



An
Coimisiún
Pleanála

Inspector's Report ACP-323200-25

Development	Construction of a house with on-site wastewater treatment system.
Location	Lettermaghera North, Newport, Co. Mayo.
Planning Authority	Mayo County Council.
Planning Authority Reg. Ref.	2560323.
Applicant(s)	Damien Conway.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party vs Refusal.
Appellant(s)	Damien Conway.
Observer(s)	Ciarán McGowan.
Date of Site Inspection	16 th October 2025.
Inspector	C. Daly.

1.0 Site Location and Description

- 1.1. The site of area 0.276ha. is part of a larger hillside grass field which slopes downhill from the adjacent single lane local road towards the east and north towards Lough Feeagh. The site is along the L54361 local county road and is adjacent to a 5m agricultural access that would separate it from the detached rural dwelling site to the south and is opposite a detached rural dwelling located further up the hillside. The site is elevated relative to the adjacent Lough Feeagh and is within a valley area.
- 1.2. The site frontage includes poles and overhead lines and there is a ditch inside the site boundary. There are a small number of detached dwellings spread out along the adjacent local road in the wider vicinity of the subject site. The rural site is c.5.3km north-west of the town of Newport although access from Newport is via a significantly more circuitous route than as the crow flies.

2.0 Proposed Development

- 2.1. The proposed development, in summary, consists of the following:
 - Single storey dwelling double gable ended dwelling with parallel pitched roofs facing the road and the lough at the rear end.
 - Effluent treatment system.

3.0 Planning Authority Decision

3.1. Decision

Mayo County Council decided to refuse permission for 3 no. reasons which can be summarised as follows:

1. The trial hole revealed a high level of ground water and very poor percolation of the soil with the ground unsuitable for the safe disposal of effluent and the development would be prejudicial to public health.
2. Based on the information submitted, contravention of Rural Housing Objective RHO 4 as it relates to housing within coastal areas, lakeshores and along scenic routes with designated scenic views. It is considered haphazard development in a lakeshore area would militate against the preservation of the

rural environment and would interfere with the character of the landscape which it is necessary to preserve.

3. The development would, given its design and location, fail to integrate effectively into this elevated and highly scenic designated rural landscape, would seriously injure the amenities of the area and contravene materially Policy NEP 14 and Objective NEO 25. It would, given its prominence, be an incongruous feature in the visually sensitive rural landscape and would adversely impact on the visual amenity of the area. It would interfere with the character of the highly scenic rural landscape which it is necessary to preserve.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report assessment noted development to be typically on the opposite side of the road. It considered there would be an impact on the character of the landscape and that there are other sites within the family landholding where a development could assimilate into the landscape. It noted a failure to adhere to minimum site size and width requirements in lakeshore areas. Given the open and elevated site relative to Lough Feeagh, it was considered that a significant visual impact on the surrounding landscape would arise.

The trial hole inspection noted the water table at 500mm below ground level and noted a third party submission showing water ingress at the very top. Refusal of permission was recommended for the 3 reasons summarised in Section 3.1 above.

3.2.2. Other Technical Reports

- MD Engineer: No objection subject to condition. Applicant to meet the sight line criteria of the Development Plan and no water to be discharged onto the public road.
- Water Services: No response received.

3.3. Prescribed Bodies

- An Taisce: No response received.
- Development Applications Unit: No response received.

- Uisce Éireann: No response received.
- The Heritage Council: No response received.

3.4. **Third Party Observations**

One third party observation was received which can be summarised as follows:

- Other sites are available where impact on surrounding homes and risk to water would be lessened.
- There would be a significant impact on the adjacent dwelling including loss of privacy and in relation to noise.
- Trees on the southern boundary are scheduled for removal.
- There is a requirement in a rural area for significant space between dwellings.
- Photos submitted including of flooded trial hole and the onsite treatment system could not function properly and would be excessively close to adjacent dwelling and its septic tank.

4.0 **Planning History**

Subject Site

24/60513: Application for a dwelling, garage and WWTS withdrawn.

24/60074: Application for a dwelling, garage and WWTS withdrawn.

Sites in the Vicinity

23/334: Permission granted by the P.A. c.330m north on opposite side of the road for demolition of an uninhabitable dwelling and shed, and construction of a dormer bungalow with ancillary works.

5.0 **Policy Context**

5.1. **Mayo County Development Plan 2022-2028 (the CDP)**

Volume 1

Chapter 2 – Core and Settlement Strategy

SO 9 Ecological Impact Assessment, Appropriate Assessment, Strategic Environmental Assessment and Strategic Flood Risk Assessment.

To ensure the assessment of all planning applications in the Plan area have regard to the information, data and requirements of the Appropriate Assessment Natura Impact Report, SEA Environmental Report and Strategic Flood Risk Assessment Report contained in Volume 5 of the Mayo CDP 2022-2028.

Chapter 3 – Housing

Per Map 3.1, the site is not located within a rural area under strong urban influence.

Section 3.4.8 Rural Single Housing

Policy RHP 1 To support and promote strong vibrant sustainable rural communities in County Mayo.

Policy RHP 2 To support the development of all rural areas to regain sustainability and vibrancy and to reverse the significant rural population decline since 1951.

Landscape Policy Area 4

Objective RHO 4

Housing applications, within Mayo's Coastal Areas and Lakeshores and within areas along scenic routes with designated scenic views, will be considered where the applicants can demonstrate a long-standing social link to the area concerned, whilst ensuring that it: Does not impinge in any significant way on the character, integrity and distinctiveness of the area Cannot be considered at an alternative location Meets high standards in siting and design Satisfies all other criteria with regard to, inter alia, servicing, public safety, and environmental considerations Demonstrates enhancement to local landscape character and ecological connectivity Note: An occupancy clause will be attached to any grant of planning permission.

Objective RHO 5

To advise all rural housing applicants to utilise the Design Guidelines for Rural Housing (Mayo County Council) and core principles of same.

Chapter 10 – Natural Environment

Map 10.1 Landscape Policy Areas

Area 3 – where rural dwellings are considered to have a low to medium potential to create adverse impacts on the existing landscape character.

Per Map 10.2 (Scenic Routes and Views) the road opposite on the eastern side of the lake is designated as a ‘scenic route with designated views’.

Objective NEO 11

To ensure that the impact of development within or adjacent to national designated sites, Natural Heritage Areas, Ramsar Sites and Nature Reserves likely to result in significant adverse effects on the designated site is assessed by requiring the submission of an Ecological Impact Assessment report (EclA), Environmental Report (ER), an Environmental Impact Assessment Report (EIAR), if deemed necessary, and/or a Natura Impact Assessment (NIS), if deemed necessary, prepared by a suitably qualified professional, which should accompany planning applications.

Objective NEO 25

To consider applications for development, along Mayo’s Scenic routes, that can demonstrate a clear need to locate in the area concerned, whilst ensuring that it:

- Does not impinge in any significant way on the character, integrity and distinctiveness of the area.*
- Meets high standards in siting and design.*
- Contributes to and enhances local landscape character.*
- Satisfies all other criteria, with regard to, inter alia, servicing, public safety and environmental considerations. Rural housing applications along Scenic Routes must comply with the requirements set out in Objective RHO 3 (Chapter 3).*

Policy NEP 14

To protect, enhance and contribute to the physical, visual and scenic character of County Mayo and to preserve its unique landscape character.

Policy NEP 21

To manage, protect and enhance surface water and ground water quality to meet the requirements of the Water Framework Directive.

Objective NEO 27

To ensure all development proposals are consistent with the Landscape Appraisal of County Mayo and the associated Landscape Sensitivity Matrix and future editions thereof.

Volume 2

Section 2.3 Site Size

Table 1 Site Size Requirements – New Build 3,000sqm (min width 40m) for coastal / lakeshore / beaches.

Section 2.10 Effluent Treatment Systems – This requires, inter alia, a site suitability assessment for rural dwellings in accordance with the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses.

Section 2.11 relates to water supply.

Section 2.12 relates to surface water.

Section 7.6 relates to access visibility requirements where 70mm sightlines are required per Table 4.

Section 8.4 Effluent Treatment Systems provides that the suitability of a site shall be determined in accordance with the EPA Code of Practice for single houses.

5.2. Natural Heritage Designations

In relation to designated sites, the subject site is located:

- c.15m east of Owenduff/Nepin Complex Special Protection Area (SPA) (site code 004098).
- c.15m east of Owenduff/Nepin Complex Proposed Natural Heritage Area (PNHA) (site code 000534).
- c.123m west of Owenduff/Nepin Complex Special Area of Conservation (SAC) (site code 000534).
- c.450m north of Clew Bay Complex SAC and PNHA (site code 001482).
- c.5.6km north-west of Newport River SAC (site code 002144).
- c.8.2km south of Altaconey Bog PNHA (site code 000459).

- c.8.3km south-west of River Moy SAC (site code 002298).
- c.11.9km west of Croaghmoyle Mountain NHA (site code 002383).

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal on behalf of Damien Conway can be summarised as follows:

Refusal Reason No. 1

- There was no mottling within the 500mm below ground level which is a good indication that the ground is fit for the intended use. The EPA Code of Practice notes that the trial hole should be inspected within 48 hours of excavation.
- The percolation test results are well below 75 but the applicant has opted for the more conservative tertiary treatment system option.
- The third party photos submitted were of a different trial hole at a different location and were from a person residing abroad.

Refusal Reason No. 2

- The land registry documents submitted demonstrate a long-standing local link to the area concerned.
- Personal circumstances are outlined in the applicable letter.
- Other lands in the applicant's ownership are part of commonage and are used as a cattle/sheep pass to access other lands.
- At the planning clinic they were advised to face the gables towards the road and it is stated that the planners were happy with this.
- Satisfactory testing has been carried out for potable water.
- No concerns were raised in relation to safety and environmental assessment.
- The submitted AA Screening Report screened out the development.
- The garage has been omitted and together with the proposed semi-mature screen boundary planting there will be minimal landscape impact.

Refusal Reason No. 3

- The development has been carefully sited to settle naturally into the landscape with a lower ridge height than the adjacent dwelling.
- The dwelling will be the lowest plotted house in the area, will have semi-mature screening and with the massing and scaling it will not contravene Policy NEP 14 or Objective NEO 25.
- It will have minimal landscape impact.

6.2. Observations

One third party observation was received from Ciarán McGowan which can be summarised as follows:

- The proposal will create significant noise and other pollution adjacent his home.
- Privacy for the adjacent dwelling will be compromised noting the prior clearance of adjacent land.
- The current tree line on the adjacent property is in the process of being removed due to safety risks and this will result in minimal screening between the properties.
- The location of the treatment and effluent facilities in close proximity are of concern in relation to smell, overflow/leakage, trial hole flooding and overflowing and the existing septic tank is located adjacent to the current boundary.
- There is a public health risk owing to the failure of the trial hole.
- In relation to the observer spending time abroad, this is immaterial and if it were to disqualify the observations, then the applicant's acquisition of property in Newport should also disqualify their case.
- The observer continues to reside at the adjacent residence for a substantial period of the year and his link to his land and the local community is as substantial as that of the applicant.

- The applicant has access to a range of alternative sites as shown in the statements in the original application and as shown in submitted folios.
- The alternative locations include areas that would not impact on adjacent properties or create significant health impacts.
- Questions raised in relation to whether personal circumstances are of relevance.
- Submissions attached including original application cover letter, folio extract and satellite photos.
- In each of the three applications, the same EPA report has been submitted, extracts submitted.
- Additional photographic evidence is provided to show clearly the submitted photos relate to the subject trial hole.
- The submitted EPA report makes no reference to other trial holes.
- At least one other trial hole was attempted on the site and photos submitted in relation to its unsuitability.
- Objective RHO 4 is not met given the large amount of farmland in the area, the folio is capable of using other sites including across the road, asserted that the applicant has property holdings in the village and within other lands the family own in the area.
- The reference to commonage and animal movement access is not justified with multiple alternative options available.
- The omitted garage could potentially be constructed as exempted development so is not relevant.
- The contamination of the land will affect the adjacent property and flow diagrams attached.
- There is no shared acknowledgement of the long-standing links of the observer to the area.

- Photos attached alleging destruction of trees and other parts of part of protected SAC bordering the lake and regard should be had to this regarding stated intentions in relation to landscape impact.
- Satellite photos and other photos submitted demonstrate how the area along the shoreline and its vicinity has been managed by the owner in contrast to adjacent sites to the north and south.
- Local environmental damage has been demonstrated.
- The Council's conclusions are clearly supported by the evidence available.
- The appeal should be refused for the reasons stated.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Wastewater Treatment
- Policy Objective RHO 4
- Landscape Impact
- Other Issues

7.2. **Wastewater Treatment**

7.2.1. The appeal includes the submitted 'Proposed Site Treatment System' report prepared by Raymond Moran Consulting Engineering Ltd dated January 2024 which I note is the same report submitted for previous applications on these lands. I note the Site Characterisation Form notes the bedrock aquifer to be generally unproductive and a poor category. It notes the groundwater body of Malranny to be poorly productive bedrock and the vulnerability is considered high. The soil type is noted to be till and the subsoil is sandstone till.

- 7.2.2. No wells are noted within 60m of the site. Drainage ditches, surface water ponding, wetlands, watercourse and lakes are noted within 250m of the site. In relation to the trial hole, the SCR records a depth of 2.2m and a 1.2m depth from the ground surface to the water table. It notes gravelly silt/clay, dark brown and small granular particles for the first 0.5m deep and granular sandy soil structure including brown beige and cobbles beyond this. It notes the three subsurface and surface percolation tests were conducted 3 days later with a result of 47 for the subsurface value and a result of 49 for the surface value. The groundwater protection response is noted to be R1.
- 7.2.3. I note the appellant states that the EPA Code requires inspection of trial holes within 48 hours. However, from my review of same it states that inspection should be after 48 hours which is stated to allow the water table to establish itself. Therefore, I note this assertion of the appellant is unfounded.
- 7.2.4. The report then recommends a tertiary treatment system and infiltration/treatment area and discharge to groundwater. I note the submitted Site Layout Plan shows the proposed area for the treatment system to the north-east end of the site to the rear/side of the proposed dwelling. Per Table 6.2 of the EPA Code I note minimum separation distances would be achieved.
- 7.2.5. I note per the percolation results presented that Table 6.4 of the EPA Code would suggest that a tertiary treatment system and infiltration area is suitable for the site. While at desktop level, these results suggest compliance with the EPA Code, I note that the Council's inspection in June 2025 noted the level of the water table to be c.500mm below ground level. Based on this and noting the submitted photos and additional photos submitted by the third party at application stage and at appeal stage, I am satisfied that they are photos of the relevant trial hole which was filled in on the date of my site visit.
- 7.2.6. Noting the P.A. that observed a high level of ground water on the site, there is significant uncertainty such that it cannot be concluded with certainty that the site has suitable percolation characteristics. On this basis, similar to the P.A., I am not satisfied that it has been demonstrated that the condition of the site is suitable for domestic wastewater treatment. Therefore, I consider that the ground conditions and related percolation would not accord with the EPA Code or with Section 8.4 of

Volume 2 of the CDP. The proposed development would therefore be prejudicial to public health and I concur with the P.A. first reason for refusal which I recommend be upheld.

7.3. Policy Objective RHO 4

- 7.3.1. I note that P.A. refusal reason no. 2 related to compliance with Policy Objective RHO4. This lists 6 criteria for housing applications within scenic routes and lakeshores which I will examine individually as follows.

Demonstrate a long-standing social link to the area concerned

- 7.3.2. I note a land registry folio has been submitted with the appeal. This shows the applicant to be the site owner since June 2005. It also shows the applicant owns the site and the field of which it is a part as well as land on the opposite side of the road. The submitted maps at appeal stage also note the location of the family home within 500m of the site to the south on the opposite side of the road. I note this was accepted by the P.A. and is accepted by the third party observer notwithstanding his opposition to the development. I note that there is no CDP definition of “long-standing link” (for example part of Objective RHO 1 refers to “*Sons, daughters or other relations of non-farming persons who have spent a period of their lives living in the general rural area in which they propose to build a home*”). Based on the family home location, I am satisfied that this part of the criteria is met in relation to long-standing social link to this rural area.

Does not impinge in any significant way on the character, integrity and distinctiveness of the area

- 7.3.3. I note the location c.280m uphill of the lakeshore of Lough Feeagh. Having visited the site I note that this is a prominent site with views of and across the lough towards the east and north-east in addition to views of the local landscape to the north. I consider it to be a scenic location and I note that views from the opposite side of the lake towards the western side of the lake are protected per Map 10.2 of the CDP. Per the submitted Site Layout and drawings, I note the single storey dwelling design with double pitched roofs and gable ends.
- 7.3.4. In my opinion, despite its orientation with gable ends broadly facing the road and the Lough, given the hillside position and the scale of the dwelling in a scenic location,

and while noting the proposed semi-mature screening to be located around the site perimeter, the proposed development would impinge in a significant way on the character, integrity and distinctiveness of the area. I consider the proposed dwelling would unduly impinge on the rural and scenic landscape character at and around the site.

Cannot be considered at an alternative location

- 7.3.5. I note the applicant's land holding in the area by reference to the land folio details and the blue line submission. I note the observer's submission in relation to other potential landholdings which is at least partially substantiated by the cover letter submitted under the previous withdrawn application under reg. ref. 24/60074, however I do note a lack of substantiated detail on this. On this basis, I note there are alternative locations available to the applicant within the blue line area and potentially in other areas of the locality in principle including on the opposite side of the road where the predominant number of dwellings in the vicinity are located and potentially close to the lakeshore if there are limited views to and from the site in this area

Meets high standards in siting and design

- 7.3.6. I note the submitted Site Layout drawing and for reasons which will be outlined in more detail below, including what in my opinion would be the prominence of the dwelling on the exposed and scenic site on the hillside up from the lough, I do not consider that the dwelling can be considered to meet high standards in siting and design. In my opinion, the exposed nature of the site is such that the proposed dwelling, even with the semi-mature screening, would result in a highly visually prominent dwelling not in keeping with the character of the rural area in the vicinity and where views of the site are available from across the lough to the east.

Satisfies all other criteria with regard to, inter alia, servicing, public safety, and environmental considerations

- 7.3.7. I note from Section 7.2 and in the below sections that I consider that the proposed development would not satisfy other relevant criteria including in relation to environmental considerations as a result of the ground conditions not being suitable for the proposed wastewater treatment system. I also note that the road network

leading up to the site is deficient in width and alignment and would not be suitable for additional residential development.

Demonstrates enhancement to local landscape character and ecological connectivity

- 7.3.8. Based on my below assessment in Section 7.4, I do not consider that it can be said that the proposed dwelling and site layout would demonstrate an enhancement to the local landscape character.
- 7.3.9. I note a lack of information has been submitted in relation to ecological connectivity as a result of the proposal, for example in relation to the hedgerow along the front / roadside boundary.
- 7.3.10. Noting that I consider the above tests required under Objective RHO 4 of the CDP not to have been met in all but one instance, I concur with the P.A. refusal reason no. 2 that the proposal would represent haphazard development in a lakeshore and scenic area which would militate against the preservation of the rural environment. It would also significantly interfere with the character of the landscape which it is necessary to preserve. I therefore recommend that permission be refused accordingly.

7.4. Landscape Impact

- 7.4.1. I have previously noted the sensitive location uphill of Lough Feeagh in what I consider would be a prominent position on a hillside where scenic views are available and also referenced in the CDP. On this basis, and having visited the site, I consider that the views from the public road in the vicinity are attractive and worthy of preservation.
- 7.4.2. I note Objective NEO 25 is relevant in relation to development along such a scenic route where views are available of the site from the road to the east of the lake, which road is designated as a scenic view. Under this objective, a proposal is required to demonstrate that it would meet the following criteria.

Does not impinge in any significant way on the character, integrity and distinctiveness of the area, meets high standards in siting and design and contributes to and enhances local landscape character.

- 7.4.3. I note the proposed dwelling would have a double pitched roof form with ridge height of 4.435m and floor area of 119.75sqm. Notwithstanding the assertions of the

appellant I consider that this would be a sizeable dwelling on a site where even a more modest sized dwelling would be highly visible given the prominence of the site in the local and wider landscape. By its nature and prominence, in my opinion it would erode the rural character of the landscape adjacent to an existing dwelling. I note the appellant relies on the orientation of the dwelling, its lower height than other dwellings in the vicinity and on the proposed semi-mature landscaping around the site to mitigate visual and landscape impacts on the site and the area.

- 7.4.4. While I note the perpendicular orientation to the road would somewhat reduce the visual impact by reference to an orientation through 90 degrees, given the size and scale of the dwelling to be located on a prominent hillside, in my opinion this would not significantly reduce its visual impact given the position and scale of the dwelling. I do not consider that the proposed landscaping scheme would significantly alter the visual impact as even when mature, the screening would impinge on the open landscape and views over the site and towards it from the road and from the east. In this regard I do not consider that the dwelling would meet high standards of siting and design.
- 7.4.5. I note there would also be a failure to satisfy the other criteria mentioned under Objective NEO 25 in relation environmental considerations and accordingly, in my opinion the requirements of Objective NEO 25 of the CDP are not satisfied. I also note for the reasons outlined above that Policy NEP 14 of the CDP would not be met in relation to the protection and enhancement of the landscape character of the area. Noting this, while the P.A. considered this policy and objective of the CDP to have been materially contravened, I do not consider these parts of the CDP to be sufficiently specific to justify citing a material contravention in this regard.
- 7.4.6. Contrary to the appellant I do not consider the visual impact would be minimal. I consider the design to be such that it would unduly interfere with the landscape in the vicinity. It would be excessively visually prominent and incongruous in the visually sensitive scenic landscape and would unduly adversely impact on the character of the rural landscape which CDP policy seeks to preserve. For the above reasons, I consider that refusal reason no. 3 should be upheld.
- 7.4.7. To note, in relation to Volume 2 Section 2.3 and site size, the site width would not exceed 40m at the rear and the site area at 0.276ha would be below the 0.3ha

minimum site size required by this section for a new house at a lakeshore location. I note this is a mandatory requirement of the CDP and accordingly I consider this would constitute a material contravention of this section of the CDP. I note this would be a new issue and if the Commission agrees with my assessment it may wish to circulate this matter to the appeal parties.

7.5. Other Issues

- 7.5.1. I note the observer has raised issues in relation to significant impacts on the residential amenity of his adjacent dwelling. Contrary to the assertions of the appellant, I do not consider it relevant that he spends time abroad and I note he has met the requirements to be a third party observer in this case. While noting the observer's assertions that mature trees on the north side boundary of his dwelling are required to be removed, noting the single storey height and the separation distance of just over 22.5m from the adjacent dwelling boundary, I do not consider that there would be significant undue overbearing, overshadowing or overlooking or loss of privacy as a result of the proposed development. I have reviewed issues in relation to wastewater treatment separately in this report.
- 7.5.2. In relation to the required sightlines, I note that the Site Layout drawing shows 70m sightlines are achievable in both directions from the proposed entrance. Having visited the site and reviewed this drawing I consider that this would accord with Section 7.6 of the CDP in relation to access visibility requirements. I note the low traffic speeds along the adjoining road which I consider indicative of a significantly below standard access route. I am satisfied therefore in relation to public traffic safety for the proposed development.
- 7.5.3. In relation to drainage, I note that should permission be granted a standard condition can be applied in relation to ensuring requirements are met for on-site surface water drainage.
- 7.5.4. In relation to water supply, I note the water supply analysis submitted with the application prepared by Complete Laboratory Solutions which suggests that a safe drinking water supply can be harnessed in relation to potable water. However, I also note my assessment in relation to wastewater treatment noted significant issues which I consider could impact on-site water quality and provision. This could potentially negate the results of the applicant's drinking water analysis such that I am

not satisfied that it has been demonstrated that a safe drinking water supply is available on the site. I note this would be contrary to Section 2.11 of Volume 2 of the CDP.

7.5.5. I note the appeal asserts that positive feedback was given in relation to the proposed house design and that it was re-oriented 90 degrees following pre-planning. Insofar as the appellant is seeking to rely on the outcome of any pre-planning meetings that took place with the P.A., having no minutes of same, I note that Section 37(1)(b) of the Planning and Development Act 2000 (as amended) states: *“that where an appeal is brought against a decision of a planning authority and is not withdrawn, the Commission shall determine the application as if it had been made to the Commission in the first instance and the decision of the Commission shall operate to annul the decision of the planning authority as from the time when it was given.”*

7.5.6. Per Section 247(3) of the 2000 Act I also note that such pre-planning meetings are without prejudice to the decision making function and *“cannot be relied upon in the formal planning process or in legal proceedings”*. Accordingly, I note that my assessment of this case is a de novo assessment without regard to the potential pre-planning issues raised in the appeal which I note have not been confirmed by the P.A..

7.5.7. **Material Contravention**

7.5.8. I have identified a potential material contravention of the provisions of the CDP in relation to Volume 2 Section 2.3 of the CDP where the minimum site size and width requirements of 0.3ha would not be achieved. However, I note this is a new issue and ,having regard to the other substantive reasons for refusal I have not included it as part of my recommended refusal reasons, having regard to the substantive reasons for refusal set out below.

7.5.9. Regarding Policy NEP 14 and Objective NEO 25 of the CDP which the P.A. considered to have been materially contravened as part of its refusal reasons, I do not consider the wording in relation to these to be sufficiently specific to justify a material contravention in this case. Given that the P.A. cited a material contravention in relation to this matter, and if the Commission disagrees with my conclusion in this regard, I advise that the provisions of Section 37(2)(b) would apply if the Commission is minded to grant permission.

8.0 EIA Screening

- 8.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

9.0 AA Screening

- 9.1. The subject site is located 123m west of Owenduff/Nephin Complex Special Area of Conservation (SAC) (site code 000534). In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that it is not possible to exclude that the proposed development alone will give rise to significant effects on Owenduff/Nephin Complex SAC European Site in view of the conservation objectives for this site. Appropriate Assessment is required.
- 9.2. This determination is based on:
- The failure to demonstrate that the wastewater treatment system is in compliance with EPA standards for the treatment and safe disposal of foul water and the consequent threat to groundwater and surface water quality in the vicinity with potential impacts on species relying on good water quality including salmon and otter.
 - Construction impacts including in relation to significant earthworks required and impact on water quality and related species.
 - The indirect link to the European site via the groundwater watercourse under the site.
- 9.3. Noting the above conclusion, I consider this would be contrary to Objective NEO 11 of the CDP in relation to avoid significant adverse impacts to the qualifying interests reliant on good water quality such as salmon and otter of Natura 2000 sites. I

recommend that permission be refused in relation to this issue. This can be incorporated into refusal reason no. 1 although it would be a new issue in my view. If considering this option, the Commission may wish to consider if further circulation to parties is required.

10.0 Water Framework Directive

- 10.1. I note designated waterbodies must be improved to at least good ecological status per the requirements of the Water Framework Directive. I have carried out a screening assessment in Appendix 4 in relation to impacts related to the requirements of the Water Framework Directive. Noting that the applicant has failed to demonstrate that the proposed on-site wastewater treatment system and soil polishing filter complies with the EPA Code, I have concluded that it cannot be ruled out that the proposed development will not pose a risk to surface and ground water bodies in the vicinity.
- 10.2. Given the proximity of the Malranny (IE_WE_G_0027) ground waterbody (status “good”) and the Feeagh surface lake waterbody (IE_WE_32_510), the proposed development may prevent the future maintenance or attainment of a ‘Good’ water status and may result in the deterioration of existing water quality of the ground and surface water bodies which would not be consistent with the Water Framework Directive. Accordingly, I recommend that permission be refused in relation to this issue and contravention of Policy NEP 21 of the CDP.

11.0 Recommendation

I recommend that permission be refused for the following three no. reasons.

12.0 Reasons and Considerations

1. Given the uncertainty in relation to the level of ground water which has been found on the site it has not been demonstrated that the site is suitable for the safe disposal of effluent from the proposed wastewater treatment system and this is contrary to Section 8.4 (Effluent Treatment Systems) of Volume 2 of the Mayo County Development Plan 2022 – 2028

in that it would not accord with the EPA Code of Practice for Domestic Waste Water Treatment Systems. Therefore, the proposed development would be prejudicial to public health. Further, it has not been demonstrated that there would be no undue adverse impacts on waterbodies in the vicinity contrary to Policy NEP 21 and that there would be no significant negative impact on Natura 2000 sites due to water quality impacts on protected species such as salmon and otter contrary to Policy NEO 11 of the Development Plan. The proposed development is, therefore, contrary to the proper planning and sustainable development of the area.

2. By reason of its location within Landscape Policy Area 4, lakeshore, a designated scenic area and on an elevated and exposed site, and having regard to the design and siting, the proposed development would represent haphazard development which would militate against the preservation of the rural environment contrary to Rural Housing Objective RHO 4 of the Mayo County Development Plan 2022-2028. The proposed development given its prominence, if permitted, would constitute an incongruous design feature in this visually sensitive rural landscape and would adversely impact the landscape and visual amenity of the area, which it is necessary to preserve. The proposed development would therefore conflict with the provisions of the Development Plan including Policy NEP14 and would be contrary to the proper planning and sustainable development of the area.

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.

Ciarán Daly

Planning Inspector

Ciarán Daly

5th November 2025

Appendix 1

Form 1 - EIA Pre-Screening

Case Reference	ACP-323200-25
Proposed Development Summary	Construction of a house with on-site wastewater treatment system.
Development Address	Lettermaghera North, Newport, Co. Mayo.
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>State the Class and state the relevant threshold</p> <p>Part 2, Class 10(b)(i). Threshold: Construction of more than 500 dwelling units.</p>

<p>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</p>	
<p>Yes <input type="checkbox"/></p>	<p>Screening Determination required (Complete Form 3)</p>
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

Inspector: _____ Date: _____

Appendix 2

Form 2 - EIA Preliminary Examination

Case Reference	ACP-323200-25
Proposed Development Summary	Construction of a house with on-site wastewater treatment system.
Development Address	Lettermaghera North, Newport, Co. Mayo.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	Briefly comment on the key characteristics of the development, having regard to the criteria listed. New dwelling (119.75sqm.), On site water supply and on site wastewater treatment system not to EPA Code. Site area 0.276ha.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	Briefly comment on the location of the development, having regard to the criteria listed The site is a short distance (c.123m) uphill of the Owenduff/Nephrin Complex SAC and is c.285m uphill of Lough Feeagh. There are no sites of social or cultural interest in the vicinity.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the characteristics of the development and the sensitivity of its location, consider the potential for SIGNIFICANT effects, not just effects. Modest scale, domestic nature and high water table on the site is such that pollution could arise from the construction and operational phase of development and noting the failure to demonstrate wastewater treatment in accordance with the EPA Code. However, I do not consider the scale of such potential pollution relative to the EIA the screening threshold (500 no. dwellings) to be significant either individually or cumulatively.

Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 3

Appropriate Assessment Screening

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics	
Brief description of project	Construction of a house with on-site wastewater treatment system.
Brief description of development site characteristics and potential impact mechanisms	<p>New dwelling (119.75sqm.), On site water supply and on site wastewater treatment system not to EPA Code. Site area 0.276ha.</p> <p>An on-site wastewater treatment system is proposed and it has not been demonstrated that it accords with EPA Code such that untreated wastewater may escape to groundwater, to the Owenduff/Nephrin Complex SAC and to Lough Feeagh.</p> <p>There are no surface water bodies running through the site other than a roadside ditch and this is not identified as a surface water body by the EPA.</p>
Screening report	Y – ‘Appropriate Assessment of Protected Sites Screening Report’ prepared by Sitecheck Environmental Scientist Siobhán Sheil, February 2024.
Natura Impact Statement	N
Relevant submissions	Issues raised by a third party in relation to potential adverse impact of the on-site wastewater treatment system.
<p>The submitted AA Screening Report assumes that wastewater will be adequately controlled by the on-site system which is part of the design of the proposed development. However, the adequacy of this system has not been demonstrated to accord with the relevant EPA Code of Practice.</p>	
Step 2. Identification of relevant European sites using the Source-pathway-receptor model	

European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
Owenduff/Nepin Complex Special Protection Area (SPA) (site code 004098).	Qualifying Interests , NPWS, 25 th April 2025.	c.15m to west.	Potential connection if it functions as an ex-situ site for bird species of SPA.	Y
Owenduff/Nepin Complex Special Area of Conservation (SAC) (site code 000534).	Qualifying Interests , NPWS, 24 th July 2017.	c.123m to east.	Direct connection via ground watercourse below site.	Y
Clew Bay Complex SAC and PNHA (site code 001482).	Qualifying Interests , NPWS, 19 th July 2011.	c.450m to south.	Indirect connection (significant distance) via ground watercourse below site.	N

¹ Summary description / **cross reference to NPWS website** is acceptable at this stage in the report

² Based on source-pathway-receptor: Direct/ indirect/ tentative/ none, via surface water/ ground water/ air/ use of habitats by mobile species

³if no connections: N

Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Site 1: Owenduff/Nepin Complex Special Protection Area (SPA) (site code 004098). <u>Qualifying Interests</u>	Direct: N/A Indirect: No negative impacts (temporary), given uphill of site, on surface	No potential negative effect on conservation objectives

<p>Merlin (<i>Falco columbarius</i>) [A098]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p>	<p>water/water quality due to construction related emissions including increased sedimentation and construction related pollution.</p> <p>No potential impacts via groundwater pollution and onward to surface water from the on-site wastewater treatment system as the SPA is uphill of the site.</p>	<p>given that per AA Screening Report, Merlin are mainly found on upland bogland and heathland and Golden Plover is a wetland bird and breeds within the SPA such that I do not consider the subject site, managed agricultural grassland, to be an ex-situ site for the two protected bird species of the SPA.</p>
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	

Salmo salar (Salmon) [1106] Lutra lutra (Otter) [1355] Saxifraga hirculus (Marsh Saxifrage) [1528] Hamatocaulis vernicosus (Slender Green Feather-moss) [6216]	Water quality impacts have potential impact on salmon and otter species in the lake.	
	Likelihood of significant effects from proposed development (alone): Yes	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	
* Where a restore objective applies it is necessary to consider whether the project might compromise the objective of restoration or make restoration more difficult.		
Step 4 Conclude if the proposed development could result in likely significant effects on a European site		
<p>It is not possible to exclude the possibility that proposed development alone would result significant effects on Owenduff/Nephin Complex Special Area of Conservation (SAC) (site code 000534).</p> <p>An appropriate assessment is required on the basis of the possible effects of the project 'alone'. Further assessment in-combination with other plans and projects is not required at screening stage.</p>		

Screening Determination

Significant effects cannot be excluded

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that it is not possible to exclude that the proposed development alone will give rise to significant effects on Owenduff/Nephin Complex Special Area of Conservation (SAC) (site code 000534) European Site in view of the conservation objectives for this site. Appropriate Assessment is required.

This determination is based on:

- The failure to demonstrate that the wastewater treatment system is in compliance with EPA standards for the treatment and safe disposal of foul water and the consequent threat to groundwater and surface water quality in the vicinity with potential impacts on species relying on good water quality including salmon and otter
- Construction impacts including in relation to significant earthworks required and impact on water quality and related species.
- The indirect link to the European site via the groundwater watercourse under the site.

Appendix 4

Water Framework Directive Screening and Assessment

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
<p>Step 1: The proposed development is for construction of a house with on-site wastewater treatment system.</p> <p>Site Area 0.276ha</p> <p>Total floor area 119.75sqm.</p> <p>An on-site wastewater treatment system is proposed, and it has not been demonstrated that it accords with EPA Code such that untreated wastewater may escape to groundwater.</p> <p>There is a groundwater body underneath the site (the Malranny IE_WE_G_0027) which joins the lake water body of Lough Feeagh (Feeagh IE_WE_32_510) c.280m downhill to the east and the subject site is located within the catchment of this waterbody.</p>			
An Bord Pleanála ref. no.	ABP-323200-25	Townland, address	Lettermaghera North, Newport, Co. Mayo.
Description of project		The proposed development consists of construction of a house with on-site wastewater treatment system.	
Brief site description, relevant to WFD Screening,		The site is undulating and slopes downhill towards Lough Feeagh from west to east with the Malranny groundwater body underneath the site and the Feeagh	

	<p>lake waterbody downhill within 300m of the site. The site is surrounded by sloping agricultural grassland to the east and north, by a public road to the west and by a strip of a grassland field to the south adjacent to an existing detached rural dwelling.</p> <p>The dwelling would be located above the groundwater body.</p> <p>The water supply for the development would be via an existing well close to the south-west corner of the site.</p> <p>While the Site Characterisation Report noted a 1.2m depth from the ground surface to the water table, per my assessment under Section 7.2 the available evidence creates uncertainty in this regard and suggests a significantly higher water table such that it is not clear that the site is capable of safely disposing of wastewater from the dwelling. The proposed wastewater treatment system is to be located at a level on the site lower than the dwelling and towards the north-east of it.</p>
Proposed surface water details	No soakpit or permeable paving noted on the submitted drawings.
Proposed water supply source & available capacity	Well to south-west corner.

Proposed wastewater treatment system & available capacity, other issues			The applicant has failed to demonstrate that the wastewater treatment system and percolation area would comply with the EPA Code.			
Others?						
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
Ground Waterbody	Underlying site	Malranny (IE_WE_G_0027)	Good	Not at risk.	No pressures.	Surface run-off to groundwater.

Lake Waterbody	c.280m to the east downhill	Feeagh (IE_WE_32_510)	Good	Not at risk.	No pressures.	Hydrologically connected via ground watercourse in close proximity uphill of the lake.
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Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.

CONSTRUCTION PHASE

No.	Component	Waterbody receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	Surface	Feeagh (IE_WE_32_510)	Via land sloping towards watercourse on site	Siltation, pH (Concrete),	Standard construction practice	No	Screened out

			and via groundwater transmission.	hydrocarbon spillages	CEMP		
2.	Ground	Malranny (IE_WE_G_0027)	Pathway exists	Spillages.	As above	No	Screened out
OPERATIONAL PHASE							
3.	Surface	Feeagh (IE_WE_3_2_510)	Via land sloping towards watercourse on site and via land adjacent to site.	Transmission from inadequately treated wastewater (not demonstrated to EPA Code) via groundwater to adjacent watercourse	SUDS measures can be conditioned for surface water drainage. Inadequate measures in relation to WWTP	No	Screened in

					which could lead to transmission towards adjacent watercourse.		
4.	Ground	Malranny (IE_WE_G_0027)	Pathway exists	Spillages and on-site wastewater treatment system not demonstrated to be in compliance with EPA Code	None	Yes	Screened in
DECOMMISSIONING PHASE							
5.	NA						

STAGE 2: ASSESSMENT				
Details of Mitigation Required to Comply with WFD Objectives				
Groundwater				
Development/Activity e.g. abstraction, outfall, etc.	<u>Objective 1:</u> <u>Groundwater</u> Prevent or limit the input of pollutants into groundwater and to prevent the deterioration of the status of all bodies of groundwater	<u>Objective 2 :</u> <u>Groundwater</u> Protect, enhance and restore all bodies of groundwater, ensure a balance between abstraction and recharge, with the aim of achieving good status*	<u>Objective 3:Groundwater</u> Reverse any significant and sustained upward trend in the concentration of any pollutant resulting from the impact of human activity	Does this component comply with WFD Objectives 1, 2, 3 & 4? (if answer is no, a development cannot proceed without a derogation under art. 4.7)

	Describe mitigation required to meet objective 1:	Describe mitigation required to meet objective 2:	Describe mitigation required to meet objective 3:	
Development Activity 3: Operation phase, surface water	Required to demonstrate WWTP and soil polishing filter to comply with EPA Code as potential transmission via groundwater to adjacent watercourse	Required to demonstrate WWTP and soil polishing filter to comply with EPA Code.	WWTP to EPA Code.	No - applicant has failed to demonstrate compliance.
Development Activity 4: Operation phase, groundwater	Required to demonstrate WWTP and soil polishing filter to comply with EPA Code	Required to demonstrate WWTP and soil polishing filter to comply with EPA Code.	WWTP to EPA Code.	No - applicant has failed to demonstrate compliance.

Noting that the applicant has failed to demonstrate that the proposed on-site wastewater treatment system and percolation area complies with the EPA Code, I have concluded that it cannot be ruled out that the proposed development will not pose a risk to ground water or surface water bodies in the vicinity.

Given the proximity of the surface water body at Lough Feeagh, the proposed development may prevent the future attainment of a 'Good' water status and may result in the deterioration of existing water quality of the the Malranny groundwater body and the Feeagh lake surface waterbody which would not be consistent with the Water Framework Directive.