



An
Bord
Pleanála

Inspector's Report ABP-319392-24

Development	Construction of 2 no. bungalows and all associated site works.
Location	Radharc na mBeann housing development, Tullycross (Derryherbert Townland), Renvyle, Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	2360214
Applicant(s)	P & L Heanue
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	First V Condition
Appellant(s)	P & L Heanue
Observer(s)	None.
Date of Site Inspection	30 th October 2024
Inspector	Darragh Ryan

1.0 Site Location and Description

1.1. The site is located within the Radharc na mBeann estate off the L-1101 Letterfrack to Tullycorss road. The estate is situated 1.5km south of the small village of Tully Co. Galway. The existing estate has 7 large, detached dwellings thereon laid out in a linear style, 6 out of the 7 houses are South facing. The estate road up to the proposed site is complete with a tar finish, public footpaths and public lighting. The site as proposed is currently laid out in gravel

1.2. The area is considered rural, with views from the site south eastward towards local mountain ranges The Twelve Ben/ Garraun complex (Diamond Mountain, Derryinveer/ Letterfrack). The site is bounded by low density rural housing and underutilised agricultural grassland. The site area is indicated as .26ha

2.0 Proposed Development

2.1. Permission is sought for the development of 2 no bungalows (134.5sqm each) and connection into existing services and all ancillary site works. Proposed dwellings are to be located to the east of the existing Radharc na mBeann Housing estate.

3.0 Planning Authority Decision

3.1. The planning authority issued a decision to grant permission subject to 20 conditions. Conditions of note include:

- C2 - Prior to commencement of development on site, the applicant shall submit revised plans and particulars for written agreement with the Planning Authority for House Unit No. 9 to be omitted and to relocate proposed House Unit No. 8 to align with existing House No. 7 which shall be orientated towards the existing public open space area. The revised plans and particulars shall include for the internal roadway to cease at House Unit No. 8.
- C 7 - a) The development shall be served by the existing wastewater treatment plant and percolation area serving the Radharc na mBeann estate

in accordance with the details received with the planning application, which shall be operated and maintained in good working order at all times in accordance with the Environmental Protection Agency standards.

(b) An Annual Maintenance Contract is to be kept in place for ongoing maintenance of the treatment plant by qualified persons and these records should be kept on file and available for inspection upon request by Galway County Council.

- Dwelling Unit No. 8 shall be fully completed and services operational (e.g. drainage and access etc.) prior to the occupation of the unit.
- C20 - Prior to the commencement of development, the applicant/developer shall pay €1,815.75 to the Planning Authority, unless a phased payment schedule has been agreed in writing, with the Planning Authority. This charge has been calculated using the Development Contributions Scheme adopted by Galway County Council in accordance with the provisions of Section 48 of the Planning and Development Act 2000 (as amended):

The makeup of this sum is detailed in the list below:

Sub Area 2

Recreation & Amenity: €1,076.00

Roads, Footpath & Transportation: €739.75 (134.5m² x €5.50)

Total: €1,815.75

3.2.Planning Authority Reports

3.2.1. There are two Planning Reports on file the issues raised can be summarised as follows:

- The subject site is located in an elevated position within a Structurally Weak Area in a Special Landscape Sensitivity Class 3 area in the Coastal Landscape designation and is located within a protected view angle along the Maritime Scenic Route.

- The Planning Authority have serious concerns regarding the proposed layout of the 2 no. dwellings. The configuration as proposed does not augment the character of the existing estate. It is considered that the proposed development should overlook the existing open space to the west of the proposed development. 1 no. dwelling may be considered more favourable in lieu of 2 no. dwellings to achieve same and enhance the residential amenity of the existing estate. Further information shall issue.
- Considered that the proposed development may have likely significant effects on The Twelve Bens/Garraun Complex SAC, which is downgradient from the application site. Recommended the applicant provide a Stage 2 Appropriate Assessment.
- Details in relation to hydraulic and organic loading rates should be submitted showing existing and proposed figures. More detail on the existing treatment plant should be submitted to show sufficient capacity, existing maintenance contracts, evidence of regular servicing, etc. A cross sectional drawing should also be submitted showing existing site-specific levels, including existing soil, depth to water table and bedrock, etc.

Further information sought in relation to the three points above and additional information sought with regard to surface water management, conformation of feasibility from Irish Water is also required and taking in charge policy.

3.2.2. The subsequent planning officers report notes the following:

- Having reviewed the further information response the planning authority were not satisfied that the proposal could adequately accommodate the two dwellings. Recommended a condition removing one of the dwellings.
- Satisfied the proposal can adequately manage surface water and waste water on site and there is adequate capacity within waste water treatment system for the two dwellings.
- Satisfied the proposal will not have a significant negative impact on adjacent SAC or SPA.

A grant of permission was recommended subject to 20 conditions.

3.2.3. Other Technical Reports

Environment Department recommending further information as follows:

- Details in relation to hydraulic and organic loading rates should be submitted showing existing and proposed figures. More detail on the existing treatment plant should be submitted to show sufficient capacity, existing maintenance contracts, evidence of regular servicing, etc. A cross sectional drawing should also be submitted showing existing site-specific levels, including existing soil, depth to water table and bedrock, etc.

Transportation and Roads Department as follows:

- The Radharc na mBeann Tullycross housing estate has not been taken in charge by Galway County Council (GCC). Previous inspections by the TIC Section during February 2020 have highlighted a number of issues with site services. There has been no engagement since with the TIC Section by the current developer. GCC has no information in relation to the condition or construction standard of the site services in the estate. Therefore, the applicant is requested to demonstrate that the services are in accordance with the Taking in Charge Policy prior to the consideration of any further development. Furthermore, current wastewater and services arrangement in relation to existing and proposed connection of any new units as proposed within red line boundary to continue connection to current on-site Wastewater treatment plant (WWTP) as shown within blue line holding contravenes Galway County Councils Taken in charge policy

3.2.4. Conditions

Condition 2

Prior to commencement of development on site, the applicant shall submit revised plans and particulars for written agreement with the Planning Authority for House Unit No. 9 to be omitted and to relocate proposed House Unit No. 8 to align with existing House No. 7 which shall be orientated towards the existing public open space area. The revised plans and particulars shall include for the internal roadway to cease at House Unit No. 8.

3.3.Prescribed Bodies

- None

3.4.Third Party Observations

- None

4.0 Planning History

PA reg ref 21/454 – Permission refused to P & L Heanue for 3 No. Bungalows, to include connection to existing services and all ancillary site works and site services. Gross floor space of proposed works 124sqm x 3 -total 372 sqm.

Reasons for refusal:

1. The proposed development, in view of its layout, scale and extent, and by reason of not adequately reinforcing the existing urban form of nearby Tully Cross, contributing to sense of place, thereby assimilating its edge of village setting, is contrary to the provisions of Section 3.4.5 of the Galway County Development Plan 2015 to 2021. The proposed development would therefore detract from the amenity of the area, would establish an undesirable precedent for similar future developments in the area and would accordingly be contrary to the proper planning and sustainable development of the area.
2. The Planning Authority is not satisfied based on submissions received and due to building configuration, aspect and layout which are not considered to be responsive to their context or conducive to sustainable placemaking, that the proposed development creates the standard of assimilation necessary for the amenities of the area and residents of the proposed development. The proposed development, would, as a consequence, be contrary to the Objectives UHO 7 and UHO 8 of the current Galway County Development Plan 2015 to 2021, and the Design Manual for Urban Roads and Streets (2013), and would accordingly be contrary to the proper planning and sustainable development of the area.

PA reg ref 20/1992 – Permission refused to P & L Heanue for 3 No. Bungalows at Radharc na mBeann, Housing Development, to include connection to existing services and all ancillary site works and site services.

PA reg ref 19/911 – Permission granted to Paul Heanue for new shed/store to include all ancillary site works and site services. Gross floor space of proposed works 34 sqm.

PA reg ref 13/176 – Permission granted to Paul Heanue for the construction of 6 no. dwellinghouses, septic tank, proprietary percolation treatment systems, landscaping, vehicular access and all ancillary site works (gross floor space 1119 sqm).

5.0 Policy Context

5.1. Galway County Development Plan 2022 - 2028

Chapter 4 Rural Living and Development

Section 4.6 – Rural Housing Strategy in the Open Countryside

Chapter 7 Infrastructure, Utilities and Environmental Protection

Section 7.5.3 – Policy Objectives for Water Supply

Chapter 8 Tourism and Landscape

Section 8.13 – Landscape

The site is located in a Special Landscape Sensitivity Class 3 in the Coastal Landscape Designation

Chapter 10 Natural Heritage, Biodiversity and Green/Blue Infrastructure

Section 10.6 Natural Heritage and Biodiversity

Chapter 15 Development Management Standards

DM Standard 1 – Qualitative Assessment-Design Quality, Guidelines and Statements

DM Standard 2 – Multiple Housing Schemes

DM Standard 8 – Site Selection and Design

5.2. Natural Heritage Designations

Tully Lough SAC – (0.67km northwest of the subject site)

The Twelve Bens/ Garraun complex SAC (0.95km east/south of subject site)

Illannanooon SPA (2.94km from the site)

5.3. EIA Screening

See completed form 2 on file. 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 Planning & Development Regulations 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.

6.0 The Appeal

6.1. This is a first party appeal against Condition no 2 of the decision of Galway County Council to grant permission:

- The proposal for two dwellings is fully compliant with Galway County Development Plan compact settlement policies.
- A justification for the location of the two dwellings and alternative locations have been provided by way of further information.
- The two dwellings are reasonably sized bungalows with a ridge level below the existing houses on site. The dwellings will adequately assimilate into the existing estate and will not be visible from the public road.
- The location and layout of the dwellings are that so that they comply with the EPA code of practice in terms of separation distances (28m) from dwelling to wastewater treatment systems.
- The location of the proposed dwellings works very well within existing ground levels.

- It is not possible to fulfil the objective of condition no 2 of the planning authority request as in doing so would require constructing the dwelling on the sewer line. The house would be built upon a built up embankment and not natural ground which is not suitable for foundations of a dwelling.

6.2.Planning Authority Response

- None

6.3.Observations

- None

6.4.Further Responses

- None

7.0 Assessment

7.1.Having regard to the nature and scale of the development and the specific issue arising, that being a first party appeal against Condition number 2 of the planning authority decision, I am of the opinion that the determination of the application as if it had been made to the Board in the first instance is not warranted. In that regard, I note the provisions of section 139 of the Planning & Development Act 2000 (as amended). This assessment will therefore be confined to the specific appeal of Condition number 2 of the planning authority decision.

I consider the key issues in determining this appeal are as follows:

- Condition number 2
- Appropriate Assessment

7.2.Condition number 2

7.2.1. The planning authority has imposed a condition requiring the omission of one of the two proposed dwellings (Dwelling No. 9) and the repositioning of the remaining dwelling (Dwelling No. 8) further south, aligning it with the adjacent Dwelling No. 7 and orienting it towards the existing open space. This adjustment aims to integrate

the development into the estate's character and improve the relationship with the existing green area. The planning authority's rationale for the condition was based on the view that two dwellings, as proposed, do not enhance the character of the estate and that a single dwelling in this location would better achieve high residential amenity and a more appropriate site configuration.

7.2.2. The application proposes two single-storey dwellings (bungalows), numbered 8 and 9, which follow a linear pattern of development extending to the east of the existing housing at *Radharc na mBeann*. The proposed dwellings are positioned to the north of the site, with additional open space of 972 sqm to the south. The site also contains a wastewater treatment plant to the south, with a percolation area located 41 meters east of the site boundary. The applicant has stated that the imposed condition cannot be implemented due to constraints associated with the wastewater treatment system. Compliance with the EPA Code of Practice (Treatment Systems for Small communities, Business, Leisure Centres and Hotels) requires a minimum separation distance of 28 meters, which the current layout meets under Table 4 of the relevant EPA guidelines. The condition as imposed by the planning authority sees the dwelling located south adjacent to wastewater treatment system and over service road. Furthermore, as part of the response to further information request of the planning authority the agent for the applicant has demonstrated there is sufficient capacity within the existing wastewater treatment system to cater for the additional loading of two houses. I consider the applicant's justification for not bring the building line forward in line with adjacent dwellings to be reasonable in this instance.

7.2.3. The proposed development is situated within a Class 3 Special Landscape Sensitivity area, as designated under the Galway County Development Plan, within the Coastal Landscape. Measures LCM 1 and 3 emphasize preserving the landscape's character and ensuring sensitivity is a key factor in determining new development. The proposal involves two bungalows with finished floor levels of 46.00 meters and a maximum ridge height of 5.2 meters. The site slopes from north to south, with the dwellings designed to step into the landscape. Photomontages submitted by the applicant demonstrate the visual impact from various approaches. I consider the dwellings are positioned to integrate with local topography and benefit from screening provided by site boundaries, ensuring no visibility from Scenic

Routes and Protected Views as identified in Maps 8.3 and 8.4 of the Galway County Development Plan. Furthermore, the development represents an extension of the existing estate rather than a new standalone scheme, where the cumulative visual impact of two additional dwellings is considered minimal. While the development may be intermittently visible within the surrounding landscape, this visibility is mitigated by topography and boundary screening. Additionally, the design and location of the proposed dwellings do not obstruct or terminate any key views within the area. The proposed bungalows are neither dominant nor unduly intrusive within the landscape.

- 7.2.4. Given the existing built environment and the context of the estate, the addition of two modestly scaled bungalows is considered acceptable. The dwellings are designed to assimilate into the landscape, respecting the site's characteristics and adhering to the Development Plan's policies for visual and landscape protection. The creation of 972 sqm of open space to the south further contributes to the residential amenity of the estate. The design aligns with established housing patterns and preserves an appropriate separation distance from the wastewater treatment infrastructure, ensuring compliance with EPA standards.
- 7.2.5. Having reviewed the proposal in the context of the site layout, landscape character, and residential amenity considerations, I am satisfied that the proposed development of two bungalows can be accommodated without significant adverse impacts. The applicant's justification for retaining the current layout is reasonable, given the site's constraints and the separation distances required for wastewater treatment. The development aligns with the overall character of the estate and adequately addresses the visual and environmental considerations outlined in the Development Plan. As such, I consider the layout and presence of two bungalows acceptable and recommend approval without the condition requiring the removal of Dwelling No. 9.

8.0 AA Screening

Appropriate Assessment Screening Determination

(Stage 1, Article 6(3) of Habitats Directive)

- 8.1.1. I have considered the proposed development for the construction of two single storey dwellings in light of the requirements of S 177S and 177U of the Planning and Development Act 2000 as amended.

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

- 8.1.2. In order to screen for Appropriate Assessment I have utilised the information on the appeal file and publicly accessible information on the NPWS¹ website and the EPA website, namely the EPA's Appropriate Assessment Tool² and the EPA Water Mapping³.

- 8.1.3. The development site is not within or directly adjacent to any Natura 2000 site. There are no surface water hydrological features on or adjacent to the site with the nearest such feature being the Tully Lough, which is approximately 700km to the west of the site. The site is located in an area surrounded by existing low density residential development (rural housing) and low intensity agriculture. The site itself is an extension to a small housing estate on land that is considered underutilised agricultural land. While there are no bird or ecological surveys submitted, I am of the view that is very unlikely that the site would support any significant populations of birds or mammals given the very limited vegetation on the site.

- 8.1.4. I am of the view that the only Natura 2000 sites where there is potential for likely significant effects are the Tully Lough SAC, Tully Mountain SAC, The Twelve Bens/

¹ <https://www.npws.ie/protected-sites>

² <https://gis.epa.ie/EPAMaps/AAGeoTool>

³ <https://gis.epa.ie/EPAMaps/Water>

Garrun Complex SAC and West Connacht Coast SAC. There may be a potential hydrological connectivity posed by ground water drainage pathways.

- 8.1.5. Significant impacts on any remaining SAC and SPA sites are considered unlikely, due to the distance, dilution factor and the lack of hydrological connectivity or any other connectivity with the application site in all cases having consideration of those site's conservation objectives.
- 8.1.6. There are no other ecological features of note on site or in the vicinity of the site that would connect it directly to European Sites in the wider area. It is considered the site does not provide significant supporting habitat for any bird species protected under the legislation.

European Sites

The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA). Four European sites are located within 700m and 1.5km of the potential development site.

Tully Mountain SAC [000330]

Tully Lough SAC [002130]

West Connacht Coast SAC [002998]

Twelve Bens/ Garrun Complex SAC [002031]

Given the limited scale of the proposal, I do not consider it necessary to examine the potential for significant effects on any European Sites beyond those of Lough Corrib SAC and SPA and Galway Bay Complex SAC.

European Site	Qualifying Interests (summary)	Distance	Connections
Tully Lough SAC [000330]	Oligotrophic to mesotrophic standing waters with vegetation of	700m	No direct connections

	the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130] Najas flexilis (Slender Naiad) [1833]		
Tully Mountain SAC [000330]	Habitats: European dry heaths [4030] Alpine and Boreal heaths [4060]	1.2km	No direct Connections
West Connacht Coast SAC [002998]	Habitats Tursiops truncatus (Common Bottlenose Dolphin) [1349] Phocoena phocoena (Harbour Porpoise) [1351]	1.5km to the Nroth	No direct connections
Twelve Bens/ Garrun Complex SAC [002031]	[3110] Oligotrophic Waters containing very few minerals [3130] Oligotrophic to Mesotrophic Standing Waters [4060] Alpine and Subalpine Heaths [7130] Blanket Bogs (Active)* [7150] Rhynchosporion Vegetation [8110] Siliceous Scree [8210] Calcareous Rocky Slopes [8220] Siliceous Rocky Slopes [91A0] Old Oak Woodlands [1029] Freshwater Pearl Mussel (Margaritifera	700m	No direct connections

	margaritifera) [1106] Atlantic Salmon (Salmo salar) [1355] Otter (Lutra lutra) [1833] Slender Naiad (Najas flexilis		
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8.1.7. Likely impacts of the project (alone or in combination)

Due to the limited nature of the development proposal on a .26ha site and the relevant scale of construction impacts I consider that the proposed development would not be expected to generate impacts that could affect anything but the immediate area of the development site, thus having a very limited potential zone of influence on any ecological receptors. I would note that the standard surface water management measures to be incorporated (as considered in the provision of soak pits on site) are not included to avoid or reduce an effect to a Natura 2000 Site, and therefore they should not be considered mitigation measures in an AA context.

In my view the development is not likely to have significant negative impacts on any European site. While not detailed in the application, during the construction phase it is likely that standard pollution control measures would be used to prevent sediment or pollutants from leaving the construction site and entering the water system, and any competent developer would employ such measures. During the operational phase, surface water will be managed on site via soakaways, and the surface water quantity or quality would not differ materially from the existing situation, in my view. The pollution control measures to be undertaken during both the construction and operational phases are standard practices and would be required for a development in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed, I remain satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites can be excluded given the distant and lack of hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 sites.

During site clearance, construction of the proposed dwellings and site works, there are some possible impact mechanisms of a temporary nature include generation of noise, dust and construction related emissions to surface water. However there is no surface water body on site and the site is at a significant distance from nearest European site with a number of intervening land uses between the development and nearest European site.

The contained nature of the site and distance from receiving features and intervening land make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect European Sites.

8.1.8. Likely significant effects on the European sites in view of the conservation objectives

The construction or operation of the proposed development will not result in impacts that could affect the conservation objectives of any SAC or SPA. Due to distance, intervening land uses and lack of meaningful ecological connections there will be no changes in ecological functions due to any construction related emissions or disturbance.

There will be no direct or ex-situ effects from disturbance on mobile species during construction or operation of the proposed development. There will be no significant disturbance to any wintering birds (ex-situ) that may occasionally use the amenity grassland area adjacent to the proposed development site.

8.1.9. In combination effects

The proposed development will not result in any effects that could contribute to an additive effect with other developments in the area. No mitigation measures are required to come to these conclusions.

8.1.10. Overall Conclusion

Screening Determination

Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as

amended), I conclude that that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Sites within Tully Mountain SAC [000330], Tully Lough SAC [002130], West Connacht Coast SAC [002998] and Twelve Bens/ Garrun Complex SAC [002031] or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on:

- The relative scale of the development on a .26ha site and lack of impact mechanisms that could significantly affect a European Site
- Distance from and lack of connections to the European sites
- No significant ex-situ impacts on wintering birds

9.0 Recommendation

I recommend the planning authority be directed to remove condition 2 from the Schedule of Conditions

10.0 Reasons and Considerations

The proposed layout is reasonable, given the site's constraints and the separation distances required for wastewater treatment, I consider the proposal as set out complies with Table 4 of the relevant EPA Wastewater Treatment Manual for waste water treatment systems. The development aligns with the overall character of the estate and adequately addresses the visual considerations outlined in Chapter 8 of the Galway County Development Plan 2022 to 2028, namely policy objective LCM 1 and LCM 3.

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.

Darragh Ryan
Planning Inspector

25th November 2024