



An
Bord
Pleanála

Inspector's Report PL. 07.247694

Development

Demolition of existing house, construction of new single-storey house, new proprietary wastewater treatment system, vehicular access and all associated works at Errisbeg West. Roundstone. Co Galway.

Location

Errisbeg West, Roundstone. Co Galway.

Planning Authority

Galway County Council.

Planning Authority Reg. Ref.

16/90.

Applicant(s)

Noreen Wallace.

Type of Application

Permission.

Planning Authority Decision

To Refuse Permission.

Type of Appeal

First /Third Party

Appellant(s)

Rosemary Mac Donnell (Third Party).

Noreen Wallace (First Party).

Date of Site Inspection

28th February 2017.

Inspector

Breda Gannon.

1.0 Site Location and Description

- 1.1. The site is located in the townland of Errisbeg West. Roundstone. Co Galway. It is located on elevated ground on the north side of the R341 that connects Roundstone to the east with Ballyconneely to the west. The site slopes up-gradient from the road towards the rear of the site. On the opposite side of the regional road, the ground slopes towards the coastline. Access to the site is via a gateway towards the western end of the site frontage. The lateral and front boundaries are formed by dry stone walls and wire fencing.
- 1.2. The site accommodates a small traditional dwelling with a cement finish and a slated roof. To the rear there is a small flat roof extension. There are a number of stone outbuildings in the vicinity of the house. There are panoramic views from the site towards Dog's Bay and the surrounding coastline.
- 1.3. There is significant rock outcropping throughout the site, which is characteristic of the surrounding landscape. There are residential properties at various elevations scattered throughout the area, the nearest lying to the adjoining site to the west.

2.0 Proposed Development

- 2.1. The proposal as described in the public notices submitted with the application seeks permission for the demolition of the existing house and the construction of a new single-storey house, new proprietary treatment system and filtration area, new vehicle access and all ancillary site works.
- 2.2. The application is stated to be supported by the following;
 - Report on Structure and Refurbishment Assessment for existing house.
 - Design Statement.
 - Site survey.
 - Site Characterisation Report.
 - AA Screening Report
 - Land ownership details.

3.0 Further Information

3.1.1. In response to the planning authority's request for further information the applicant submitted the following;

- Traffic Report.
- Revised waste water treatment plant details.
- Natura Impact Statement.
- Clarity in respect of applicants housing need.
- Photomontages.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to refuse permission for the development for two reasons.

1) that the proposed development would endanger public safety by reason of traffic hazard and materially contravene DM Standard 18 of the Galway County Development Plan 2009-2015 and the NRA Vehicular Access to All-Purpose National Roads Standard TD 41/95, and

2) that the development would be prejudicial to public health arising from the poor drainage characteristics of the site. It was considered that the development would pose an unacceptable risk to surface waters and would negatively impact on the integrity of European sites.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The **Planning Officer's** report of 16/11/16 notes that the site is located within a Class 4 designated landscape, where special planning controls exist for new development, as set out in the Galway County Council Development Plan (Objectives RHO 1, RHO 3 RHO 4 and DM Standard 39. In Class 4 landscapes,

residential developments are restricted to essential needs of local households, family farm business and locally resourced enterprises as stated in DM Standard 39. The provisions of RHO 7 are also noted regarding the renovation of existing/semi ruinous dwellings.

It is stated that the application is supported by housing need information which states that the applicant is a returning emigrant. It is considered that the applicant who has demonstrated long standing local intrinsic links to the area would qualify under the rural housing provisions of the development plan.

The proposed house has a contemporary traditional design and scale, which accords with the design principles set out in the development plan's '*Design Guidelines for the Single Rural House*'.

With regard to the effluent treatment system, it is noted that following concerns raised at further information stage, an alternative location was tested. It is noted that acceptable trial hole depth and percolation rates were recorded to EPA Code of Practice Manual 2009. Concerns were expressed over the timing of the tests (July 2016), as the highest winter water table needs to be established and the requirement for 300mm of unsaturated soil/subsoil below ground level. It is noted that the response to further information confirmed that all surface water would be disposed off into neighbouring land drain (Dwg P-003).

Refusal of the application is recommended on the grounds of traffic safety and public health consideration arising from the poor drainage characteristics of the site.

4.2.2. Other Technical Reports

The **Roads & Transportation Unit** recommends refusal of the application, noting concerns relating to the general approach speeds at the location, which may not be represented in the survey undertaken. The volume of traffic in this location varies with seasons, which in turn permits changes in approach speeds. It is not shown that the sightlines provided cater for the possible variation in speeds.

4.3. Prescribed Bodies

An Taisce in their submission of 22/02/16 note that the application must be determined having regard to the rural housing and amenity provisions of the

development plan. It noted the provisions of the *National Spatial Strategy* and the *Sustainable Rural Housing Guidelines for Planning Authorities* which requires applicants to establish rural generated housing need and ensure key assets such as water are protected.

It stated that the impact of the proposed effluent treatment system must have regard to both the individual and cumulative impact in conjunction with other existing, proposed and approved development on both surface and groundwater to comply with EU Groundwater Directive (80/86/EEC).

The previous refusal is noted and that an evaluation is required that demonstrates that all issues have been resolved.

4.4. Third Party Observations

A submission was received from Reid Associates on behalf of Rosemary Mac Donnell, which raises similar issues to those raised in the appeal.

5.0 Planning History

14/714 – Planning permission refused for demolition of existing dwelling, construction of new dwelling and domestic garage, including upgrading of existing septic tank with effluent treatment plan for two reasons relating to visual impact and traffic safety.

6.0 Policy Context

6.1. Sustainable Rural Housing Guidelines for Planning Authorities (DoEHLG 2005).

Map 1 of the guidelines identifies the site lying within a 'Structurally Weak Area'. These areas are described in the Guidelines as exhibiting characteristics such as persistent and significant population decline, as well as a weaker economic structure based on indices of income, employment and economic growth. The Guidelines state (3.2) that Map 1 is only an indicative guide and that further more detailed analysis is required at local level to incorporate this approach to identifying different

types of rural areas in the development plan process. The Guidelines make provision for local housing needs to be accommodated where they arise, subject to good planning practice in terms of location, siting and design.

6.2. **Development Plan**

The operative development plan is the **Galway County Council Development Plan 2015-2021**. The site is located in a rural area which is unzoned.

Single Housing in the Countryside is discussed in Section 3.7 of the Plan.

Relevant policies/objectives include the following;

Policy RHO 1 - Management of New Single Houses in the Countryside.

Establishes Rural Housing Zones 1, 2, 3, and 4. The site is located in Rural Housing Zone 4.

Policy RHO 2 - Adherence to the Statutory Guidelines and County Development plan.

Objective RHO 4 - Rural Housing Zone 4 (An Gaeltacht). Sets out the requirements for rural housing within the zone.

Objective RHO 6 – Replacement Dwelling. Encourages refurbishment of existing habitable houses unless a conclusive case for demolition based on technical evidence is made.

Objective RHO 9 – Design Guidelines.

Copies of the relevant sections of the Plan are appended to the back of the report for the information of the Board.

6.3. **Natural Heritage Designations**

The Ecological Assessment & Appropriate Assessment Screening Report identified designated sites within a 15km radius of the site. These are discussed in more detail below under Appropriate Assessment.

7.0 The Appeal

7.1. Grounds of Appeal

The grounds of appeal may be summarised as follows:

1. Rosemary Mc Donnell (Third Party)

Considers that the decision to refuse permission is not sufficiently comprehensive and that in addition to the grounds cited by the planning authority relating to traffic hazard and the inadequacy of the waste treatment system and impacts on European sites, there are further grounds relating to visual impact and housing need.

Visual impact

- The applicant has failed to address the reasons for refusal as cited in Ref No 14/714 relating to design and adverse impact on the area of outstanding landscape value.
- The proposed dwelling will occupy a larger footprint than the existing house on the site and will require significant excavation works to provide a level development platform. It's L-shaped configuration loses the original house profile.
- The finished floor level of the house and its ridgeline will be 8m above and 14.5m respectively above adjoining road level. The house will be 3m higher than the existing house on the site.
- The development fails to comply with the *Design Guidelines for the Single Rural House*, by reason of demolition of the existing cottage, poor siting and layout, excessive length of profile, excessive platform of development over the road level, adverse visual impact and absence of sustainable design detail.
- The proposed width of the new entrance, the difference in site levels across the access road and the need for excavation and the unsuitable use of fencing all contribute to material adverse impact from the design of the new entrance.
- The proposed polishing filter will form an incongruous element in a rocky outcrop site.

- There is no methodology indicated for the submitted photographs and no visual assessment. It is not clear if a standard 50mm lens was used.
- Photomontage No. 2 shows that the proposed development will significantly break the ridgeline of the mountain behind and obscure the continuous view of the mountain from the road. Photomontage No. 3 shows the increased massing and scale of the dwelling and impact on the skyline. Photomontage No. 4 shows that the existing house blends into the landscape while the proposed dwelling will have significantly greater mass and scale as viewed from the shoreline.
- The landscaping drawing is not to scale and the plan is indicative in nature. It does not address the rock outcrops on the site. There is no section of the landscape plan to show how the polishing filter impacts on the natural terrain.
- The Design Statement submitted by the applicant is perfunctory and does not address the fundamental design problems or the previous reasons for refusal. The scale, height and design of the proposed development allied to the impact of excavation works will result in a development which will have undue prominence and which will seriously injure and erode the character of this outstanding landscape and adversely impact on designated views and prospects.

Housing Need

- The existing house is derelict which has not been in residential use or occupation for over twenty years and does not comprise a habitable dwelling under the Planning Acts. The proposed demolition of the dwelling compromises the demolition of a derelict dwelling not a habitable house. The proposed demolition would finally and completely extinguish the former residential use of the house as there is no doubt but that the use of the house was abandoned. The house was described as derelict in the previous planning report on 14/714.
- It appears that the applicant never actually lived in the cottage. The location of the applicant's original family home is Errisbeg (Folio GY46692).

Conclusion

- Requests the Board to refuse permission for additional reasons including reasons relating to visual impact on the landscape character and scenic amenities of the area, failure to comply with the *Design Guidelines for the Single Rural House*, conflict with the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities (DoEHLG, 2005) and the Galway Co Council Development Plan and unsubstantiated housing need.

2. Noreen Wallace (First Party).

Compliance with policy

- The grounds of appeal demonstrate that the proposed development complies with all relevant provisions and objectives of the Galway County Development Plan 2015-2021. The development is, therefore, in accordance with the proper planning and sustainable development of the area.

Traffic/Road Safety

- An additional report has been prepared to address the reason for refusal cited by the planning authority (appended to response).
- The reason for refusal relates to visibility restrictions. The proposed development sets out visibility sightlines that are appropriate for the actual speeds observed on the road. The sightlines allow 94% of the required splay to the east and 109% to the west. Therefore, visibility is only marginally restricted and in one direction only. To suggest that visibility is restricted as set out in the refusal reason is, therefore, considered to be a misrepresentation of actual conditions.
- The level of traffic that will be generated by the development is minimal and there have been no recorded collisions on the entire stretch of the R 341 in the most recent nine year period available.
- The new access is a clear improvement on the existing arrangement which formed part of the reason for refusal of the previous application on the site. If the appeal was unsuccessful, the access could continue to be utilised by an occupier of the existing dwelling house. The proposed new access is in

accordance with best practice, will operate safely and represent significant improvements to the existing site access.

Wastewater Treatment

- Appendix 3 contains an additional report to address the reason for refusal and a number of matters raised in the third party submission.
- Two separate site suitability assessments have been carried out on the subject site, one in 2014 and one in 2016. Both have concluded that the site is suitable for development in accordance with EPA guidance.
- The proposed new system contains a mechanical treatment plant which produces a high quality effluent. The effluent will be pumped over a sand polishing filter bed, providing tertiary treatment. The suggestion by the planning authority that the proposal will be prejudicial to human health is erroneous and should not be accepted on the basis of the detailed reporting and assessment of the site carried out.
- The reason for refusal states that the proposed development would negatively impact on the integrity of nearby European sites and their conservation objectives. An NIS supports the application and it clearly establishes that the proposed development will have no impact on European Sites.

Assessment principle

- The applicant can theoretically take up residence in the existing dwelling house at any time and utilise the existing wastewater treatment system and the access road.
- A Structural Assessment carried out revealed that the existing house is water tight and habitable but would require extensive refurbishment to bring it up to modern standards.
- The existing foul effluent treatment arrangements include a septic tank and pit, which is not satisfactory and continued use of the system could lead to environmental contamination and potential impacts on European sites.
- The proposal provides an opportunity to install a modern, high quality effluent treatment system, which will treat effluent to a very high standard before it

percolates through the site. It will provide a significant improvement on existing conditions and does not merit refusal on that basis.

- It is submitted that Galway Co Council did not give sufficient weighting to the existing residence, access and foul drainage arrangements. The existing house on the site establishes the principle of residential use and that the proposed replacement house should be permitted in principle.
- The applicant has strong rural links with the area and a substantiated housing need. The planning authority's position is a distortion of the provisions, principles and aspirations of the Sustainable Rural Housing Guidelines.
- The need for a new house, in lieu of refurbishment is fully justified by the applicant's personal circumstances. The applicant will be returning to the area to make the house her permanent home and full time residence.
- Sightlines at the existing access are substandard. The ongoing operation of the access could potentially result in road safety issues. A new access will be created which will provide an optimum solution. The planning authority's decision to refuse of traffic grounds did not give adequate weighting to the fact that there is an existing substandard vehicular access and the proposed development offers the opportunity to improve the situation. The planning authority's assessment appear to be based on the premise that the application site is a greenfield site, which it is clearly not.

7.2. First Party Response to Third Party Appeal

Visual Impact

- Whilst the site is visible from the public road it cannot be correctly described as 'highly exposed'. The house roof is barely visible on approach from the west (View1), well screened from the existing access (View 2) and to the east at its most visually exposed point (View 3) the house hardly appears large or obtrusive. The viewpoint from Dogs Bay (View 4) shows no significant impact and without the guiding arrow it would be difficult to pick out the house.
- The site is within the field of view of appellants' property. It is conceded that the appellants house, despite being a full two storey building and some 4m

higher than the proposed house, would when looking downward towards Dog's Bay have a roof height approximately 1m than currently exists interfering with the 180 degree view. This level of effect is within acceptable parameters.

- Protected View No 118 (Ballyconneely Bay views from the R341) is the only relevant view and given that the site is above the R341 and the view is down towards Ballyconneely Bay, it is not affected by the proposed development.
- The appellants statement that '*there are remnants of an historic vernacular cottage*' is misleading in the extreme. There is an existing house with roof, walls and windows intact which was constructed in 1928. The dry stone walls do contribute to the character of the landscape and it is proposed that these walls will be retained.
- The appellant describes the building as occupying a footprint of 25m east-west and 20m north-south. This is also misleading. The house design comprises two traditional vernacular forms, one 18.7m x 6.5m and the other 12.5m x 5.25m with a flat roof linking the two. The existing cottage measures 11.3 x 5.0m.
- Significant excavation would not be required as stated by the appellant. The proposed house is located over the footprint of the existing house with the same floor level. The two vernacular forms follow the existing contours east-west and north-south. The only excavation that would be required would be for foundations and in ground services with levels re-instated post construction.
- The house is 57m set back from the road and any suggestion that is looming over the road is misleading.
- The appellant's suggestion that the extent of rock outcrop is not clearly identified is incorrect. Areas of rock are identified on the site layout plan and can be referenced back to the site survey provided by Arrigan Geo Surveyors. There will be no requirement for significant excavation and blasting.
- The appellant's property, which is applicants nearest neighbour, blends in well with the landscape. It has a ridge level of 46.68, which is 4.1m higher than what applicant is proposing. It is 18m above the road level (compared to

14.5m at applicant's site). The precedent illustrates quite clearly that the applicant's lower proposal sits well in the landscape.

- Contrary to the appellant's assertions, the driveway and patio are designed to work with the existing features of the site, without any incursion into rock.
- The highest ridge proposed is 1.06m above the existing house ridge.
- It has been clearly stated that the development is in compliance with *the Rural Housing Design Guidelines* and the original design statement demonstrates this. Is at a loss to understand what is meant by 'absence of sustainable design detail'.
- The appellant incorrectly states that it is proposed to clear the front boundary wall and hedgerow. There is no hedgerow in existence and it is only proposed to form a new opening in the existing rubble wall. Dwg No. P-600 shows the proposed new access gate which is entirely in keeping with the country setting and the width of the opening is irrelevant. Removal of existing rock outcrop at the entry point will be required but this will not have any significant effect on the character of the site. A careful study of the driveway levels illustrates the minimal impact of the proposed new access as carefully designed around the existing site features.
- The levels of the polishing filter are identified on the layout plans. Any unevenness caused by the new mound would be entirely consistent with the uneven character of the site.
- The photomontages are produced using GPS location and stave site marking techniques and are verifiable as entirely accurate. 30mm focal lengths are appropriate in this case to capture context.
- The landscaping plan is produced at a scale of 1:500. It is indicative in that soil conditions vary and planting cannot be verified until excavation. It addresses rock outcrops.
- The house is habitable. It has not been occupied since 2007 but has not been abandoned. The Board has consistently held that buildings in a much more advanced state of disrepair have retained the established use. (Refers to 05/1290 which was appealed). It is considered that the existing house on the

site renders the issue of local housing need irrelevant and that any person would have a reasonable expectation of replacing, renovating or extending the existing house subject to planning permission or within exempted development constraints.

- Notwithstanding this, the applicant was born and bred locally and proof has been provided of her families long standing local connections. She would have a reasonable expectation within national guidelines and under the provisions of the development plan of securing planning permission on a greenfield site locally. The replacement of an existing house on an existing residential site should be welcomed as preferable to the addition of an entirely new house in this sensitive landscape.

7.3. **Planning Authority Response**

No response to the grounds of appeal were submitted by the planning authority

7.4. **Further Responses**

Third party response to the First Party grounds of appeal

Planning principles not addressed

- The applicant is now deceased. This raises issues of the utmost importance to the Board. Mr Justice T.C Smyth has stated that where an applicant does not exist no planning permission can be granted. Requests that the Board determine the matter by way of preliminary issue as the appeal would then be withdrawn and there would no longer be any appeal to be determined by the Board.
- There are fundamental problems of planning principle that have not been addressed in the grounds of appeal i.e. effluent treatment, traffic and design.
- It is understood that there is a family farm adjoining the subject site and the specific problems attaching to the subject site may not apply to the alternative site. The need to address the principles of proper planning and sustainable development, traffic safety and avoid impact on the integrity of nearby

European sites should prompt the applicant to identify an alternative site on family farmland that does not generate similar problems.

- The applicant has referred to a number of Board decisions regarding refusal of permission on the grounds of housing need. None of these cases are applicable or relevant. There is a fundamental difference between an uninhabited dwelling of a property wholly in residential use and abandonment of use where only the lands have been used for sheep grazing.

Abandonment of use

- The property has not been inhabited for over 40 years and the planning officer's report acknowledges that it is derelict. The question of the abandonment of the use of the cottage arises as the period of over 40 years is a long and extensive period to leave the cottage without any viable occupation and the evident intention over that period was to use the lands only. In the cases referred to by the applicant, there was no abandonment of use.
- The Courts have held that the 'intention' and the 'length of time' a use is abandoned are the critical factors in determining the abandonment of use. It appears that the house was surplus to requirements and was abandoned. The house does not constitute a 'habitable house' as defined under Section 2 of the Planning & Development Act 2000, as amended.
- The house is derelict and its demolition would not constitute the demolition of a habitable house, but the demolition of a derelict house, which would extinguish the former residential use.
- It is not a sustainable argument that the proposed dwelling is a replacement dwelling and that the proper standards in relation to traffic safety, design and waste treatment and the proper test for impacts on European sites should not apply.
- The proposed development must be assessed from first principles and satisfy the standards for design, traffic safety and waste treatment that do not give rise to material landscape impacts, traffic hazard or risk of disaffecting the integrity of European sites in the vicinity.

Conflict with policy documents

- The arguments made in respect of national and development plan policy are all tailored on the replacement dwelling argument.
- The subject development fails to comply with the guidelines as it adversely impacts on the character and pattern of landscape features and comprises a dominant feature located on the ridgeline and would adversely impact on the important view of Connemara Bog SAC as viewed from Dog's Bay. It does not reflect the established pattern of development as it seeks to impose a new dwelling visible on the ridgeline.
- There is nothing either in the Guidelines or the Development Plan to justify the granting of planning permission for a rural dwelling on the basis of housing need in the face of traffic hazard or landscape and impacts on the SAC.
- Notwithstanding the arguments made, the proposed design is not in keeping with the design guidelines and does not respect the predominant design of the rural dwellings in the area.
- The proposed development conflicts with the provisions of the *Sustainable Rural Housing Guidelines for Planning Authorities* and the current county development plan in relation to the protection of landscape character, amenity and rural house design and would, therefore, be contrary to the proper planning and sustainable development of the area.

Traffic hazard

- The basis of the applicant's case is that the traffic survey observation on the regional road supports a case of sight lines based on a 50km speed notwithstanding that the visibility to the east does not comply with the lower visibility requirement.
- The survey and observation of speed was of limited duration, a 4 hour afternoon survey from 1.30 -5.30 in early September. Direct observation of speed travelled on this regional road suggests higher speeds of 70km to 80km. For the applicant's case to be sustainable there would have to be a speed limit of 50km in place to ensure traffic did not exceed this limit. In reality

the speed limit on the road is 85km/h and the proposed development does not meet the sightlines of 160m required for a regional road.

- The proposed new access is directly opposite an existing access and it would create a hazard on the road where unexpected traffic movements would be generated when entering/exiting the site directly opposite an existing difficult and substandard access. The applicant's response recognises that this scenario is not recommended. It is also beside the pull-in area where tourists stop to admire the view.
- The proposal to accept lesser standard for sight visibility for the access would create an adverse precedent for further development in the area and would be contrary to the proper planning and sustainable development of the area.
- The difference in level from the point of turn in the access which is 30.3m to the site to the road level which is 26.5m, which compounds the visual impact and the need to cut into the rock escarpment on the site.

Wastewater treatment

- The site suitability assessments undertaken did not consider the suitability of the site in an integrated manner i.e. the proximity to European sites when arriving at the conclusions on site suitability.
- Both tests were conducted in summer which were not worst case conditions and did not reflect the highest water table. They identified elevated bedrock at 0.8m below ground level and elevated water table at 0.5m below existing ground level. The planning authority inspected the site when the water table was exceedingly high and clearly there are seasonal variations in the water table and the site soil conditions which pose a risk to the aquifer with an 'extreme' vulnerability rating, in a location proximate to European sites.
- The NIS identifies that there are groundwater pathways to the European sites. There was no assessment of the effect of rock excavation on ground water or the consequent impact on pathways to the European sites. In the absence of geological survey there is inadequate evidence to rule out adverse impacts with any degree of scientific certainty.

- It is a matter of critical relevance that the house has not been lived in for over forty years and there is no effluent disposal on the site. The basis for the assessment that the wastewater treatment system is an improvement on what is already there is flawed. Any existing 'pit' is not a sustainable system to suggest the house is habitable. The abandonment of the use necessitates the consideration of the development from first principles and in such a scenario, a site proximate to a number of European sites should be avoided.

First Party Response to Section 131 Notice

- Acknowledges that the applicant is now deceased. However, a planning permission relates to the land and not to a person and therefore the death of the applicant does not preclude the Board from issuing a decision.
- The application is for a replacement house and the applicants remaining family request that the Board continue to consider the application, which, should it be successful, would facilitate the sustainable future use of the residential property.
- The issues raised by the appellant relating to the applicant, the dwelling house and the circumstances surrounding the planning application are matters which have been thoroughly addressed through the First Party grounds of appeal.

Third Party Response to Section 131 Notice

Visual Impact

- While the subject site is not located in a European site it is located within close proximity where there are pathways to the SAC and where the visual prominence of the site affects the landscape character of the area (Policy NHB 2 Non-Designated Sites).
- It is incorrect to suggest that the site is not located in a highly exposed position. It is located on the route of the Wild Atlantic Way and the house is totally exposed in the landscape in the approach from Roundstone and from Dog's Bay.
- The appellant's original cottage was expertly and sensitively renovated to assimilate into the landscape. The sensitive design approach was

acknowledged by the inclusion of the house as a reference and model of good design on Page 19 of the Design Guidelines.

- The site is located in a landscape of outstanding value and special sensitivity (Class 4). The designated views 118-121 cover a series of views in the vicinity of the site where the subject site is visible in views from Roundstone Bay.
- It is incorrect to suggest that the reference to '*remnants of an historic vernacular cottage*' is misleading. It is incorrect to say that the house was constructed in 1928. Reference to historic maps suggest the cottage was built between 1897-1913. The cottage is locally built using traditional methods from local stone. Page 23 of the Design Guidelines for the Single Rural House set out what 'rural vernacular' entails.
- The proposed design is not of vernacular form. The tradition was to design the forms juxtaposed on each other not at an obtuse angle. (Page 27 & 29 of the Design Guidelines).
- On the basis of the drawings submitted by the applicant the house is 8m above road level.
- It is more than obvious that there will be a need for extensive rock blasting. This will be compounded by the steep angle of the entrance to the site, which will have a significant visual impact.
- It is correct to say that there is not a proper survey of the existing features and walls, as the design layout is not superimposed on the survey drawings and accordingly it is not possible to assess the impact of the design on the loss of site features.
- The ridge height of the neighbouring property was designed in a manner to ensure it would assimilate into the rural landscape and its features. It does not set a precedent in relation to ridge height for the neighbouring dwelling but identifies a sensitive approach of working with the landscape to assimilate into the topography. The area demands a sensitive response study to provide a natural response and avoid a man-made concrete patio (Page 19 of Guidelines).

- The proposed dwelling is located so that it occupies a significantly longer and broader footprint than the existing cottage and requiring significant excavation works to provide a level development platform for the proposed house and its driveway and ancillary services. It will impact on the skyline.
- The proposed polishing filter is a specific formal design unrelated to the disjointed nature of the rocky outcrops of the landscape form and consequently will be a discordant feature in the landscape.
- The applicant states that only indicative landscaping plans are possible as soil conditions cannot be known until after excavation. This shows the widespread nature of excavation across the site radically altering the landscape character, form and even soil conditions.
- With regard to the question of the habitable nature of the dwelling, the house has been 10 years without an electricity supply, which demonstrates that it is not habitable and has not been inhabited over the past 10 years.
- There is no proof of an existing septic tank and no planning permission was ever sought for one. The planning report attached to 14/714 describes the house as derelict. This is important in the context that it acknowledges that there are no services in use by the dwelling and as such the proposed wastewater treatment system cannot be assessed as an upgrade of the existing facilities.
- The applicant's case for development is unsustainable.
- Requests the Board to refuse permission for the development for the reasons outlined in the planning authority's decision and for extended reasons as documented in the response.

8.0 **Assessment**

8.1. I consider that the main issues that arise for determination by the Board in respect to this appeal relate to the following;

- Rural Housing need.
- Effluent disposal.

- Traffic safety.
- Design and visual impact.
- Appropriate Assessment.

1. Rural Housing Need

Section 3.7 of the current Galway County Development Plan sets out how the development of single houses in rural areas will take place outside the confines of towns and settlements. It establishes rural housing zones and incorporates specific policies for each zone. The proposed development is located in Rural Housing Zone 4 (An Gaeltacht), where Objective is RHO 4 applies. It facilities applicants, whose original family home is located on the coastal strip west of Spiddal to move closer to the city, but not more than 8km from the family home.

It has been demonstrated in the documents submitted that the applicant's original family home was located to the east of the site and also in the townland of Errisbeg West. The proposed development is closer to Galway city and less than 8km from the original family home and accordingly, the applicant would appear to qualify for consideration under Objective RHO 4.

The planning authority did not limit itself solely to consideration of the applicant's housing need under Objective RHO 4. As part of the request for further information the applicant was requested to substantiate housing need arising from the location of the site in a Class 4 'Special' Landscape. Objective RHO 3, which applies to these areas, requires that 'Rural Links' and a 'Substantiated Housing Need' (as defined under Section 3.9 of the plan) be established.

In terms of 'Rural Links', the applicant was born and bred in the locality and emigrated to England as a young adult. It could therefore be interpreted that she has spent a 'substantial and continuous part of her life' in this area. The applicant subsequently inherited the site from a family member. As the owner of the site, it is questionable if the issues raised regarding establishing links are warranted at all. Notwithstanding this, I accept that the applicant has demonstrated intrinsic links with this rural area both by residency and as the inherited owner of the house on the site.

I do not consider that the question of rural housing need requires any further consideration by the Board.

With regard to the Third Party's argument that the Board should consider that the residential use has been abandoned, the Board in its determination of similar cases has accepted that an existing house on a site establishes the principle of residential use on the site, regardless of its condition and period of vacancy.

2. Effluent disposal

The proposal is to install a proprietary treatment system to treat foul effluent from the proposed house. At the time of the planning authority's inspection the trial hole and percolation tests holes showed water close to ground level (photographs attached to planning officer's report). Following a request for further information, a site suitability assessment was carried out and a new trial hole and percolation tests were excavated. The proposed system was relocated north of its previous position (Dwg No P-003 refers).

The trial hole was excavated to a depth of 0.8m where bedrock (granite) was encountered. Ground water was encountered at 0.5m below ground level. The photographs submitted with the assessment, shows the level of water in the trial hole following excavation. Percolation tests were carried out for Shallow Soil/Subsoils as per EPA Guidance. The results of the tests indicated soils with a T value of 15.88, consistent with the gravel/silt nature of the subsoils. (Note reference to 'T' and not 'P' in assessment).

There are no surface water bodies in the immediate vicinity of the site. The site is underlain by a 'Poor' aquifer (PI) with 'Extreme' vulnerability. Soils are shallow and consist of CLAY and SILTY GRAVEL. At the time of my inspection of the site, water in the trial hole/ percolation tests holes was close to ground level. The question that arises is whether the soils/subsoils have the capacity to adequately treat the effluent prior to discharge to ground water.

It is proposed to install a proprietary treatment system which will discharge to a sand polishing filter providing tertiary treatment of the effluent. It is recognised that the polishing filter will need to be raised to obtain adequate percolating medium. Whilst the proposed treatment system is technically capable of providing a good quality effluent, I have concerns regarding the proposal.

In the first instance there is no information on how the system will be accommodated on the site that poses significant challenges due to the level of rock outcropping, high water table and the shallow nature of the soils/subsoils. Secondly, it has not been established that the raised sand filter bed, the invert level of which will be a minimum of 0.4m above existing ground level will provide sufficient percolation medium above winter ground water level to attenuate the effluent prior to discharge to ground. Thirdly, there is potential for the system to become water logged due to the high water table resulting in malfunctioning of the system. This would give rise to hydraulic issues and surface ponding with implications for public health.

Having regard to the level of rock outcropping that occurs on the site, the high winter water table and the shallow nature of the subsoils, I have concerns that the site cannot be satisfactorily drained by means of a septic tank, notwithstanding the proposed use of a proprietary treatment system and sand polishing filter. I consider that the proposed development would pose an unacceptable risk to ground water and would be prejudicial to public health. I recommend that permission be refused on these grounds.

3. Traffic Safety

The existing access to the site consists of a gravel track with gated access onto the adjoining regional road. This access lies outside the boundaries of the application site. The proposal is to create a new entrance, further east along the site frontage, which will connect into the existing access road to the house. The information submitted in support of the application indicated maximum achievable visibility splays of 37.4m to the west and 64.6m to the east. The planning authority raised issues regarding the availability of adequate visibility splays from the new entrance in its request for further information, noting the requirements of DC Standard 22 of the development plan (refers to previous plan).

The applicant's response to further information included a traffic report. It was observed that traffic volumes were 'relatively light' in the vicinity of the site and traffic speed 'appeared to be significantly less than the 80km/h speed limit'. The report referred to the *Geometric Design of Major/Minor Priority Junctions and Vehicular Access to National Roads* (Volume 6, Section 2, Part 6 NRA TD 41-42/11), which makes provision for the relaxation of certain parameters such as the 'x' distance, 'low

object height' and positions at which visibility splays may be taken in certain circumstances, e.g. lightly used accesses, difficult circumstances etc. Adopting these criteria would allow sightlines of 65m to be obtained to the west.

My observations are as follows. The site is located on an unimproved section of the regional route. It has a posted speed limit of 80km/h and a continuous white line through its centreline indicating overtaking restrictions. The proposed entrance is located on a concave bend where visibility is seriously constrained by topography, vegetation and boundary walls to the west and is just marginally better to the east. I consider that the traffic manoeuvres associated with the proposed entrance would seriously impact on traffic safety. Right hand turning movements from the site onto the adjoining regional road would be particularly hazardous due to deficiencies in the vertical and horizontal alignment of the road and lack of visibility of approaching vehicles. The relaxation of the parameters as proposed in the traffic report ignores the requirements of the development plan in terms of the provision of adequate sight lines to ensure traffic safety for access onto regional roads (DM Standard 20).

Having observed the proposed access point and both approaches to the site, I do not accept that there was any misrepresentation of conditions by the planning authority as contended in the appeal. I concur with the conclusion reached by the planning authority that the proposed development would endanger public safety by reasons of traffic hazard and accordingly, I recommend that permission should be refused on these grounds.

4. Design and Visual Impact

The proposal is to demolish the existing house and replace it with a house with a larger footprint. The Board will note that the policies of the plan encourages the refurbishment of habitable dwelling houses as a more sustainable option to the demolition and construction of a new dwelling (RHO 6), unless a conclusive case for demolition is made for the planning authority's consideration. The application is supported by a condition survey of the existing house.

The existing house is a small rectangular structure (45m²) with a slated roof and cement finish to the walls. There is a small extension to the rear. Externally, the house appears to have been constructed directly on top of the rock surface. Rock is also clearly incorporated into the western gable. According to the condition report,

the concrete floors appear to have poured directly over the original rock surface and are uneven, with a significant slope in the western room. The walls and the roof are intact and in my opinion the house would not, therefore, be described as derelict. There is no insulation, damp proof coursing etc and it is noted in the report that the installation of same would require that the existing cement floors are removed and excavations made into sheetrock. This would present significant challenges with the potential to destabilise the walls. I accept that significant works would be required to bring the existing house up to modern day standards and that the applicant has made a reasonable argument to justify its demolition and replacement. I accept that the principle of a new house at this location is acceptable and is an appropriate way of maintaining the residential use on the site.

The proposal is to construct a single storey dwelling with an L-shaped configuration, with two gabled structures. The northern part of the house would sit partly on the footprint of the original house, with the other section projecting forward and forming an obtuse angle to the southwest. The finished floor level of the house at 36.55m is similar to house being replaced. The ridge roof level at 42.55m is c.1m higher than the existing house. In terms of scale and proportions, I considered that the proposal is acceptable and could be accommodated on the site without significant adverse impacts on the visual amenities of the area.

The design of the house is an improvement on that previously refused (14/ 714) in that it has a narrower plan and reduced height. However, I accept that improvements could be made to the roof treatment of the south west wing and manner in which the two elements of the house relate to one another to provide simplify of form and a more cohesive arrangement. I also accept that the raised terrace feature sits uncomfortably at the front of the house. If required to provide a level access to facilitate wheel chair access it's impact could be significantly reduced by the use of an appropriate finish such as natural stone and judicious planting. I consider that the external finish of the house is also important in terms of reducing its visual impact in the wider landscape, with a stone finish providing more effective assimilation.

Issues have been raised by the appellants regarding the impact of the development on views from Dog's Bay, on scenic views and on the touring route between Roundstone, which incorporates the Wild Atlantic Way.

There are views of the site from Dog's Bay and from my observations the existing house does not appear as an obtrusive feature in the landscape. There are other dwellings at both higher and lower elevations, which have greater impact. The development of the new house with its extended profile will increase the level of impact. It will project marginally above its existing profile but will not extend above the ridge formed by the higher ground to the rear nor will it break the skyline. The ridge level will be lower than its adjoining neighbour (appellant) to the west. It is my opinion that the level of impact would not be of such magnitude that it would seriously detract from Dog's Bay or surrounding amenities. I accept that the photomontages are an accurate representation of existing conditions.

It is an objective of the planning authority (FPV 1) *'to preserve the focal points and views as listed in Map FPV1 from development that in the view of the planning authority would negatively impact on these focal points and views'*. The protected views referred to by the appellant are No's 118-121. There will be no impact on viewpoint 118 which protects the view of Ballyconneely Bay from the R 341. The view is orientated away from the subject site, which is well removed to the east. Viewpoint 119 is associated with Rockfields south of Maumeen Lough. It is located considerably west of the subject site, separated by topography with no potential for impacts. Viewpoints 120 & 121 are associated with Roundstone/Roundstone Bay, located c.3.5km to the west. There will be no impacts on these views arising from the proposed development.

I consider that it is disingenuous for the appellant to suggest that there will be views of the site from Roundstone. Topography, existing built form and the meandering nature of the regional route ensures that the site only comes into view close to Dog's Bay. Similarly, from the western approach views of the site are also highly localised with the focus on views of the coastline to the south. I do not accept that the proposed development would seriously detract from the amenity of the popular touring route between Clifden and Roundstone.

To conclude, I do not agree with the views expressed by the appellant that the proposed development will seriously detract from the sensitivity and character of the receiving landscape. I accept that improvements could be made to the design of the house to simplify its form and provide a more unified composition. I do not consider that there is any evidence to support the appellant's argument that the proposed

development will impact on protected focal points/views or the touring route that forms part of the Wild Atlantic Way.

5 Appropriate Assessment

The AA Screening Report submitted in response to further information identifies the European sites within 15km of the subject site. With the exception of 3 no. sites, all other sites were 'screened out' on the basis that significant impacts on the European sites could be ruled out arising from distance, lack of hydrological connectivity etc. The three sites brought forward for Stage 2 Screening included Connemara Bog Complex SAC (296m to the north), Connemara Bog Complex SPA (697m to the northwest and Dogs Bay SAC (739m to the southeast). The sites share the same aquifer as the proposed development which has an 'Extreme' vulnerability rating. There is therefore a pathway for effects.

A Natura Impact Statement was submitted at further information stage. The development, which is at a remove from each of these designated sites will not result in loss, fragmentation of habitats or disruption or disturbance of key species. The only impact that could arise would result from emissions to ground water during construction or from foul effluent discharge during the operational stage. This could have the potential to result in pollution and changes to key indicators of conservation value within the European sites.

The NIS assesses the potential for such impacts on the qualifying species of each site. The only pathway for impacts is via groundwater. The NIS concludes that during construction potential impacts are prevented through best practice to prevent contaminants to enter groundwater and through the design of the effluent treatment system for the operational stage. It is concluded that the proposed development by itself or in combination with other plans or projects is not likely to have any significant or adverse effects on a European site.

Within Connemara Bog SAC many of the qualifying habitats are up-gradient of the proposed development with no potential for direct/indirect impact. The remaining habitats (Coastal lagoons and Reefs) at c.8km from the subject site are unlikely to experience indirect effects due to distance. The NIS notes that there is no surface water hydrological connectivity between the site and the SAC and accordingly protected species such as Salmon and Otter will not be impacted. Marsh Fritillary will

not be impacted. I accept that on the basis of the information available the proposed development would not be likely to have a significant effect on this European site, either individually or in combination with other plans or projects

Connemara Bog SPA (Site Code 004181) is of special conservation interest for Cormorant, Merlin, Golden Plover and Common Gull. The development of the site, which already accommodates a house and shed will not result in any loss or fragmentation of habitat within the SPA and will not cause disruption or disturbance to these species. I accept that on the basis of the information available the proposed development would not be likely to have a significant effect on this European site, either individually or in combination with other plans or projects

Dogs Bay SAC (Site Code 001257) is selected for a range of coastal habitats including; Annual Vegetation of Drift Lines; Embryonic Shifting Dunes; Marram Dunes; Fixed Dunes and Dry Heat. No part of the development will be located within the SAC and there will be no loss or fragmentation of habitat. It would appear that there are no surface water features which would act as conduits and the only potential for impacts that could arise would be through groundwater.

As noted, the qualifying features are predominantly terrestrial consisting of dune habitats. There is no interdependence or interconnectivity between these habitats and ground water. Whilst I have raised concerns regarding the suitability of the site to accommodate the proposed effluent treatment system, I am not persuaded, having regard to the qualifying habitats and the separation distance that significant impacts on the qualifying features of the SAC would arise. I would conclude therefore that on the basis of the information available the proposed development would not be likely to have a significant effect on this European site, either individually or in combination with other plans or project.

Note: I would point out to the Board that the Site Survey prepared by Arrigan Geo Surveyors was not forwarded by the planning authority. The letter of consent allowing applicant to discharge surface water onto a land drain on neighbouring property does not appear on the file.

9.0 Recommendation

- 9.1. Having considered the contents of the planning application, the decision of the planning authority, the provisions of the development plan, the grounds of appeal and the responses thereto, my inspection of the site and my assessment of the planning issues, I recommend that permission be refused for the development for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. Having regard to ground conditions prevailing over much of the site, including significant rock outcropping, a high water table and shallow subsoils, and the absence of information on how the proposed wastewater treatment system and raised sand polishing filter could be effectively accommodated on the site, the Board is not satisfied on the basis of the information submitted in support of the application and the appeal that the site can be adequately drained by of a septic tank, notwithstanding the proposed provision of a proprietary system and polishing filter. It is considered that the high water table creates the potential for surface water ponding and the malfunctioning of the system and that the proposed development would pose an unacceptable risk to ground water quality and would, therefore, be prejudicial to public health.
- 2 It is considered that the proposed development would endanger public safety by reason of traffic hazard due to the additional traffic movements that would be generated by the proposed development onto an unimproved section of the adjoining regional route which is seriously restricted in width and alignment and where sight visibility is seriously curtailed in both directions.

Breda Gannon
Planning Inspector

20th, March 2017