



An
Bord
Pleanála

Inspector's Report PL 07 249365

Development

Demolition of an existing dwelling, construction of Forty-nine houses a Primary Care Centre, pedestrian and vehicular access to N59, open space, carparking and site development works.

Location

Kylebroghlan, Clifden Road,
Moycullen, Co. Galway.

Planning Authority

Galway County Council

P. A. Reg. Ref.

1087/17

Applicant

Baile Bhruachlain Teoranta,

Type of Application

Permission

Decision

Grant Permission

Type of Appeal

First Party against Refusal

Appellant

Baile Bhruachlain Teoranta.

Observer

Date of Site Inspection

5th December, 2017.

Inspector

Jane Dennehy

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	6
3.3. Prescribed Bodies	7
3.4. Third Party Observations	7
4.0 Planning History.....	7
5.0 Policy Context.....	8
5.1. Development Plan.....	8
6.0 The Appeal	9
6.1. Grounds of Appeal	9
6.3. Planning Authority Response	17
7.0 Assessment.....	17
8.0 Recommendation.....	25
9.0 Reasons and Considerations.....	25
10.0 Conditions	26

1.0 Site Location and Description

- 1.1. The site which has a stated area of 2.1 hectares is formed from lands within an agricultural landholding of 3.50 hectares and includes the site of a vacant two storey house. The location which is on the south west side of the N59 on approach into Moycullen is within the Connemara Gaeltacht. It is within the 50 kph speed limits and there are three existing entrances, (two of which are agricultural entrances and the third of which is the entrance for the vacant house) on the road frontage to the south of the main cross roads within the village. There are pedestrian footpaths and public lighting on both sides of the N59 to the front of the site.
- 1.2. At the cross roads Mountain Road leads to the south west over higher ground as far as the coastal road at Spiddeal and, Church Road leads towards Lough Corrib to the north east. Close to the intersection with the N59 off Mountain Road there is a mixed-use retail and commercial development and further to the west there is established residential development part of which is adjacent to the site boundaries at the north-west corner. The area is otherwise primarily characterised by road frontage residential development on single plots including a house and gardens to the south of the site. The ground level rises away from the road but is uneven and characterised by rough scrubland and grazing lands. A water course which is circa three metres in width flows in an east direction along the length of the northern boundary.
- 1.3. The Moycullen Bye-pass, the corridor for which is to the north east of Moycullen was approved under PL07.HA0036 in November, 2012.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for:
 - Demolition of the existing house and associated outbuildings.
 - Construction of forty-nine houses and a primary care centre
 - Vehicular access and pedestrian access off the N59

Communal and private open space provision, landscaping car parking services and all site development works.

- 2.2. The primary care centre, an 'L' shaped two storey building is to be positioned in the north-east corner of the site with frontage onto the N 59 and comprises consulting and treatment rooms, ancillary office accommodation and a retail pharmacy unit. It has a simple vernacular design and height of 98.87 metres (32.50 OD.)
- 2.3. The residential element comprises, thirty-seven three bed units in three house types, six two bed duplex units and six one bed apartment units. The residential development is to be located on the remainder of the site laid out around communal garden space and with an internal access route which it is stated accords with the alignment of the Moycullen Inner Relief Road (Objective T1 17 Moycullen LAP) from the N59. Ninety car parking spaces in total, are shown on the plans.
- 2.4. The proposed means of surface water drawing incorporates provision for attenuation within the site and for discharge by gravity to the adjoining water course at the northern site boundary. Foul drainage, also by a separate gravity network is to the adjoining 225 mm diam. sewer network in the N59 adjoining the site.
- 2.5. Included with the application are assessment reports on drainage and water supply arrangements, traffic impact assessment, a swept path analysis for large vehicle manoeuvres, flood risk assessment and appropriate assessment, a bat roost assessment, linguistics impact assessment and landscape and visual impact for the proposed development.
- 2.6. According to the Bat roost survey a roost at the existing farmhouse is used opportunistically by a small number of pipistrelle bats but is not supporting a maternity colony or significant roosts. It is advised in the report that a Derogation License should be obtained (from the National Parks and Wildlife Service) prior to any proposed works that could disturb the roost.

The Moycullen Bye-pass, the corridor for which is to the north east of Moycullen was approved under PL07.HA0036 in November, 2012.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 11th September, 2017, the planning authority decided to refuse permission the basis of seven reasons. Each of the Reasons are reproduced from the Manager's Order in full below.

Reason 1:

"It is considered the proposed site and development, due to the location on the proposed inner relief route west of Moycullen if permitted would compromise the proposed route and would contravene Objective TI 17 of the Moycullen LAP 2013-2019 and would be contrary to the sustainable development of the area."

Reason 2:

" It is considered the proposed development on the approach to a rural village, by reasons of connectivity in terms of design, scale, fenestration and use of materials with the existing built environment/fabric of Moycullen village fails to compliment the village in terms of character and would have an adverse visual impact on it. Accordingly, to grant permission for the development here proposed would contravene materially Objective UD1 of the Moycullen Local Area Plan, 2013-2019, would interfere with the character of the landscape, would detract from the visual amenity of the area, would establish an undesirable precedent for similar future developments in the area and this would be contrary to the proper planning and sustainable development of the area."

Reason No 3:

"The design and layout of the residential element lacks diversity in terms of style, character and housing type and offers individual units limited rear garden/private amenity space and usable public open space The development as proposed would result in a substandard form of development which would seriously injure the residential and visual amenities and depreciate the value of property in the vicinity."

Reason No 4:

"In the absence of a comprehensive Road Safety Audit, it is considered that the proposed development if permitted would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise and would

materially contravene and be contrary to the proper planning and sustainable development of the area.”

Reason No 5:

Based on the information submitted with the planning application and the absence of satisfactory documentary evidence of compliance with the Provisions of Part V of the Planning and Development 2000 (as amended) if permitted as proposed, the development would materially contravene Objective UHO 2 of the Galway County Development Plan, 2105-2021 and therefore would be contrary to the proper planning and sustainable development of the area.”

Reason No 6:

In the absence of satisfactory documentary evidence that the development has access to waste water services and water supply the development if permitted as proposed would materially contravene Objective WS12 and WW 2 of the Galway County Development Plan, 2015-2021 therefore would be contrary to the proper planning and sustainable development of the area.”

Reason No 7

Having regard to the stream along the northern boundary of the site and in the absence of sufficient evidence that the proposed development can adequately cater for surface water Galway County Council has concerns that the development may have the potential for overload the capacity of the existing stream and cause flooding elsewhere. The development if permitted as proposed, would materially contravene Objective FL2 of the Galway County Development Plan, 2015-2021 therefore would be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

3.2.1. Planning Officer

The planning officer in his report, having reviewed the observations and recommendations within the technical reports recommended refusal of permission generally based on the seven reasons attached to the decision each of which are reproduced in full above.

3.2.2. Other Technical Reports

The report of the Executive Engineer, Roads and Traffic indicates confirmation as to the inclusion on the Council's mapping system of road corridor reservation for a

route on the west of Moycullen. He states that the application is premature as it interferes with this route.

3.3. **Prescribed Bodies**

In a submission received on 17th August, 2017 it is stated that the proposed development is at variance with policy for development on national roads as set out in *Spatial Planning and National Roads: Guidelines for Planning Authorities* (2012) and a road safety audit should be undertaken at the applicant's expense with additional works if required also being at the applicant's expense.

3.4. **Third Party Observations**

Submissions were received from five parties in which issues of concern raised are about impact on residential amenities of existing adjoining properties., topography and existing trees and vegetation on the site and at boundaries with adjoining properties, the capacity of the road network to accept the additional traffic generation. Potential for pollution to the watercourses from water runoff within the development and the heritage of the site lands which formerly were used as a fair green in the nineteenth and twentieth centuries.

4.0 **Planning History**

PL 243347/P. A. Reg. Ref. 13/1115: The planning authority decision to refuse permission for demolition of the existing house and construction of a Discount Food Store and off license on part of the site was upheld following appeal for reasons relating to: (1) the overprovision of existing retail facilities and high level of vacant retail space in Moycullen, inappropriate catchment failure and threat to existing vitality and viability and, (2) insufficient quality for the location detracting from the village's vernacular heritage character and streetscape resulting in material contravention of Policy HC 5 of the Moycullen Local Area Plan and HL 20 of the Galway County Development Plan 2009-2015.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan is the Galway County Development Plan, 2015-2021 according to which Moycullen, which has a population in excess of 1,500 persons is categorised as a “Key Town” within the settlement hierarchy. Provision is made in the plan for a population of 408 persons or 126 dwellings in Moycullen during the plan period. For ‘Key Towns’, it is the policy of the planning authority to sustain strong vibrant urban centres as important drivers for the local economies and rural hinterland while complementary to the hub town and smaller towns and villages.
- 5.1.2. According to section 5.1 and tables 5.1 and 5.2 there are specific roads objective for the N59 Moycullen By-pass and for “Network Improvements” between Galway City and the Mayo County Boundary. There are no references to objectives for an inner relief route for Moycullen.

5.2. Moycullen Local Area Plan, 2013-2019.

- 5.2.1. The site comprises parcels of lands subject to the three differing objectives set out below:

(1) Town Centre /Commercial Objective LU1 provides for promotion of the centre as in intensive high quality and accessible environment in an appropriate mix of uses and services as the primary retail and service area in Moycullen. The central and eastern side of the site are included. A plot ratio of 1.00 to 1.25 and a maximum site coverage of 80 percent applies.

(2) Transport Infrastructure: (TI) 17 Objective LU10 provides for provision of essential transportation infrastructure including land reservations. A reservation strip from north west to south east through the application site is shown on Maps 2 (a) and 2 (b). Policies and objectives for Transportation and for Roads, Streets and Parking are set out in section 3.5.2.

(3) Residential. Objective LU2 provides for promotion of development of appropriate serviced lands in high quality residential communities in mixed house types and densities with complementary land uses for which phasing

schemes shall apply. A small area to the south and east are included. A plot ratio of 0.10 to 0.50 and a maximum site coverage of 50 percent and minimum public open space provision of 15 per cent applies. A low to medium density (15-35 units per hectare) and a maximum distance of 400 metres to a neighbourhood centre is indicated Policies and objectives for residential development are set out in section 3.2 (There is a requirement for 20 per cent of permitted dwellings to be reserved for native Irish Speakers according to Section 5.4.2.1(c) of the Gaeltacht Local Area Plan, 2008-2018 which is provided for in the County Development Plan.)

Development strategy options for the sequential expansion of the village are set out section 2.2.2 with the rationale for the preferred option in 2.2.3 the selection of which is also informed by the SEA SAA and SFRA carried out for the plan. The three options show the indicative by-pass corridor to the east side of the village.

Policy Objective UD 1 provide for promotion and use of sustainable high quality urban design and materials creating high quality built and environments appropriate to the context of the village having regard to “*Sustainable Development Urban Areas: Guidelines for Planning Authorities*” and the accompanying Urban Design Manual. (DOECLG, 2009)

Objective T1 17 (a) includes provision for the bye pass scheme to the east of the village centre from the south of the application area to the north of the application area including a route reservation and junctions on the specific objectives map

Objective T1 17 (b) is a specific objective for the “Inner Relief Route” which connects the northern approach of the N59 to the southern approach of the N59 west of the village centre and reservation key access points to the existing N59 alignment.

Objective T 17(c) provides for upgrade works to the L 53732 and at the junction with the N59.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was received from McCarthy Keville O’Sullivan Planning on behalf of the applicant on 6th October, 2017.

The appeal against Reason 1 can be outlined as follows:

- In the Local Area Plan (LAP) there are discrepancies between the wording of Objective T1 and the adopted plan maps. The proposed development is specially designed to address the aspirations of Objective TI 17 (b) To provide adequate access points to adjacent lands with adjacent street oriented development.
- Objective TI 17 (b) is not indicated as a specific indicative road corridor but by a symbol on the LAP's specific objectives on Maps 2A and 2B. The wording provides for: *“A new inner Relief Route connecting the northern approach of the N59 to the southern approach of the N59 westwards of the village centre and the reservation of key access points along the existing N59. Any new proposals shall be designed to provide adequate access points to adjacent lands with adjacent street oriented development and will provide opportunities for smarter travel improvement within the town”*
- The inner relief corridor does not connect the northern approach of the N59 to the southern approach of the N59 westwards of the village. This “T1 Transport Infrastructure Objective” is a tract of land 380 metres in length which traverses the L1320 and terminates at the southern boundary of the appeal site. (Shown in white on Figure 6 from the LAP in the appeal – p 16.)
- Objective T1 17 (b) is a specific objective for the “Inner Relief Route” which connects the northern approach of the N59 to the southern approach of the N59 west of the village centre and reservation key access points to the existing N59 alignment. This includes a route reservation through the application site lands. (Shown in Figure 7 from LAP Maps 2A and 2B)
- Objective T1 17 (a) includes provision for the bye pass scheme to the east of the village centre from the south of the application area to the north of the application area including a route reservation and junctions on the specific objectives map. (Fig 7 in appeal). The TII's Road Scheme Activity Database indicates that the scheme is at Planning Stage”; the CPO is well advanced; the route corridor has been fenced off and ancillary road improvements completed. The construction of this Road scheme is conditional on inclusion in the Capital Programme.

- There is a further discrepancy between the LAP Maps and the internal Road's engineer's report includes an appended map showing a detailed route corridor. It does not accord with the LAP zoning Map and Specific Objectives Maps (2A and 2B) in the Moycullen LAP. The Plan has not been Varied to include an indicative corridor for the inner relief route. It is also not identified in the Galway County Development Plan, 2015-2021.
- Notwithstanding the inconsistencies the scheme and internal road layout with a new street is designed to incorporate the objectives of Objective T1 17 (b) providing for scope for connectivity provision for smarter travel and access to adjacent lands, north and south with street orientated development to the adjacent lands and road frontage. (Drawing 2310-MOY-001) The scheme is not in material contravention of Objective T1 17 (b)
- There are some discrepancies between the corridor denoted as "T1" on the zoning map and the specific objectives of the LAP Objective T1 17 (b) on Maps 2A and 2B and, furthermore the map appended to the internal engineer's report does not accord with either of the "T1" zoning map and T1 19 (b) specific objectives on Maps A and 2B.
- It is requested that the design approach proposed in the application be considered and accepted and that the reason for refusal of permission be rejected.
- Under section 37 (2) (b) (ii) of the Act it is open to the Board to grant permission where there are conflicting objectives or objectives within the development plan are not clearly stated.

The appeal against Reason 2 can be outlined as follows;

- The proposed development complements the site context in character, amenity, heritage, environment, and landscape and accords with Objective UD1 of the LAP in terms of scale, height, massing, building line and urban grain. The assertion that the layout, design, scale, fenestration and material do not compliment the village is rejected. The terrace block at the entrance (Units A2-1) present the front façade creating streetscape on the main street.

- The Primary Care Centre building which is in two wings is to be in the village core, has a simple elevation onto the street frontage with space for a public footpath (defined as the area within 400 metres of the cross roads in the LAP) as an integral extension and in an appropriate use. The design, based on maintaining the character of the farmhouse in form and detail, (to be demolished) followed the existing development and follows the roof pitch of many Irish vernacular buildings in Moycullen and was influenced by the design proposed under P. A. Reg. Ref. 13/1115). The planning officer's assertion about the design is rejected.
- The simple vernacular design demonstrates a sensitive architectural and urban design approach to the local context and takes into account the observations of the planning officer on the prior proposal, (for a discount store) under P. A. Reg. Ref. 13/1115 and positive feedback was given at pre-application consultations with the planning authority.
- The CGIs previously submitted demonstrate the relationship to the scale of the village core as an extension to the street edge forming a clear building line and maintaining the vernacular form of the farmhouse. The main wing adheres to the street with a deep carpark to the front being avoided.
- Primary care centres are typically located at village cores or as core extensions. The primary care centre at Westport is an example of recognition of sensitivity for the landscape and tourist amenity routes as it is a vernacular building with a six to eight metre roof span and secondary wings and vertically proportioned windows.
- The landscape and visual impact assessment (LVIA) indicate the development as visible on approach northwards where the structure is apparent in localised views circa 130 metres from the site and becomes increasingly visible. It is visible over 160 metres from the north west along a limited stretch of the N58 but generally limited to the vicinity of An Fuaran and will not adversely affect the village character.
- From a wider landscape, (the sensitivity of which is Class 3 (High) according to the development plan) the predicted landscape impact is low, is not elevated, and is within a village context.

The appeal against Reason 3 can be outlined as follows:

- There are seven dwelling types in sizes ranging from 52 to 125 square metres proposed in order to provide for mixed occupancy in household size and stage in the life cycle all of which are consistent with Department of Housing Community and Local Government Spatial Standards, 2017 in size and spatial standards. The design approach unifies the scheme for a Galway rural village in urban design terms. An exemplar scheme is the Lusk Village Scheme which provided for 636 dwellings as an expansion of the village in which the existing street patterns and urban design principles were followed. (Details and an image are provided.)
- There is varied plan form and typology incorporating home zones and passive surveillance in line with section 3.3 and 13.3. (c) of the Galway County development plan. The design which was influenced by the comments of the planning officer on the previous proposal under P. A. Reg. Ref. 13/1115 and it provides for vernacular proportions and materials, attempting to create, in urban design a rural village rather than a suburban housing estate for the residential element.
- The terrace block at the entrance (Units A2-1) present the front façade creating streetscape on the main street and relates to the pre-existing two storey farmhouse and the entrance is overlooked by units B1.1-B1-4
- The layout around a central public space draws on the historic Fair Green in Moycullen where pig trading took place and relates to and is overlooked by dwellings in the scheme which share and variety of suitable scale and typology and there is good connectivity to neighbouring development. Only three units do not have south west orientation and earthworks are minimised as the houses are along contour lines and existing mature trees are retained within the home-zone layout.
- The scheme adheres to the standards in *Sustainable Development in Urban Areas, The Urban Design Manual: A Best Practice Guide for Planning Authorities* 2009 and, *Sustainable Rural Housing: Guidelines for Planning Authorities*, 2005 (DOEHLG) especially regarding clustered housing design.

- There is no spatial standard or minimum requirement for eleven metres depth for rear gardens in the Urban Housing Guidelines, Galway County Development plan and LAP and reductions can be accepted where innovative solutions are proposed. The standards in the Barna Local Area Plan of 50 square metres for one and two bed units and sixty to seventy for three to five-bedroom dwellings were applied. Careful consideration was given to the rear garden access via rear lanes and side passageways but rear access is excluded for Units B1-8, 9, 12, 17, 20 and 21 to safeguard the retention of the hedgerow. Bin storage is in a shared laneway to the side.
- The design exceeds the minimum parking requirements at ninety-one spaces for the residential with seventy-three being required and, forty-five for the primary care centres and is designed to aid traffic calming, active future use of the primary care centre and pedestrian priority. The layout is superior to suburban driveway parking.
- The scheme is diverse also in typology size and layout and in style and character which refer to the rural character. The roof profile, and materials, in combination with the landscaping are calm and achieve visual cohesion. An exemplar is Kilmeena Village, Co Mayo.
- Boundary treatment details are provided on Drawing 2310-MOY-P002 in which eight distinct conditions are addressed with sensitive proposals for retention and supplementary construction and planting. Drawing 2310-MOY-P004 shows finished floor levels and relative context elevations and sections showing levels in the context of existing development is in Drawing 2310-MOY-P003
- The statement that only 2.158 square metres of the total 4,030 square metres communal open space provision is useable is rejected. 10 percent site area allocation is acceptable according to the Barna Local Area Plan and the County development plan accepts 33 percent allocation in the home-zones which are shared surfaces where the pedestrian is prioritised. Inclusive of Home zone space areas the total allocation is 4,030 square metres of 23.4 per cent of the site area.

The appeal against Reason 4 can be outlined as follows:

- A road safety audit is provided with the appeal in which there is no recommendation for a junction on the N59 for the development. An uncontrolled pedestrian crossing is to be provided along the pedestrian desire line between the filling station and the proposed development. (Drawing B852G-OCSC-ZZ-DR-CW-0901S8 Rev 43 refers.) The location is within the 50 km per hour maximum limited speed area, has excellent visibility in both directions at 100 metre in each direction where the recommended distance is 70 metres. Public lighting along the N59 carriageway are close to the crossing point and road signs will be provided to warn motorists of the crossing

The appeal against Reason 5 can be outlined as follows:

- Provision is made for compliance with Part V obligations: two, one bed ground floor maisonettes and two, two bed duplexes and, one two bed house are to be transferred to the local authority. (Drawing 3210-MOY-P005 refers.) The planning authority Housing Section has confirmed that acceptance of this proposal in writing.

The appeal against Reason 6 can be outlined as follows:

- Irish Water has been confirmed availability of a connection to the existing foul water, potable water supply facilities. Firefighting waters will be provided on the site in accordance with BS9990 and with the static storage required being in underground tanks.

The appeal against Reason 7 can be outlined as follows:

- A revised surface water disposal strategy is included in the appeal which provide for use of the existing on site attenuation system, flow control valves and petrol interceptors and use of a new revised outfall connection to the local authority surface water network. An outfall pipe from the development, below the N59 to a ninety-degree bend flowing eastwards below the lane is now proposed. It will connect to the existing surface water system east of the N59 and by passes the stream a swallow hole. A schematic illustration is in figure 15. The outfall from the local authority system. Ballycurke Canal

which in turn outfalls to Ballycurke Lake. The network was connected circa ten years ago. The flow capacity from the existing stream bypass pipe will not be significantly affected. The outfall disposal location for the development is revised. This connection bypasses the on-site stream, houses on the Uillinn estate downstream and results in no on site water entering the stream at the northern boundary. It has a net effect of reducing existing flow in the stream and flow downstream a no pre development flow will access the stream or the downstream network. There is therefore an added benefit of reducing flows into the stream relative to greenfield conditions and subsequent reductions in downstream effects.

The outfall during storm events with the hydro brake controlling flow from two attenuation tanks equates 9.1 l/s. (Drawing B852-OCSC-ZZ=XX DR-SW-0510S8 Rev PO3 refers)

Foul water flows from the primary and secondary treatment to tertiary treatment reed bed to the north east of the main WWTP east of the N59

The applicant's consultants have provided a technical assessment as to the capacity of the watercourse at the northern boundary to cater for surface water from the development without causing flooding.

The stream flows in an easterly direction along the northern site boundary terminating at a sink hole at "Uillinn" east of the N59 and possible downstream effects are a concern of the planning authority.

The total site area and alternative options for disposal of surface water were assessed. The design strategy is to provide for post development run off rates at an equivalent to pre development run off rates. The option to use soakpits was eliminated.

The local authority surface water drainage system is close to the site east of the N59.

The system is based on SUDs design run off being collected to on-site attenuation with petrol interceptors and hydro brakes and flow valves so that the outflow to the stream mimics greenfield run off rates.

6.2. **Planning Authority Response**

6.2.1. There is no submission from the planning authority on file.

6.3. **Prescribed Bodies.**

6.3.1. **National Transport Authority.**

In a submission received on 29th January, 2018 it is confirmed that the agency has not comments on the proposed development.

6.3.2. **Transport Infrastructure Ireland.**

In a submission received on 26th January, 2018 it is confirmed that consideration of the proposed development should be guided by official policy outlined in *Spatial Planning and National Road: Guidelines for Planning Authorities (2012)* and a road safety audit that accords with TII Guidelines with any additional works necessary being carried out at the applicant's own expense.

7.0 **Assessment**

7.1. The applicant, through the agent has responded to each of the seven reasons for the decision to refuse permission and they are considered under the following seven subheadings:

Inner Relief Route. (Reason 1)

Layout and Design Standards: Impact on Landscape Character, Visual Impact and Residential Amenities. (Reasons 2 and 3)

Traffic Hazard and Obstruction of Other Road Users. (Reason 4)

Compliance with Provisions of Part V of Planning and Development Act, (as amended) (Reason 5)

Availability of public waste water and water supply facilities. (Reason 6)

Surface Water Drainage Arrangements. (Reason 7)

7.2. **Inner Relief Route. (Reason One)**

7.2.1. Further to review of the Local Area Plan, 2013-2019, (The LAP) it can be confirmed that the Corridor for the N59 by-pass, which was Approved by An Bord Pleanala under PL07.HA0036 in November, 2012 is located to the east of the existing N59

and village. Objective T1 17A Map 2B and the indicative by pass corridor route on Maps 1 (a) and (b) refer. It is considered that the by-pass corridor is not at issue regarding the proposed development.

- 7.2.2. It is argued in the Appeal that the proposed development is not in conflict or premature with regard to the Inner Relief Route. According to section 3.5.1 of the written statement, it is *“a future intention to provide an inner relief route to the west of the main street.....”*
- 7.2.3. According to objective T1 17 (b) *A new inner relief route connecting the northern approach of the N59 to the southern approach of the N59, west of the village centre and the reservation of key access points along the existing N59. Any new proposals for this route shall be designed to provide adequate access points to the adjacent lands, with adjacent street oriented development and will provide opportunities for smarter travel improvements within the town.”*
- 7.2.4. Objective T1 17B is a reference to a specific objective for a new Inner Relief route to the west side of the village between the northern approach and the southern approach of the existing N59. On review of the LAP, a strip extending from north at a point to the north west on the north side of the L 1230 (at the west side of the main village cross roads) cuts south east through the site, terminating to the south east is indicated on the LAP Map as “Transport Infrastructure” on Maps 1 (a) and (b). A similar small area at the west side of the strip is subject to a zoning objective for residential development and the land to the east side between the strip and the N59 is subject to the Town Centre /Commercial Objective LU1 This strip is not shown with direct linkage to the existing N59 route within the LAP area. It is agreed that there is uncertainty within the LAP where it is argued on behalf of the applicant that it is not a route corridor with a specific objective.
- 7.2.5. On Maps 2 A and 2 B, as referred to in the Appeal, there is a specific objective indicated for the Inner Relief Route in this area although a route corridor is not shown. The remarks within the report of the internal Roads engineer are somewhat uncertain and although a route corridor is shown on the map appended to the internal engineer’s report, the contention that the LAP does not include a specific objective for a route corridor for the inner relief route within the appeal is reasonable and can be supported. It can then be concluded that while there is a specific

objective for the Inner Relief Route, the adopted LAP does not include a specified route corridor for the Inner Relief Route. To this end the contention in the Appeal that inclusion of such a route corridor would necessitate a Variation to the Local Area Plan is acknowledged.

- 7.2.6. Should the foregoing be accepted, the preparation of the application and design of the proposed scheme is not informed by or based on a specified route corridor. There are no corresponding separation distances or clarity as to the access points to or connection to the existing N59 route through the village which are subject of a specific objective within the LAP. In essence, the strip should be regarded as lands for which future transport infrastructural use is envisaged according the Local Area Plan.
- 7.2.7. The layout of the proposed development is reasonable in allowing for connectivity at each end of the site and in provision for retention of a strip which is free of development corresponding to the strip shown on the LAP zoning maps. Notwithstanding the lack of a specified route corridor within the LAP to support the specific objective, the design of the proposed development which provides for a route also achieves connectivity, a required under Objective T1 17 (b) with adjoining developments. Direct connectivity with the N59 through the village is also achievable through the proposed main access route.
- 7.2.8. It is questionable as to whether the planning authority has a clear basis within the existing adopted strategic local policy objectives with regard to future road infrastructure to support rejection of the proposed development on grounds of contravention of the T1 17 objective is indicated in Reason 1 attached to the decision to refuse permission. The lack of a clearly indicated route corridor which has the benefit of a statutory basis as opposed to the lack of clarity is regrettable. In effect, the applicant is seeking a grant of permission for development that cannot clearly be assessed with regard to a possible route corridor that warrants a Variation to the LAP. It would be reasonable for the Board to rely on its powers under the provisions relating to conflicting or unclear objectives within an adopted development plan in section 37 2) (b) (ii) of the Planning and Development Acts, as amended should it be agreed Permission should not be refused on the basis of the reasoning provided in Reason 1 attached to the planning authority's decision. However, it may be

advisable, prior to determination of a decision to provide the planning authority with a further opportunity for up to date clarification as to the Inner Relief Route.

7.2.9. Given the foregoing, the case made on behalf of the applicant as to having made sufficient provision to meet the objectives is reasonable.

7.3. Layout and Design Standards: Impact on Landscape Character, Visual Impact and Residential Amenities. (Reasons 2 and 3)

7.3.1. There is established residential estate development immediately to the north and west of the application site at the edge of the core of the village. To the south, there is one off road frontage development along the approach to the centre of the village. There are no specific objectives in the LAP with regard to views across the site or with regard the landscape sensitivity and character at the site location that give rise to concern.

7.3.2. The proposed development would result in a significant change in the landscape character at the site location on approach to the village from the south along the N59 which is primarily undeveloped grazing lands. Most through traffic along the N59, (an important national route heavily used by tourist traffic destined for the Connemara area) will divert to the by-pass to the east when it is commissioned.

7.3.3. The proposed layout including the incorporation of communal open space at the centre is reasonable and satisfactory and in this regard the precise and specific nature of the concerns of the planning officer are not clear. Although partially elevated, the site is substantively at the back of residential development on single plots. The proposed entrance route is to be overlooked by a group of dwellings parallel to the road with the primary care centre at the road frontage facing north and east at the northern end closest to the main junction within the village.

7.3.4. This northern end of the site would not be regarded as an approach area but an addition or extension to the existing mixed use central core of the village centred around the main cross roads. The proposed development is an appropriate and sequential add-on outward from the centre within the development boundary with the benefit of zoning for development and a location. The simple and modest design, heights, scale and the selection of materials and finishes for the proposed primary care centre ameliorate the considerable length of the footprint along the street frontage. The primary care centre is appropriate for a commercial or mixed use

building at the village core having regard to the county's settlement strategy and existing and future provision for expansion for Moycullen.

- 7.3.5. The reasoning for the view of the planning officer that it would adversely affect the visual amenities and alter the landscape and village character is not specific. The expansion of the built up area of the village entails change, which in principle is provided for in the strategic and local objectives and in the zoning objectives within the LAP and which are of an appropriate and satisfactory standard. Notwithstanding concerns as to potential undesirable precedent, possible additional future development adjacent to and extending outwards from the proposed development can be considered on its own merit the quality of which would not be hindered by any precedent set in the current proposal.
- 7.3.6. There are limitations with regard to potential achievement of small clusters of residential units within the site configuration, particularly on account of the area across the site which is reserved for transportation infrastructure, the possible route for the inner relief route. The somewhat continuous road frontage layout on the west side of the open space set aside for the inner relief route is ameliorated by the curvature of the road, positioning west of duplex units which are to be adjacent to the primary care centre and existing residential development.
- 7.3.7. The proposed duplex unit block gives rise to some concern given the height and block form and to the extensive hard surfacing for circulation and communal car parking. A block of this nature within a residential scheme in a small settlement or village context and which as also has limited amenity potential for private open space is considered inappropriate and to this end the reasoning within Reason No 3 attached to the planning authority decision is considered reasonable. The block would be a negative dominant feature within the scheme in scale, height and intensity and this is incompatible with a village context. Substitution of a two storey element with dwellings facing towards the possible future inner relief route and toward the main access route in front of the open space is recommended. In the event that permission is granted, it is recommended that a condition be included in which the block is omitted with it being open for the applicant to submit a new application for two storey units for this space within the site.

**7.4. Traffic Hazard and obstruction of other road users. (Road Safety Audit)
(Reason 4)**

- 7.4.1. The development is to be accessed from the existing N59 within Moycullen which is at present serving as a National route for traffic between Galway, Connemara and the Mayo border. Following completion and commissioning of the approved by-pass traffic volumes through the village would be significantly reduced along a route, the which it is anticipated would be downgraded from the existing national route grading. Nevertheless, there is no objection in principle to access to be provided on the existing N59 frontage, on grounds of the location well within the area confined to maximum 50 kph speed limits for the settlement and due to the future availability of the by-pass, having regard to the recommendations within "*Spatial Planning and National Roads: Guidelines for Planning Authorities, 2012.*
- 7.4.2. A comprehensive Road Safety Audit, as recommended in the submissions of Transport Infrastructure Ireland has been prepared on behalf of the applicant by O'Connor, Sutton Cronin and is now available with the appeal. It is considered that the assessment and the provisions proposed within the RSA are appropriate and sufficient, notably the uncontrolled pedestrian crossing which is to be provided by the developer and positioned at a desire line between the site and the petrol station/convenience store and associated signage, visibility splays sightlines and additional lighting and with regard to details such as necessity for removal of one tree and omission of a speed ramp. It is considered that the concerns of the planning authority as set out under Reason No 4 are fully addressed.

7.5. Compliance with the Provisions of Part V of the Planning and Development 2000 (as amended) (Reason 5)

- 7.5.1. The appeal includes written confirmation from the Housing Department of Galway County Council that the proposed transfer of five units which have been selected within the scheme is considered to fulfil the developer's Part V requirements. Should permission be granted, attachment of the standardised condition would be appropriate and is recommended. It is considered that further to the appeal submission, the concerns of the planning authority as set out under Reason No 5 are satisfactorily addressed.

7.6. Availability of waste water services and water supply for the proposed development. (Reason 6)

- 7.6.1. Written confirmation from Irish Water has been provided with the appeal to confirm that, subject to entry into a valid connection agreement, a waste water connection to the 225 mm diam AC sewer on the N59 can be facilitated. It is advised that a trade effluent discharge license may be required for the servicing of the Primary Care Health Centre. These requirements are standard and would not preclude favourable consideration of the application.
- 7.6.2. Written confirmation is also provided by Irish Water as to availability of a connection to the 200 mm water main on the N59 which would be exclusive of provision for the fire flow requirements of the Fire Authority for which provision for adequate capacity would be a separate matter for the developer. It is submitted in the appeal that the requirements of the Fire Authority for firefighting water storage equating to 90,000 in underground storage facilities can be provided in accordance with BS 9990 standards for 1500 ls per minute and a one-hour supply. Subject to the storage being underground without detriment to the utility of public open space serving the development, there is no objection. For the purposes of clarity, an additional condition can be included with to arrangements for storage and supply and compliance with the Fire Authority's requirements.
- 7.6.3. It is considered that sufficient written evidence as to the availability and feasibility of connection to public water supply and waste water facilities have been made available in connection with the appeal and that the concerns of the planning authority as set out under Reason No 6 are satisfactorily addressed.

Surface Water Drainage Arrangements. (Reason 7)

- 7.6.4. According to the appeal a number of options were considered resulting in proposals for a revised strategy providing for connection to the public surface water disposal system comprehensive details of which have been provided with the appeal. It should satisfactorily enable the developer to provide for arrangements which overcome the planning authority's concerns about overloading of the adjacent stream as it and the swallow hole can be by-passed. No on-site water would enter the stream adjoining the boundary and soak pits which would be unsuitable are not included within the proposed arrangements.

- 7.6.5. The revised arrangements are consistent with SUDS and achieve a flow rate similar to the pre development rates for the site, with retention of the use of the existing on site attenuation system, flow control valves, petrol interceptors and a new outfall connection to the sewer network via a new outfall pipe from the site, beneath the N59 with a ninety degree turn eastwards under the lane to the public drainage system east of the N59. The flow capacity from the existing stream bypass pipe will not be significantly affected. The final outfall from the public sewer system is to Ballycurke Lake via Ballycurke Canal to the east. It is submitted in the appeal that as no pre development flows will enter the stream there is an additional benefit of reduced existing flows into the stream and downstream network.
- 7.6.6. It is considered that the assessment and revisions to the proposed arrangements providing for a new strategy for within the appeal satisfactorily address the concerns as to potential for surface water from the development to overload the capacity of the existing adjacent stream resulting in flooding downstream.

7.7. Appropriate Assessment

- 7.7.1. The site location is not within or immediately adjacent any European sites. It is circa one kilometre to the west of the Lough Corrib SAC. (Code 000297) 3.5 km from Ross Lake and Woods SAC and four kilometres from the Connemara Big Complex SAC (002034) An Appropriate assessment screening statement was submitted with the application in which it is concluded that no significant effects would occur and that a Stage 2 Appropriate Assessment is not required.
- 7.8. The site is primarily greenfield grazing lands and includes the site of a vacant house located adjacent to the village core and adjoining established residential development. There is a stream adjacent to the northern site boundary. The project is for site clearance and preparatory works, and for construction a residential and commercial development comprising forty-nine houses, a primary care centre and associated site development works. Potential threats are that of pollution to and, contamination of waters in the adjacent stream through runoff during construction and at operational stages and, instances of heavy rainfall, risk of flooding downstream.
- 7.8.1. The proposed means of foul drainage is to the public sewer system via a connection in the N59. Storm water drainage which incorporates attenuation and is designed to

conform with SUDS standards incorporates connection to the public sewer in the N59 ultimately discharging to the Ballycurke Lake from a final outfall in the Ballycurke Canal. The proposed arrangements eliminate all potential discharge to the adjacent water course including greenfield, pre development run off.

- 7.9. Subject to the adherence to good practice and to the design mitigation provided for within the project, no potential direct or indirect impacts to European sites are anticipated.
- 7.9.1. Having regard to and to the extent and nature of the proposed development no Appropriate Assessment issues proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site. Stage 2 Appropriate Assessment Screening is therefore not required.

8.0 Recommendation

- 8.1. In view of the foregoing, it can be concluded that the decision to refuse permission should be overturned in that the proposed development is acceptable subject to inclusion of a condition with a requirement for omission of the duplex unit block within the scheme by condition. Draft Reasons and Considerations and draft Conditions follow.

9.0 Reasons and Considerations

Having regard to the to the settlement strategy within the Galway County Development Plan, 2015-2021, to the zoning and specific objectives for site location which is adjacent to the village core and within the development boundary for the Moycullen Local Area Plan, 2013-2019 it is considered that subject to the conditions set out below, the proposed development not be in material conflict with the transportation and infrastructure objectives providing for an Inner Relief Route for Moycullen, would not seriously injure to the visual amenities or landscape character of the area, would not seriously injure to the residential amenity standards that would be attainable for the benefit for the future occupants, would not endanger public safety by reason of traffic hazard by reason of traffic generation and additional turning movements by the development causing obstruction to other road users and would not be prejudicial to public health having regard to the proposed arrangements

for foul and surface water drainage. The proposed development is therefore in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

- 1 The development shall be carried out and completed in accordance with the plans and lodged with the application as amended by the further plans and particulars and by the plans and particulars received by An Bord Pleanála on 6th October, 2017 except as may otherwise be required to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed.

Reason: In the interest of clarity.

2. The block of Duplex Units (D-1 to D-6 inclusive) and associated the surface parking and internal access route shall be omitted in entirety and shall be replaced with two storey houses with private open space to the rear, north side and facing towards the public open space to the south, proposals for which shall be subject of a further separate planning application.

Reason: To ensure a satisfactory standard of development, in the interest of visual amenities of the area and the residential amenities of the proposed development.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings and primary care centre shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colours shall be in blue-black or slate grey in colour only.

Reason: In the interest of visual amenity.

4. The public open space and home zone areas shown on the lodged plans shall be levelled, contoured, soiled, seeded, and landscaped in accordance with a landscaping scheme to be submitted and agreed writing with the planning authority. The scheme shall be implemented prior to occupation of the dwellings and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: To ensure the satisfactory completion of the public open space within the development.

5. Details of hard and soft landscaping within the perimeter of the site including all materials and finishes shall be submitted to and agreed with the planning authority prior to the commencement of the development.

Reason: In the interest of the visual and residential amenities of the area.

6. All rear gardens shall be bounded with 1.8 metre high concrete block walls, suitably capped and rendered, on both sides, or by 1.8 metre high timber fences with concrete posts.

Reason: In the interests of residential and visual amenity.

7. The internal shared surface circulation routes, carparks and roadside parking spaces and footpaths and kerbs shall be fully completed prior to the occupation of the residential units and commercial building. These works shall be in accordance with the standards set out in the Design Manual for Urban Roads and Streets (2013).

Reason: In the interest of vehicular and pedestrian safety and convenience and the amenities of the development

8. All service cables associated with the proposed development shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

- 9 Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

- 10 Hours of construction shall be confined to the hours of 0800 and 1900 Mondays to Fridays excluding bank holidays and 0800 hrs and 1400 hrs on Saturdays only. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of the residential amenities of the area.

- 11 Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "*Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects*", published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interests of sustainable waste management.

- 12 A plan containing details for the management of waste including separation of recyclable materials within the development, facilities for the storage and arrangements for collection shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste.

13 A traffic management plan for the demolition and construction phase of the development shall be submitted and agreed in writing with the planning authority prior to the commencement of the development. It shall include details of construction traffic routing, the number of trips generated for deliveries and collections of materials from the site, provision for a storage compound and parking provision within the site, wheel washing and measures for control of dust and other pollutant materials the installation of which shall be the responsibility of the applicant.

Reason: In the interest of clarity, public health and safety, orderly development and the protection of the residential amenities of the adjoining properties.

14. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

15 Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in

connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

- 16 The developer shall pay to the planning authority a financial contribution of in respect of public infrastructure and facilities benefiting development in the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be in respect of the retail unit only and shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Jane Dennehy
Senior Planning Inspector
15th February, 2018.