of the applicant’s Site Characterisation Form; it appears that the proposal meets the requirements of DM Standard 38 of the Galway County Development Plan 2022-2028. The applicant submitted a letter from Uisce Éireann that confirms water connection is feasible without network upgrades.
- 2.3.4. I have concerns that the location of the percolation area detailed in the Site Characterisation Form does not correspond with the location of trial pits on site, though this is clarified within the text of the report. More importantly, I have concerns about the concentration of Domestic Waste Water treatment Systems (DWWTSs) in the area, section 3.1 of the Site Characterisation Form states approximately 15 houses within 250 metres. The EPA Code of Practice regarding DWWTSs identifies the impact to groundwater from housing density of greater than six per hectare in areas of ‘extreme’ or ‘high’ groundwater vulnerability and this may mean a negative effect on groundwater quality, particularly with respect to levels of E. coli and nitrate. The Site Characterisation Form identifies a groundwater protection response of R2<sup>2</sup>, the vulnerability of the groundwater is identified as extreme and the aquifer category is regionally important. After percolation test results it is concluded that the site is suitable for a secondary treatment system and soil polishing filter, treated effluent will discharge to ground without the risk of ponding. However, I still have concerns about

the concentration of DWWTs in the area and the risk to a regionally important aquifer with a vulnerability rating of extreme. The Board may consider these concerns to be a new issue, however, given the seriousness of public health permission should be refused on this basis.

- 2.3.5. Siting and Design – the applicant has prepared a considered house design and landscape layout that meets the Design Guidelines for Single Rural Housing contained in Appendix 5 of the county development plan.
- 2.3.6. The matters above have been considered by the planning authority and are not raised in the grounds of appeal. Both the applicant and the planning authority appear to be satisfied that all other planning considerations meet with the objectives of the development plan. However, as I have stated above, I have serious concerns regarding access and egress, as well as public health and permission should be refused on these grounds.

### **3.0 Recommendation**

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

### **4.0 Reasons & 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 2 that sets out qualifying criteria for those with a genuine rural generated housing need seeking to construct their first home within Rural Housing Zone 2 (Rural Area Under Strong Urban Pressure-GCTPS-Outside Rural Metropolitan Area Zone 1), it is considered that the applicant has not sufficiently demonstrated an economic or substantiated rural housing need to live in a rural area on account of already owning a home and 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. Adequate sightlines have not been satisfactorily demonstrated for the proposed entrance of the site on to the public road, and the proposed development if granted would interfere with the flow of traffic on this narrow and poorly aligned public road, and would endanger public safety by reason of traffic hazard.
3. It is considered that, taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of development served by septic tanks in the area. The proposed development, would, therefore, be prejudicial to public health.

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.

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Stephen Rhys Thomas  
Senior Planning Inspector  
20 November 2023