



An
Bord
Pleanála

Inspector's Report PL07.249327

Development	Retention and completion of a partially constructed dwellinghouse
Location	Sturrakeen, Omey Island, Co. Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	17/1037
Applicant(s)	Peter Fitzsimons
Type of Application	Permission
Planning Authority Decision	Refusal of Permission
Type of Appeal	Third Party
Appellant(s)	Bernadette Davin Patrick Davin
Observer(s)	Liz Massey
Date of Site Inspection	7 th of December 2017
Inspector	Angela Brereton

1.0 Site Location and Description

1.1. The subject site is located in the townland of Sturrakeen on the eastern side of Omey Island, which is connected by a tidal route along the strand from the mainland and Claddaghduff. There is a partly constructed dwelling house well set back on the site, which is accessed via a private lane and gated entrance which connects to the Local Road (L11025) on Omey Island. The new partially completed dormer dwelling structure is positioned to the east of the site of a former old stone dwelling. It is visible in the landscape across the tidal causeway and from the mainland. There are some single storey houses on the island to the south east of the site which are less visible in the landscape.

2.0 Proposed Development

2.1. This consists of the following:

- (1) Retain and Complete Partially Constructed Dwelling House including amending and lowering of existing roof structure to reduce height and;
- (2) Retain and Complete Effluent Treatment System and Percolation Area as Approved under Planning Reg. Ref. No's. 06/2831 and (EOD) 11/1713.

- 2.1.1. The application form provides that the area of the site is 1.42ha and the g.f.s of the dwelling house is 167sq.m.
- 2.1.2. A number of drawings have been submitted showing the existing and proposed.
- 2.1.3. Documentation submitted with the application includes the following Reports prepared on behalf of the applicant by McCarty Keville O'Sullivan Ltd:
- A Planning Report
 - A Landscape and Visual Assessment Report
 - An Ecological Assessment/Appropriate Assessment Screening Report

3.0 Planning Authority Decision

3.1. Decision

On the 6th of September 2017, Galway County Council granted planning permission for the development subject to 11 no. conditions. These include regard to the following:

- Condition no.2 – Revised drawings to be submitted to reduce the overall height of the of the dwelling house by 300mm to 6.2m. and to provide amendments to reduce the front porch in size and scale, and to omit the dormer windows to both the front and rear and replace with velux windows.
- Condition no.3 – Occupancy restriction.
- Condition no.4 – External finishes.
- Condition nos. 5, 6 and 7 refer to surface water drainage and the proprietary wastewater treatment system.
- Condition no. 8 – Undergrounding of services.
- Condition no.9 – Landscaping and boundary treatment.
- Condition no.10 – Roads and Access maintenance during construction stage.
- Condition no.11 – Development Contributions.

3.2. Planning Authority Reports

3.2.1. Planner's Report

This has regard to the locational context of the site, planning history and policy and to the submissions made. Regard was had to the Ecological Assessment and AA Screening Report carried out and the number of Natura 2000 sites within 15kms of the site was noted. The Planner concluded that significant adverse impacts on the qualifying criteria and conservation objectives of these European sites can be ruled out. It was noted that the application site is located in a Class 4 designated landscape and regard was had to Objectives RHO3, RHO6 and RHO7 of the current GCDP. The Planner considered that only RHO3 is applicable in this case. They considered that having reviewed the documentation submitted that the application

would not comply with the County's Rural Housing policies and that the design and massing of the dwelling would be inappropriate and unsympathetic to a rural coastal setting, in particular a Class 4 Landscape. Refusal was recommended relative to impact on visual amenity, house type/design and lack of housing need. The Planner included a number of photographs of the dwelling and the site.

It is of note that in view of the planning history of previous permissions relative to the site permission was subsequently granted by the Council subject to 11 no. conditions.

3.3. Third Party Observations

3.3.1. Submissions from those in support of the proposal from local residents include the following:

- This is a replacement dwelling from that previously granted consent by Galway County Council.
- The external finishes are from the original building.
- The old dilapidated former building was visually obtrusive and a blight on the landscape. The new building will be less obtrusive and be more aesthetically pleasing than the former and will rejuvenate the area.
- The applicant has a history of visiting and has ties to the area.

3.3.2. Objections include the following:

- Size and location of the new house is different to that originally approved.
- The floor area of the house has been increased and the windows do not comply with the original permission.
- The house has been built in the wrong location and visually impacts on the skyline and views of Omey Island. Amending and lowering the roof will not improve this.
- The scale bulk and size of the house is overly prominent and should be built on the site of the former dwelling.
- It would have an adverse impact on the character of the landscape and the visual amenities of the area.

- The development is speculative and as such would materially contravene the Housing Needs policies in the GCDP.

3.4. Prescribed bodies

- 3.4.1. An Taisce has regard to the planning history on this site and notes that previous planning on this site was addressed in the context of the redevelopment of the site. They advise that as per Objective RHO6 of the GCDP the application should demonstrate a conclusive case for any demolition that appears to have occurred based on technical evidence. Also that that it be demonstrated that the design of the subject proposal can be successfully assimilated into the surrounding environment which has been designated a 'Class 4' sensitivity and has regard to the Design Guidelines for Rural Housing in the Countryside.

4.0 Planning History

The following are relevant to the subject site:

- Reg.Ref.06/2831 – Permission granted subject to conditions to Peter Fitzsimons to renovate and extend the existing roofless cottage and to install a sewage treatment system and percolation area (g.f.a 101.25sq.m). Condition no.1 referred to the development being in accordance with the plans and particulars submitted on the 26th of October 2006.
- Reg.Ref.11/1713 refers to an extension of duration of Reg.Ref. 06/2831

5.0 Policy Context

5.1. Galway County Development Plan 2015-2021

Chapter 2 provides the Core Strategy for the County. This includes in Section 2.3 Development Strategy Objectives: Objective DS 6 – Natura 2000 Network and Habitats Directive Assessment.

Section 2.4 provides for the Core Strategy as an integral component of the Spatial Strategy and reference is also made to the Regional Planning Guidelines. S.2.4.8 refers to the Core Strategy and Settlement Hierarchy.

Section 2.6 refers to the Settlement and hierarchy. A Table is provided showing a six tier system. It is noted that the lowest tier of the hierarchy refers to Other Settlements and the Countryside.

Chapter 3 refers to Urban & Rural Housing.

Section 3.7 refers to Single Housing in the Countryside and has regard to the distinction between urban and rural generated housing and the requirement for sustainable rural housing. S.3.8 identifies Rural Area Types – Map RH01 refers – the subject site is located in a Structurally Weak Rural Area. Section 3.8.2 refers and provides the objectives for such areas. This includes: *To protect areas located in Landscape Category 3, 4 and 5.* Map RHO2 shows that Omey Island is located in Zone 3 Landscape Category 3-5. As per Section 3.8.3 the Site is within Rural Housing Zone 3. Objective RHO 3 refers i.e: *Those applicants seeking to construct individual houses in the open countryside in areas located in Landscape Categories 3, 4 and 5 are required to demonstrate their Rural Links to the area and are required to submit a Substantiated Rural Housing Need. In addition an Applicant may be required to submit a visual impact assessment of their development, where the proposal is located in an area identified as “Focal Points/Views” in the Landscape Character Assessment of the County or in Class 4 and 5 designated landscape areas. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis. An Enurement condition shall apply for a period of 7 years, after the date that the house is first occupied by the person or persons to whom the enurement clause applies.*

Objective RH0 6 refers to circumstances relevant to the provision of a Replacement Dwelling.

RHO 7 - Renovation of Existing Derelict Dwelling/Semi Ruinous Dwelling.

RHO 8 - Substantially Completed Single Dwelling.

RHO 9 - Design Guidelines for Single Rural House.

RHO 12 - Waste Water Treatment Associated with Development in Un-Serviced Areas

Chapter 5 refers to Roads and Transportation.

Chapter 6 includes regard to Wastewater Treatment Systems. Objective WW 5 refers to WWT associated with development in un-serviced areas.

Chapter 9 refers to Heritage, Landscape and Environmental Management Section Section 9.8 refers to Natural Heritage and Biodiversity and includes regard to Natura 2000 sites. S.9.9 provides the Natural Heritage and Biodiversity Policies and Objectives. NHB 1, NHB2, NHB 3 and NHB 8/10 (protection of coastal zone) are of note. Designated Environmental Sites are provided in Map NHB1.

Landscape Sensitivity categories 1 (low) – 5 (unique), are referred to in S.9.10.2.3. Map LCM1 shows the site is within the High Landscape value rating. Map LCM2 refers to Landscape Sensitivity and shows the site is included within the Class 4 – Special area.

Chapter 13 provides the Development Management Standards and Guidelines. DM Standard 1 refers to Qualitative assessments for urban and rural area. This includes reference to the DoEHLG Sustainable Rural Housing Guidelines 2005. Section 13.4 provides the Rural Residential Considerations and includes DM Standard 5 relative to Rural Housing need and DM Standard 6: Assimilation of Development into Landscape and DM Standard 8 relative to Landscaping.

DM Standard 20: Sight Distances Required for Access onto National, Regional & Local Roads.

5.2. The Sustainable Rural Housing Guidelines 2005

This seeks to encourage and support appropriate development at the most suitable locations. Section 3.2.3 concerns Rural Generated Housing and gives an example of Persons who are an intrinsic part of the rural community and Persons working full-time or part-time in rural areas. Appendix 3 provides details of NSS Rural Area Types. Section 3.3 is concerned that the consideration of individual sites will be subject to normal siting and design considerations. These include the following:

- Any proposed vehicular access would not endanger public safety by giving rise to a traffic hazard.

- That housing in un-serviced areas and any on site wastewater disposal systems are designed, located and maintained in a way, which protects water quality.
- The siting of the new dwelling integrates appropriately into its physical surroundings.
- The proposed site otherwise accords with the objectives of the development plan in general.

Section 4.4 is concerned with Access and regard is also had to Roadside Boundaries.

5.3. **Code of Practice Wastewater Treatment Disposal Systems serving Single Houses**

This document (2009) by the EPA relevant to single houses (p.e <10). The objective is to protect the environment and water quality from pollution and it is concerned with site suitability assessment. It is concerned with making a recommendation for selecting an appropriate on site domestic wastewater treatment and disposal system if the site is deemed appropriate subject to the site assessment and characterisation report. The implementation of the Code is a key element to ensure that the planning system is positioned to address the issue of protecting water quality in assessing development proposals for new housing in rural areas and meeting its obligations under Council Directive (75/442/EEC).

5.4. **EU Water Framework Directive**

The purpose of the EU Water Framework Directive (WFD) 'is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater.

5.5. **EU Habitat Directive**

The aim of the EU Habitat Directive is 'to contribute towards ensuring bio-diversity through the conservation of natural habitats and of wild fauna and flora in the European territory of the Member States to which the Treaty applies'.

6.0 The Appeal

6.1. Grounds of Appeal

Two separate Third Party Appeals have been submitted by local resident Bernadette Davin and also by Patrick Davin who resides in San Francisco. The grounds of appeal are as follows:

Bernadette Davin

- Visually prominent siting in exposed rural location close to the shoreline of Omey Island, in an area of significant scenic amenity and tourism value.
- It impacts on views of the island from coastal and tourist routes including the Wild Atlantic Way and its discovery point at Omey Strand.
- It contravenes policies in the GCDP which seek to preserve the character of the landscape and militates against the protection and preservation of the coastline of Omey Island/Claddaghduff and is seriously injurious to the amenities of the area. (They refer to photos enclosed).
- The dwelling in this prominent, open exposed location, in addition to existing residential development in the vicinity is highly intrusive and detracts from the rural character of the area.
- If permitted it would contribute to the erosion of the visual and environmental amenity of the area.
- It is located in a Class 4 highly scenic, coastal rural area restricted to essential residential needs of local households and family farm housing. The applicant has been unable to demonstrate a rural generated housing need at this location in accordance with the Sustainable Rural Housing Guidelines and the requirements of the GCDP 2015-2021.
- They dispute the Council's granting planning permission and consider the applicant's purported essential housing need is flawed.
- The development if permitted would set an undesirable precedent and contravene decisions already made by the Board relative to single rural

houses and lack of demonstrated local housing needs – Refs. 07.237336 and 07.225030 refer.

- They note similar unauthorised developments have been carried out in Galway and Mayo areas and consider that the applicant has shown a disregard for the environment, local amenities and the planning system.
- They are concerned about the poor drainage characteristics of the site and the location of the pwwts adjacent to the only potable water supply Lough Fahy. They consider there is an unacceptable risk of pollution to the island's fresh water supply and that the proposed development would be prejudicial to public health.

Patrick Davin

- The house has been built in the completely wrong location and is a completely different house to that granted permission in the original permission Reg.Ref.06.2831. This sought to refurbish the original house, which has since been knocked and a bigger house been built in a different location which impacts on the skyline and views of Omey Island.
- Amending and lowering the house that is partially constructed and not on the original site, won't fix this or make it right. The house that is partially constructed is not on the original site.
- While he does not object to the permission originally granted, his objection is to the size and location of the proposed house. He queries why the new house was not built on the original site.

6.2. Applicant Response

6.2.1. S.Hanniffy & Associates Consulting Engineers have submitted a response on behalf of the First Party to the grounds of appeal. This includes the following:

- While the applicant undertook to implement the previous permission the existing cottage had fallen into further disrepair and the structure of the cottage had deteriorated significantly. They note that the Chartered Surveyors Structural Report carried out (Appendix A) considered that structurally the old cottage was unable to support the then proposed new works.

- The remainder of the old cottage was subsequently demolished and construction of a new dwelling house commenced and they provide details relative to the current application. Appendix B shows photographs of the original cottage in the landscape.
- They provide that their client applied to retain, amend and complete the partially completed dwelling house under Objective RHO-6 & RHO-7 of the GCDP. They are of the opinion that the replacement house is in compliance with the requirements of these objectives.
- The Appellant's claim that housing need is required is unfounded – reference is made to Appendix D of their submission relative to the Council's view on this issue.
- The new dwelling will be completed in accordance with the Council's Design Guide for Rural Housing in the countryside, and the ridge height will be lower than that previously approved (they include front elevations).
- They are of the opinion that the development will protect and preserve the character of the landscape and note a dwelling house formed part of the landscape at this location for over a century.
- They refer to the precedent cases mentioned by the Appellant and consider that these raise different issues to the current application and should not be taken into account.
- They enclose in Appendix E a letter from the Applicant Peter Fitzsimons outlining what happened to the site in County Mayo referred to by the Appellant and provide details of this. This also includes letters of support.
- The development does not pose a risk of pollution to the islands fresh water supply and would not be prejudicial to public health and they provide details of this. They refer to Section 3.2 of the AA Screening Report in this regard.
- They note Condition no.2 of the Council's permission and enclose drawings to show the revised elevations in compliance with this (Appendix C). This will result in a reduction in ridge height of the partially constructed dwelling, and that the use of local materials for external finishes will minimise visual impact

on the scenic amenity of the area. This refer to the Landscape and Visual Assessment in this regard.

- The proposed house will be very similar in style, height and character to the house approved under Reg.Ref.06/2831 and 11/1713. They consider that the proposed amendments to the existing structure will negate any concerns regarding the visual impact of the proposed development when compared to the house originally approved.

6.3. Planning Authority Response

6.3.1. There has been no response by the Planning Authority to the grounds of appeal.

6.4. Observations

6.4.1. An Observation has been submitted from Liz Massey who has a holiday home that looks directly at the site on Omey Island across the beach. Her Observation includes the following:

- She was completely in favour of the original permission and of refurbishing the old house and having an inhabitant on Omey Island.
- She notes that the Council served an Enforcement relative to the partially constructed house and that the original permission had been contravened. Also that originally the Planner's Report recommended refusal.
- A Report is enclosed which she provides is a very similar planning situation and notes the decision by Mayo County Council.
- The applicant, a part-time resident seems to have been granted planning permission with very minimal conditions. She queries whether she can gain permission to build anything she wants on her 12 acres, bearing in mind that she is not a resident in Claddaghduff.

7.0 Assessment

7.1. Compliance with Rural Housing Policy

- 7.1.1. As set out in Section 2.5 of the Galway CDP 2015-2021 the Core Strategy Objectives include the provision of a settlement Hierarchy for the county. Section 2.6.1 provides the Settlement Hierarchy which has been developed to allocate future population growth between the various towns, villages and the rural area of the County. As shown in the hierarchy table - Other Settlements and the Countryside are included in the bottom tier. Section 2.6.5 notes that Clifden is a Key Town within the hierarchy in the area. S.2.6.7 refers to Small Settlements including Claddaghduff and the Countryside/Rural Areas. Objective CS7 provides the Core Strategy for the Countryside and Rural Areas. Regard is also had to the national guidance document the *Sustainable Rural Housing-Guidelines for Planning Authorities (2005)* and to the criteria which apply to the siting and development of single rural housing.
- 7.1.2. The documentation submitted with the application provides that the applicant is now applying to retain, amend and complete the partially completed dwelling under Objectives RHO 6 &7 of the Galway CDP. This refers to a Replacement Dwelling and to Renovation of Existing Derelict Dwelling/Semi Ruinous Dwelling. I note that in view of the details submitted that the ruins of the old cottage have been demolished as it was structurally found not to be suitable for renovation.
- 7.1.3. The Planner's Report and Section 3.0 of the Planning Report submitted notes the Planning History of the site. Permission was granted by the Council under Reg.Ref.06/2831 to renovate and extend the existing roofless cottage and to install an effluent treatment system and percolation area and the duration was subsequently extended under Planning Ref.11/1713. The documentation submitted with the application provides that the applicant undertook to commence works on the renovation and extension of the existing cottage in early 2016. However, the existing cottage had fallen further into disrepair and they provide that the structure of the cottage had deteriorated significantly. The applicant then engaged Chartered Surveyors to carry out an inspection and prepare a Report on the structural integrity of the existing structure (Appendix A of their submission) to assess if it was possible to renovate the existing cottage. The Report concluded that: "*the existing walls are not*

capable of providing a structural support to build a dwelling on” and recommended that a new build would be more suitable. It also recommended that the original stone from the cottage be used on the façade of the new building.

7.1.4. They enclose photographs showing the original ruinous cottage (Appendix B), taken from the mainland (circled red), which they provide was clearly visible. The second photo shows the original ruin taken from the shore on Omey Island and again this ruin can be seen. They note that the remainder of the original cottage was subsequently demolished and construction of the new house commenced. They provide that the new dwelling is partially constructed on site and is currently complete to roof level. I noted on my site visit in December 2017, that the roof had been mainly constructed and that dormer windows were inserted front and back. They provide that the existing partially constructed dwelling is a storey and a half type dwelling house with natural stone finish.

7.1.5. Objective RHO8 refers to a Substantially Completed Single Dwelling i.e: *Where planning permission has elapsed on a previously permitted development that has been substantially completed and the dwelling remains unfinished it will not be a requirement to establish a Rural Housing Need if it were not a condition of the previously granted planning permission.* It appears that the Council granted permission having regard to the planning history relative to the site. It is noted that on 3no. separate occasions the Council granted permission to the owner of the land to reconstruct the former structure on the site. The First Party contend that the principle of a dwelling has been established on this site. They consider that this proposal for a replacement dwelling should be accommodated.

7.1.6. However as has been documented the house that is partially constructed is in all respects a new dwelling with a different design and layout and is sited c.4.3m from the footprint of the original derelict cottage. This was deemed unsuitable for renovation and has been demolished. Therefore, it is not in compliance with Objective RHO 7 relative to the Renovation of Existing Derelict Dwelling/Semi Ruinous Dwelling. In view of the revised siting and the ruinous condition of the former old cottage which was derelict and not fit for human habitation it is considered that Objective RHO 6 relative to a Replacement dwelling would not apply in this case. Regard is also had to the definition of a ‘habitable house’ given in Section 2, Part 1 of the Planning and Development Act 2000 (as amended). As shown on the

photographs submitted the former roofless derelict old cottage which has now been demolished had not been in habitable use as a dwelling house for some time.

- 7.1.7. As shown on Map RHO1 the site is located in a structurally weak rural area, where the Objectives in Section 3.8.2 apply. This includes: *To protect areas located in Landscape Category 3,4 and 5.* Map RHO2 shows that the site is located within this area. Therefore, the site is in Rural Housing Zone 3. In this case, I would consider that it is necessary to consider this application *de novo* and Objective RHO 3 relative to Rural Housing Zone 3 (Landscape Category 3,4 and 5) would be applicable. This would mean that the applicant is required to demonstrate their *Rural Links* to the area and to submit a *Substantiated Rural Housing Need*.

7.2. Housing Need

- 7.2.1. The Planning Report submitted with the application provides that the applicant, who is originally from Co. Meath and resides in Surrey, has owned the subject site and surrounding lands since 2002. The applicant's landholding extends to an estimated 11.87ha (29.33 acres) as per the landholding map lodged as part of the planning application documentation. The area of the application site, which is setback within the landholding is stated as 1.42ha.
- 7.2.2. The Planning Report provides that the applicant, is a member of the specific rural community of Omey Island and the wider rural area. This also notes that Omey Island has suffered persistent and substantial population decline and that there are currently no permanent residents on the Island. They consider that the proposal for a permanent dwelling for the applicant, represents rural generated housing demand.
- 7.2.3. Having regard to Rural Links they provide that the applicant has been involved in rearing and breeding of Connemara Ponies for many years as verified in the relevant letters of support which accompany this application. Part of the subject landholding has been used as a work base for the restoration of St. Fechins Church, Omey Island by the Omey & Claddaghduff Development Group. This was carried out with the consent of the landholder. The applicant has been a visitor to the area for in excess of 20 years and has been involved in various local community groups and organisations. As a regular visitor to the locality he had made a valuable contribution to the area and details are given of this. However, it is not considered that the details

submitted, would apply directly to the definition of Rural Links as given in the GCDP i.e: *a person who has strong links to the rural area and wishes to build a dwelling generally within an 8km radius of where the applicant has lived for a substantial continuous part of their life.*

7.2.4. Having regard to Substantiated Rural Housing Need they provide that the applicant does not nor has ever owned a house in the area concerned i.e County Galway. They refer to the planning history of permissions on the site. The applicant is seeking this as his permanent home and a place to retire. They also refer to Section 4.3 (Assessing Housing Circumstances) of the Sustainable Rural Housing Guidelines, 2005 and provide that the application has exceptional health grounds that require him to live in this environment (letters attached in Appendix 1).

7.2.5. Having regard to the information submitted it is not considered that a Substantiated Rural Housing Need is established relative to Rural Links in accordance with the definitions given in the current GCDP or that a site specific Housing Need to reside on this visually prominent site on Omey Island has been established. Therefore, it is considered that the proposal would not comply with Objective RHO 3 of the GCDP 2015-2021.

7.3. **Design and Layout and differences to that previously approved**

7.3.1. The current application as submitted provided that it is proposed to retain the footprint of partially constructed dwelling but remove the existing partially completed roof structure and replace it with a lower more modest roof in order to reduce the visual impact of the development on the island. It is provided that the ridge height of the dwelling will then be the same as the ridge height of the dwelling house previously approved. The proposed reduction in roof height is 940mm. They also propose to reduce the number of dormer windows from 8 to 4, which is similar to that previously approved. They provide that both former and proposed house are of a storey and a half type construction with a single storey section to the west side. Both have the same ridge height, have 2 similar dormer windows and a single chimney. The length of the proposed dwelling will be 4.4m longer than the permitted development.

- 7.3.2. The partially constructed dwelling is located approx. 4.3m to the east of the previously permitted dwelling and faces in the same orientation. They provide that this will be very similar in style, height and character to the house approved under the previous permission and will be faced with local stone and have natural roof slates. They consider that the amendments now proposed will comply with the Building Regulations and negate any concerns regarding the visual impact of the proposed development when compared with that originally approved. Also that it remains in keeping with the rural vernacular in the area, and the principles of proper planning and sustainable development.
- 7.3.3. It is noted that a RADON barrier will have to be introduced in the new build. It is provided that the applicant has certain health and mobility problems which necessitate ramps and extra wide doorways and note the requirement to implement the current building regulations. Therefore, the information submitted considers that the new build is preferable.
- 7.3.4. Condition no.2 of the Council's permission relative to the current application is of note. This includes the revised drawings be submitted showing the overall height of the structure reduced to 6.2m from the existing ground level (this will result in an overall reduction in height of 300mm from the amended design as proposed). Also that the front porch be reduced in size and scale and the omission of the proposed dormer windows to both front and rear elevations to be replaced with velux windows. The First Party response has included drawings of the revised elevations (Appendix C) to show compliance with this Condition and considers that it will minimise the visual impact on the scenic amenity of the area. They also note that this will be lower than the cottage that was originally approved (Reg.Ref. 06/2831) and include a drawing showing the previously approved front elevation and the proposed elevation with velux roof lights in compliance with Condition no.2. which will now provide a total reduction of 1.2m to ridge height. They consider that the use of the original stone, similar windows, natural slate and lean-to type porch ensures that the style of the proposed development is comparable to that of the original cottage. However, it must also be noted the existing structure is in a different and more prominent location than that originally approved. While the lowering of the ridge height and omission of the dormer windows will improve the appearance, the dwelling on this

elevated site will still remain as a feature that breaks the skyline and appears visually prominent in views from the mainland.

7.4. Impact on the Character and Landscape of the Area

- 7.4.1. A Landscape and Visual Impact Assessment Report has been submitted with the application. This is based on field surveys of the site and surrounds and the use of photographs from representative viewpoints of the site. This notes that the topography of the study area is characterised by its location on a low-lying island, approximately 700m from the mainland. It is noted that the island can only be accessed at low tide via a tidal causeway and therefore has limited access, depending on the tides for pedestrians and vehicles. Access to the site is via a field entrance and farm track. Therefore, in view of its proximity the island is very visible from the mainland.
- 7.4.2. As noted in the Planning Report submitted, the new build is not shown on the aerial photography. However, the Assessment includes a number of viewpoints showing the partially constructed house. As shown on Plate 1.2 it is situated in a relatively elevated location. It is also noted that there is ponding visible along the entrance road which appears at a lower level on the road frontage part of the landholding, but it is provided that no watercourses were observed within the site. As shown on the Plates the land cover of the development site is that of an undulating field with numerous rocky outcrops and several dry stone walls. Plate 1.6 shows the remains of the ruin which was the subject of the permitted application Reg.Ref.06/2831. The land around the partially completed dwelling is used as grazing land for Connemara ponies, which were seen on site on the day of the site visit. There are some low single storey houses that are further set back in the landscape to the south east.
- 7.4.3. To assess the visibility of the site, a number of images were taken from various viewpoints close to the partly constructed dwelling and the Assessment provides a description of images and views. It is noted that views to the site are extensive towards the west and southwest, where the sea and islands to the west are visible. To the east the coast and mainland are also visible. Views to the north and south are somewhat restricted by the topography, however it is likely that from the upper storeys there will be visibility over Fahy lough to the south (Plate 1.14 relates), as the upper storey of the house is visible from the road to the south.

- 7.4.4. I would consider that the most important view is the view to the west from the mainland where the partially constructed house appears visually prominent and breaks the skyline. There are views from the Wild Atlantic Way viewpoint (Plate 1.11 refers) and when walking across the causeway and from local roads on the mainland facing Omev Island to the west. While the sensitivity of these views is described as 'High', there are no designated focal point views in the area. The location of the development previously permitted would be set back a greater distance into the topography of the landscape. The original cottage on the site was of a smaller scale, height and in view of set-back was considerably less visible in the landscape and on the horizon (Appendix B). The First Party provides that the modifications to the proposed dwelling including those as per Condition no.2 of the Council's permission will result in a lower profile and reduce the impact of the dwelling on the landscape.
- 7.4.5. Section 9.10 of the Galway CDP refers to Landscape Conservation and Management and Section 9.10.2.3 refers to Landscape Sensitivity. Policy LCM1 (Preservation of Landscape Character), Objectives LCM1 (Landscape Sensitivity Classification) and LCM2 (Landscape Sensitivity Ratings) in particular relate. As shown on Map LCM2 the site is within a Class 4 Character Area which is described as Special Sensitivity. Map LCM1 showing Landscape Value Rating – shows the site within the Outstanding Rating Area. GCDP 2015-2021 also includes regard to the Landscape and Character Assessment for the County 2002. The site is located within Area 20 –West Coast Clifden to mouth of Killary Harbour. This describes the area as within an Outstanding Landscape Value and a Class 3 (High with a coastal edge of Class 4 - Special) Landscape Sensitivity. DM Standard 6 of the current GCDP provides for Assimilation of Development into Landscape and this includes avoiding obtrusive elevated locations. DM Standard 39 refers to Compliance with Landscape Sensitivity Designations i.e. in Class 4 -Special, developments are restricted to essential residential needs to local households, family farm business and locally resourced enterprises. This also provides that islands have a unique sensitivity status i.e. *negligible alterations will be allowed only in exceptional circumstances*. Consideration will be given to accommodation local housing needs, where the development would be in conformity with the provisions of the plan.
- 7.4.6. Section 2.4 of the Sustainable Rural Housing Guidelines 2005, refers to Guiding Development and includes regard to impact on scenic landscapes and

environmentally sensitive areas and to the sustainable siting of rural development. Section 3.3.1 includes regard to Landscape, Natural and Cultural Features and includes that particular care should be taken to protect those features that contribute to local distinctiveness including: *Ridges, skylines, topographical features, geological features, and important views and prospects.*

- 7.4.7. Having regard to the documentation submitted, to the Landscape and Visual Assessment and to the relevant planning policies and objectives, I would consider that the proposed development, despite the modifications provided by Condition no.2 of the Council's permission, taking into consideration its elevated siting visible from the mainland, would appear visually obtrusive and break the skyline in this scenic and sensitive landscape location. It would therefore not comply with Policy LCM1 or DM Standard 6 of the Galway CDP.

7.5. Regard to Precedent Cases

- 7.5.1. The Third Party considers that this development if permitted would contravene precedents already set by the Board in adjudicating essential housing needs for proposed developments in rural locations in particular in the vicinity of the proposed development, most notably PL07.237336 and PL07.225030. They consider that the development if permitted would set an undesirable precedent for future one off housing developments in the county.
- 7.5.2. PL07.237336 referred to the erection of a dwellinghouse, tertiary sewage treatment system including percolation area and ancillary services, all at a site at Aughrismore, Cleggan, County Galway. This was refused by the Board for 3no. reasons i.e. relative to visual impact in an exposed location in an area which is designated as having Special Landscape Sensitivity (Class 4) with a Landscape Value Rating of 'Outstanding' in the GCDP 2009-2015, potential impact on proximate Natura 2000 sites (absence of AA carried out in accordance with the Habitats Directive), relative to concerns about the pwmts and location of the site within an SAC uphill of Atalia Lough.
- 7.5.3. PL07.225030 relates to a refusal by the Council and subsequently by the Board, relative to the Construction of a dwellinghouse, septic tank, puraflo effluent treatment system and all associated site works at Rossadillisk, Cleggan, Co. Galway. This was

refused by the Board for 2no. reasons relative to location in a highly scenic coastal rural area, Landscape Sensitivity Class 4 – ‘Special’ and to non-compliance with the housing need criteria leading to haphazard one-off housing development, also the siting in a prominent, open and exposed location close to the shoreline in an area of landscape sensitivity would constitute a highly intrusive development and detract from the rural character and scenic amenities of the area.

- 7.5.4. The First Party response notes relative to PL07.237336 that the current application site is for a replacement house, is not located on a greenfield site or in a Natura 2000 site and that an AA Screening Report has been carried out. Having regard to PL07.225030 they note the housing need criteria and again put forward their application being for a replacement dwelling under Objective RHO 6 and RHO 7. They are of the opinion that these cases are completely different and should not be taken into account.
- 7.5.5. The Observer also refers to a case which they describe as *previous similar unauthorised development*. This is relative to enforcement proceedings concerning P08/1005. In this case permission was refused by Mayo County Council for the Lowering of roof to existing cottage, construction of rear extension, septic tank, effluent treatment system, and percolation area, associated site works (P00/1681 and P08/1005) at Letterass, Leenane, Co. Mayo and subsequently granted permission subject to conditions by the Board (Ref.PL16.2442311 refers). The First Party response includes Appendix E and a letter from Mayo Co.Co. that notes that this enforcement case was closed. They provide that this site was never developed or sold directly by the applicant.
- 7.5.6. Note is had to the aforementioned cases. While of interest and with some similarities, they concern different site locations and scenarios and are not relevant to the consideration of the current application case. While it is important not to set an undesirable precedent, each case is considered on its merits and subject to current planning policies and objectives, as is the planning application submitted.

7.6. **Regard to disposal of Effluent and Water Supply**

- 7.6.1. The Site Layout Plan submitted shows the location of the proprietary wastewater treatment system to the south of the partially constructed dwelling. It is noted that a

Site Characterisation Form has not been submitted with the current application. It is proposed to install the proposed Septic Tank, Puraflo Modules and Polishing Filter in the location approved under the previous permission. It is provided that all tanks, filters etc. will be installed in accordance with the EPA Code of Practice.

- 7.6.2. It is noted that permission was previously granted to install a sewage treatment system and percolation area. The system approved consisted of a septic tank and pump chamber, with the effluent from the septic tank being pumped to 2 Puraflo Modules on a new polishing filter. The house to be retained and completed includes 3no. bedrooms. Therefore, it is provided that the system approved under Reg.Refs. 06/2831 and 11/1713 (extension of duration) is more than adequate to cater for the effluent from the partially constructed house once complete.
- 7.6.3. The Third Party has expressed concerns about the poor drainage characteristics of the site which have significant rock out cropping throughout and in particular having regard to the location of the wwts up gradient and in reasonable close proximity to the island's only potable water supply, Fahy Lough. They are concerned that it would pose an unacceptable risk of pollution to the island's fresh water supply and be prejudicial to public health. The First Party response refers to Section 3.2 of the AA Screening Report submitted and provides that there is no significant impact based on the proper installation and maintenance of sewage treatment system according to EPA regulations. They also note that Fahy Lough is approx. 250m to the west of the proposed development and having regard to compliance with the above provide that the ground waters in the area and Fahy Lough will be protected.

7.7. Screening for Appropriate Assessment

- 7.7.1. An Ecological Assessment and Appropriate Assessment Screening Report has been submitted. It is noted that the site is not located within any designated Natura 2000 site. However, it is surrounded to the north, east and west by Omev Island Machair SAC (site code: 001309) which is a 100m at its nearest point and West Connaught Coast SAC (002998) to the south (500m). A section of the Inishbofin, Omev Island and Turbot Island SPA(004231) occurs 200m to the south of the site. The overlapping nature of these Natura 2000 sites is noted. A Map showing the site location is provided in F.g.1.1 and the proposed site layout plan in Figure 1.2. The

proximity of the SAC to the site is noted. Section 1.2.2 of the Screening Report provides a list of Best Practice measures to be carried out during construction phase.

7.7.2. Section 2.0 of the Report has regard to Desk and Field Surveys carried out and provides a description of the site and the habitats (Figure 2.2 refers) and ecology in the area. Table 2.1 provides details of the Designated sites in the zone of influence. Any potential for the proposed development to have an effect on these European sites is presented in Table 2.2. The Qualifying interests are given and Site Synopsis relevant to each of the aforementioned proximate sites is included in the Appendix to my Report. For Omey Island Machair SAC the qualifying interests are *Machairs*, *Hard Water Lakes and Petalwort* and for West Connaught Coast SAC it is the *Common Bottlenose Dolphin*. In regard to Inishbofin, Omey Island and Turbot Island SPA the qualifying interest is the *Corncrake*. Table 2.2 notes that there will be no direct effect as the development is located entirely outside the designated site. However, potential pathways for indirect effects on the Qualifying Interests were identified in the form of deterioration of surface water quality resulting from pollution, associated with the construction and operational phase of the development and potential for some habitat loss proximate to the former. Consequently, the potential for significant effects on these European sites are considered further in Section 4 of this Assessment.

7.7.3. Section 3.0 provides an Ecological Assessment and Tables 3.1 and 3.2 are provided relative to potential impacts during construction and operation phase. It is provided that while there may be a short term slight negative effect during construction phase no significant effects are envisaged during operational phase. Also that there will be no negative impact on the water quality of ground and surface water subject to best practice measures being implemented. While there are no permanent waterbodies on site, there is evidence of groundwater seepage and large areas of surface water pooling. During construction phase it is advised that there should be no direct discharges of construction waste to these areas. During operational phase in accordance with Best Practice there should be no significant impact based on the proper installation and maintenance of the sewage treatment systems according to the EPA regulations. Tables 4.1 refers to the Likely impacts of the Project on the Nature 2000 sites and Table 4.2 refers to Likely Changes to European Sites and provides in Table 4.3 that there will be no significant impacts. The overall conclusion

of the AA Screening Report is that there will be no adverse effect as a result of the proposed development, in view of best scientific knowledge and on the basis of objective information, either individually or in combination with other plans or projects on the conservation objectives or overall integrity of any European Site.

- 7.7.4. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites: Omey Island Machair SAC (site code: 001309), the West Connaught Coast SAC (002998) and the Inishbofin, Omey Island and Turbot Island SPA(004231) or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. It is recommended that permission be refused for the Reasons and Considerations below.

9.0 Reasons and Considerations

1. The development proposed for retention and completion, in view of its elevated and prominent siting on Omey Island, would break the skyline and be visible from tourist routes including the viewing point from the mainland and is in a highly scenic coastal location in an area of 'Outstanding' Landscape Value Rating as shown on Map LCM1, and shown as a Class 4 'Special' Landscape in the Galway County Development Plan 2015-2021. As such it would be contrary to Policy LCM1 which seeks to preserve and enhance the character of the landscape and to DM Standard 6 of the said Plan, which seeks to avoid obtrusive locations and provide for the assimilation of development into the landscape. The prominent siting detracts from the character of the landscape and would be contrary to Section 3.3.1 of the 'Sustainable Rural Housing Guidelines for Planning Authorities' 2005 issued by the Department of the Environment, Heritage and Local Government. As

such it is considered that it would set an undesirable precedent and be contrary to the proper planning and sustainable development of the area.

2. As shown on the plans submitted, the development proposed for retention and completion is different to that previously permitted (Registered References: 06/2831 and (EOD) 11/1713 refer) and the construction of this newly sited dwellinghouse does not comply with Objective RHO6 relative to the replacement of a habitable dwelling or to Objective RHO7 relative to the renovation of an existing derelict dwelling/semi-ruinous dwelling. As shown on Map RHO2 of the Galway County Development Plan 2015-2021 the criteria relative to Objective RHO3 – Rural Housing Zone 3 (Landscape 3,4 and 5) and DM Standard 39 (Compliance with Landscape Sensitivity Designations – Islands around the coastline have a unique sensitivity) would apply. Having regard to the documentation submitted the applicant has not demonstrated compliance relative to Rural Links or Substantiated Rural Housing Need in accordance with this Objective and the definitions applied. The proposed development, which does not cater for locally derived housing needs, would conflict with the policies of the Development Plan and would be contrary to the proper planning and sustainable development of the area.

Angela Brereton
Planning Inspector

12th of January 2018