



An  
Bord  
Pleanála

## Inspector's Report ABP303999-19

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<b>Development</b>	Demolition of dwelling and construction of replacement dwelling together with ancillary works and proposed new access onto public road.
<b>Location</b>	Newtown, Kilcolgan, County Galway.
<b>Planning Authority</b>	Galway County Council.
<b>Planning Authority Reg. Ref.</b>	18/1888.
<b>Applicants</b>	Colin and Ailish O'Grady.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party -v- Refusal.
<b>Appellants</b>	Colin and Ailish O'Grady.
<b>Observer</b>	Tom Quinn.
<b>Date of Site Inspection</b>	11 <sup>th</sup> June, 2019.
<b>Inspector</b>	Paul Caprani.

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## 1.0 Introduction

ABP303999-19 relates to a first party appeal against the decision of Galway County Council to issue notification to refuse planning permission for the demolition of an existing house and the construction of a replacement house in a different location within the site on lands to the south of the N67 between the villages of Kilcolgan and Kinvara. Galway County Council issued notification to refuse planning permission for a single reason relating to the creation of a new access onto the N67 National Secondary Road where sightlines are restricted.

## 2.0 Site Location and Description

- 2.1. The subject site is located approximately 600 metres west of the village of Kilcolgan where the N67 branches off the former N18 National Primary Road – old Galway to Limerick Road (now downgraded to Regional Route R458). The subject site is located on the southern side of the road and is a relatively large site of c.1.7 hectares. The site accommodates an existing farmhouse which is set back c.80 metres from the public road. The photographs attached indicate that the existing structure on site is a picturesque stone building dating from the 19<sup>th</sup> century and set in amongst mature trees.
- 2.2. There are no other residential dwellings in the immediate vicinity of the site. A two-storey stone structure adjacent to the N67 National Secondary Route is located within the site to the east of the entrance to the site. This building is currently vacant and somewhat impedes on sightlines in an easterly direction towards Kilcolgan. There are a number of dwellinghouses on the northern side of the N67 to the west of the subject site.
- 2.3. The site is rectangular in shape and has a depth of c.150 metres and a width of just over 100 metres. The western portion of the site, where it is proposed to construct a new dwelling appears to be slightly more elevated than the lands that accommodate the existing dwellings. The western portion of the site is also more open with less mature trees.

2.4. The site is located within the 100kmph speed limit.

### 3.0 Proposed Development

- 3.1. Planning permission is sought for the demolition of the existing dwelling on site and the construction of a new dwelling approximately 30 metres to the west of the footprint of the existing dwelling. It is stated that the new dwelling will have higher finished floor levels to combat flooding which recently occurred in the immediate vicinity of the existing dwelling on site. The new dwellinghouse is to be located on the western portion of the site and is to be setback c.60 metres from the public road. A new access onto the N67 is to be located at the north-western boundary of the site approximately 60 metres to the west of the access serving the existing dwelling on site.
- 3.2. The dwelling itself comprises of a single-storey and two-storey L-shaped building accommodating four bedrooms three of which are located at first floor level.
- 3.3. The two-storey element of the building rises to a ridge height of 8.3 metres. The single-storey element which is located on the western side of the layout rises to a ridge height of c.4.3 metres and incorporates a monopitched roof.
- 3.4. In terms of external finishes, the two-storey element is to incorporate stone cladding and a blue/black slate roof on the roof pitch – reflective of the existing vernacular structure on site. The single-storey element to the side incorporates a painted render finish. A rendered finish is also proposed around the front entrance to the dwellinghouse on the two-storey element.
- 3.5. A single-storey shed is also to be located on the eastern side of the main dwellinghouse. The dwellinghouse has a gross floor area of 281 square metres.
- 3.6. The dwellinghouse is to be served by a new proprietary wastewater treatment system and percolation area both of which are located to the rear of the proposed dwellinghouse.

## 4.0 Planning Authority's Decision

### 4.1. Decision

- 4.1.1. Galway County Council issued notification to refuse planning permission for a single reason which is set out in full below.

*“This application proposes a new access off the N67 National Secondary Route, at a point with a speed limit of 100 kph applies, where visibility from same is restricted. Furthermore, the proposed development is at variance with Objective TI6 of the Galway County Development Plan 2015-2021 as national official policy in relation to control and development on/affecting national roads, as outlined in the DoECLG Spatial Planning and National Road Guidelines for Planning Authorities (2012). Therefore, it is considered that the turning movements generated by the proposed development onto the national secondary road, would interfere with the safety and freeflow of traffic on the public road and would endanger public safety by reason of a traffic hazard or obstruction to road users or otherwise and therefore the development would be contrary to the proper planning and sustainable development of the area”.*

### 4.2. Documentation Submitted with Planning Application

- 4.2.1. In addition to the drawings, the planning application notice, public notices and statutory fee etc. the following documentation was submitted with the planning application.

A **Preliminary Flood Risk Screening Report** prepared by Hydro Environmental Limited. This report notes that the existing dwellinghouse and driveway are located at the lowest point of the site. The highest levels of the site are located to the west and south. An inspection of the OSI mapping and aerial photography indicate a number of small turloughs and karst features in the vicinity of the site.

- 4.2.2. The report goes on to note that the existing house on site is built over 200 years ago and up until recently has not been recorded as having experienced the flood event. However, in November, 2009 and December, 2015 flood events resulted in localised flood waters surrounding the house and other low-lying areas adjacent to the east. The fact that this house is in existence for over 200 years and has only flooded in the

very recent period suggest possible changes to the karst groundwater regime in the area which may be linked to land changes with a clearing of land and infilling of swallow holes etc. The flooding which occurred is pluvial/groundwater in nature. Based on recent flooding information and the existence of a natural spill route from the site it is considered that the flood zone A lands (high flood risk) are all lands on the site below a ground level of 10.5 metres and flood zone C lands (low flood risk), which are deemed suitable for development, are all lands above 11 metres OD. The proposed finished floor levels of 12 metres OD for the dwellinghouse provides a 500 metre freeboard over the worst climate change scenario which is estimated to be 11.5 metres OD and therefore the proposal is considered to be meet the requirements of the flood management planning guidelines.

4.2.3. A **Design Statement** was also submitted, prepared by Helena McElmeel Architects. This report details the existing house where it is noted that the house is in structurally good condition and it was the applicant's initial intention to extend the house however, the flood events of 2009 and 2015 impacted on their decision to apply for permission to refurbish and extend the existing dwelling. The report, notes that it would be technically possible, but very challenging, to amend and adapt the existing house to mitigate and manage the risk of flooding. The extent of works required to address the flooding problem would call into question the sustainability of such an intrusive refurbishment. The report goes on to describe the design rationale for the replacement house. It is stated that it is proposed to incorporate many of the features of the existing house which give the original house its unique character. It is intended to salvage stone from the existing house and reuse it as cladding for the new house. The heavy stone cills and lintels will also be used. It is also proposed to retain the existing trees as far as possible. The design concept seeks to use simple vernacular forms to create a sheltered entrance courtyard to the front of the site similar to that of the original house. It is also stated that required sightlines are achievable.

4.2.4. A **Traffic Report** was also submitted prepared by Alan Lipscombe – Traffic and Transport Consultant. It is stated that a site visit was undertaken during the PM peak hour of Thursday 13<sup>th</sup> July, 2018. While traffic speeds were not recorded at the site, it is stated that vehicle speeds in general appear to be below the 100 kmh designated speed limit in both directions. It notes that the N67 in the vicinity of the

subject site has a speed limit of 100 kmh per hour. In accordance with NRA Guidelines the visibility requirement in both directions is 215 metres along the nearside carriageway edge. Two options were considered:

- Option A to improve the existing access.
- Option B to create a new access with the partial demolition of the existing shed to the north-east of the site. It is stated in the case of Option B, visibility sightlines of 215 metres at a point 2.4 metres back from the roadway edge are achievable. Therefore, Option B is recommended.

4.2.5. A **Bat Survey Report** was submitted by McCarthy Keville O'Sullivan. It sets out details of a desktop study and a preliminary bat roost inspection. A detailed inspection of the building was undertaken during daylight hours on 21<sup>st</sup> June, 2018. A dusk emergence survey was also undertaken on the evening of the 21<sup>st</sup> June, 2018. During the emergence survey, four pipistrelle bats were recorded emerging from the house. A brown long-eared bat was also observed in flight in the upper level rooms to the north-west. No evidence of roosting lesser horseshoe bats was recorded during the daytime inspection. However, there are 19 records of lesser horseshoe bat roosts within 10 kilometres of the proposed development. The final section of the report sets out a series of mitigation measures including the following:

- Obtaining a derogation licence.
- Works on the building will be undertaken after roosting bats have left the summer roost i.e. between 1<sup>st</sup> October and 1<sup>st</sup> May.
- A series of compensatory roosts will be provided in the form of bat boxes and an artificial wall unit which will be incorporated into the design of the new building.
- It is also proposed to retain as many mature trees as possible and incorporate bat friendly lighting.

The residual impacts are identified as being not significant or adverse.

4.2.6. An **Appropriate Assessment Screening Report** was also submitted prepared by McCarthy Keville O'Sullivan. This report sets out a detailed description of the proposed development on the baseline environment making reference to existing habitats and fauna and the significance of both. It notes that none of the habitats

within the working areas correspond to habitats listed on Annex I of the EU Habitats Directive. No Annex I Birds of Conservation Concerns were identified on the site.

4.2.7. Section 3 of the report goes on to identify relevant European sites which could be potentially affected by the proposed development. A total of 22 European sites were identified within a 15 kilometre radius. The closest site identified was Lough Fingall Complex SAC. It is concluded that there is no potential for direct impacts on the qualifying interests of this European site. The proposed works are entirely outside the boundary of the European site. With regard to other projects and plans which could have the potential to have cumulative impact, details of other planning applications in the wider area are referred to and it is concluded that there is no potential to impact on a European site. Nor are any indirect impacts identified. It is therefore concluded that there is no requirement for a Stage 2 Appropriate Assessment.

4.2.8. A **Planning Report** was also submitted by McCarthy Keville O'Sullivan. It sets out details of the existing site location and description, the proposed dwellinghouse and the planning history associated with the site (see separation section in my report below). The planning considerations in adjudicating on the application are identified as flooding, traffic, appropriate assessment and the potential impact on bat roosts. It is suggested that the provision of a new replacement dwelling at this location is in accordance with the provisions of the development plan as the site already accommodates a residential dwelling which can no longer be used due to localised flooding at this location. It is also suggested that the proposed development incorporates a new vehicular access which can fully comply with County Plan sightline requirements and therefore the proposal is in accordance with the proper planning and sustainable development of the area.

4.2.9. Also submitted was a **Site Characterisation Form** for a proprietary wastewater treatment plant. The information contained in the site characterisation form indicates that trial hole was excavated to 1.8 metres in depth where upon bedrock was encountered. The water table was not encountered during the excavation of the trial hole. The subsoil is described as boulder clay. A series of T tests and P tests were carried out which yielded percolation characteristics in the subsoil with a T value of 6 and a P value in the top soil of 7. It concluded that any proprietary wastewater treatment system proposed on site is suitable to discharge to groundwater and it is



recommended that a package wastewater treatment system and polishing filter be installed on the subject site.

#### 4.3. **Planning Authority Assessment**

##### Objections

- 4.3.1. An objection was submitted from an adjoining landowner which raised concerns in relation to traffic. A separate observation was submitted which raises concerns in relation to the demolition of the existing building and the presence of water springs in the area. Two other objections were submitted which raise issues in relation to the demolition of the historic house and coach house adjacent to the roadside and concerns with regard to the lack of archaeological excavations.

##### Observation

- 4.3.2. Transport Infrastructure Ireland made a submission stating that it had no observation to made in respect of the proposed development.

##### Planning Report

- 4.3.3. The planner's report sets out details of the development plan as it relates to the subject application and also details of the planning history associated within the site.
- 4.3.4. The planner's report notes that the current application is proposing a new site entrance directly onto the N67 National Secondary Route. Sightlines at the existing and proposed new entrance are severely compromised by way of roadside boundary/sheds and the alignment of the road. The application proposes improvement works to the entrance. While it is stated that the proposed works will improve the visibility, it is considered that the sightlines do not meet the standards set out in the development plan. For this reason and by reason of the additional turning movements generated by the proposed development onto a national secondary route, it is recommended that planning permission be refused.
- 4.3.5. Galway County Council issued notification to refuse planning permission for the sole reason referred to above.

## 5.0 Planning History

- 5.1. No history files are attached to the current file. However relevant planning history is set out in the documentation submitted with the application and also the local authority planner's report prepared in respect of the application. Details of the relevant planning history is set out below.
- 5.2. Under **Reg. Ref. 99/2665** a planning application was made by David Hogan to build an extension and make alterations to the existing house. This was granted planning permission in March, 2000.
- 5.3. Under **Reg. Ref. 16/997** a planning application was lodged by the current applicants for the demolition of the existing house and the construction of a replacement house and domestic shed together with all associated works. This application was withdrawn.
- 5.4. Under **Reg. Ref. 18/1134** a planning application was made by the current applicants for the demolition of the existing house and outbuilding and shed and the construction of a replacement house and ancillary works. This application was also withdrawn following concerns being raised by the Planning Authority in relation to the description of the access arrangements to the site.

## 6.0 Grounds of Appeal

- 6.1. The decision of Galway County Council to issue notification to refuse planning permission was the subject of a first party appeal on behalf of the applicants by McCarthy Keville O'Sullivan Limited, Planning and Environmental Consultants.
- 6.2. It is noted that the Planning Authority issued notification that permission be refused for the single reason that the proposed development would constitute a traffic hazard. It is noted however that the current application has been fully informed through discussions with the Planning Authority including the Road Section of Galway Co. Council. The applicants have bought the site in order to reside on it for their family home and it remains their intention to live at this location. There is a requirement to demolish the existing dwelling due to recent localised flooding events and replace it with a new dwelling located within the same site but at a slightly higher elevation which avoids any localised ponding issues.

- 6.3. The site is residential in nature as it already accommodates a dwelling. The applicants in this application are merely seeking to improve the residential accommodation and access arrangements to modern standards. The appeal goes on to outline the site location and description, the planning history associated with the site and the decision of the Planning Authority.
- 6.4. Section 2 of the submission sets out the grounds of appeal. The Board are requested to note that, as part of the planning application, two vehicular accesses were proposed namely utilising the existing access and cutting back vegetation in order to improve sightlines. It is acknowledged that under this option the visibility splays would not reach the required 215 metres for new entrances. Option B involved relocating the entrance to the north-western corner of the site. This would involve the creation of a new access being provided onto a national secondary route. However, the applicants are willing to close the existing access so that there is no net increases in accesses along the N67 at this location. It is stated that the latter option (new access) is more advantageous from a safety perspective.
- 6.5. During the pre-application consultations (subsequent to the withdrawal of a previous application on site), the applicants were advised that the more favoured option in terms of traffic safety was to provide a new entrance in lieu of an existing entrance. It is argued that the new entrance meets the requirements of the Geometric Design Guidelines for Junctions as required by Transport Infrastructure Ireland. Also attached is a report from Alan Lipscombe, Traffic and Transportation Consultant which also argues that sightlines are achievable.
- 6.6. A complicating factor has arisen since the lodgement of the application in that a wall has been partially constructed on neighbouring lands to the south-west without the benefits of planning consent. This issue has been raised with the Planning Authority who are to investigate the matter. The location of this wall restricts sightlines in a westerly direction towards Kinvara.
- 6.7. The Board are requested that they consider both the existing entrance and the new entrance in determining the current application and appeal as the Board will consider the appeal "de novo". The available sightlines at the existing entrance are indicated in Drawing P(03)06 submitted with the appeal. The sightline which can be achieved at this location are c.139 metres to the north-east and c.112 to the south-west.

Should the Board consider it appropriate to retain this access point as a vehicular access to the road the applicant can do so.

- 6.8. It is noted that concern has been raised in third party submissions that the extent of works and/or demolition of the shed structure along the site frontage that is required to facilitate sightlines for the new access point. The applicant wishes to assure that the integrity of any existing third-party boundary walls will be maintained in any works required to achieve requisite sightlines. Should the Board consider it prudent to demolish the structure adjacent to the roadway, any boundary wall can be maintained. If it is required to setback the gable of the shed in order to improve sightlines in a north-easterly direction, the Board should be fully aware that the shed in question is fully within the applicant's ownership and within the redline boundary of the site. It is noted that the shed will be required to be setback in order to achieve the 215 metre sightline requirement in a north-easterly direction from the proposed new access onto the road.
- 6.9. The grounds of appeal go onto outline the rationale for the proposed replacement dwelling. It is stated that the rationale is primarily predicated upon the fact that the existing dwellinghouse on site, being located in a depression within the site is prone to fluvial flooding. Reference is made to the Preliminary Flood Risk Screening Assessment Report submitted with the original application by Hydro Environmental. It is argued that on the basis of the assessment undertaken in relation to flood risk, the demolition of the existing building is entirely justified and that the proposal is fully in accordance with Objective RHO6 of the development plan which relates to replacement dwellings. It is noted that this matter was not raised as an issue in the decision of the Planning Authority and it is therefore concluded that the Planning Authority are satisfied that the demolition of the existing dwelling is justified in the context of Objective RHO6.
- 6.10. It is also pointed out that the site has been in long term residential use and in more recent times, the existing dwelling on site has been the subject to extension works for the purposes of increasing the residential floorspace. Reference is made to the Planning Acts and the definition of a habitable house contained in the Act. It can be concluded that the existing dwelling on site is clearly a building that has been occupied as a dwelling and was last used as such, in accordance with the definition.

- 6.11. The grounds of appeal go on to note that the application has been subject of an Appropriate Assessment Screening Report and a Bat Survey Report. Reference is made to the conclusion in the former Report that a Stage 2 Appropriate Assessment is not necessary in this instance, and that any concerns in relation to impact on bat habitats can be adequately addressed by way of mitigation measures. It is also noted that a detailed Site Characterisation Report was submitted which suggests that the subject site is suitable to accommodate an on-site wastewater treatment system and the Planning Authority did not raise any concerns in this regard.
- 6.12. Finally, the grounds of appeal make reference to the house design and it is noted that the proposed replacement house is designed with reference to the character and form of the existing house on site. Again, it is noted that no issues or concerns were raised by Galway County Council in respect to the overall design or layout of the proposed development.
- 6.13. Also submitted as part of the grounds of appeal is a letter from Transport Infrastructure Ireland stating that it has no observations to make in relation to the application.
- 6.14. Also attached is a separate Traffic and Transportation Assessment prepared by Alan Lipscombe, the arguments set out in the traffic report have already been referred to in the main body of the grounds of appeal above.

## **7.0 Appeal Responses**

It appears that Galway County Council did not submit a response to the grounds of appeal.

## **8.0 Observation**

- 8.1. One observation was received from James Roche on behalf of Mr. Tom Quinn. This observation is summarised below:
- 8.2. It is stated that the observer is the owner of the adjacent lands and previously had meetings and discussions with the applicants in relation to any proposed development on the subject site. The discussions revolved around the observer

ceding some land to upgrade the access into the site. It is suggested that the present proposal will not be satisfactory to Transport Infrastructure Ireland.

- 8.3. It is also stated that the dwelling has not been occupied since 1992 and it is therefore not correct to suggest that the site has retained any residential status. The last planning application relating to the site dated from 1999 and it should be noted that an enurement clause was attached to the grant of permission on that occasion.
- 8.4. Finally, it is argued that the proposed works would involve raising grounds levels in the site and the observer is concerned that this would exacerbate further flooding which have already occurred on the observer's lands.

## **9.0 Development Plan Provision**

- 9.1. The subject site is not governed by any zoning objective. The subject site is located in a rural area under strong urban pressure. It is also located within the Galway Transportation and Planning Study (GTPS). The Galway County Council Development Plan requires applicants in the GTPS area to submit housing and local need criteria.
- 9.2. Objective RHO6 relates to a replacement dwelling. It is an objective of the Council that the refurbishment of existing habitable dwellinghouses will be encouraged, as a more sustainable option than demolition and construction of a new dwellinghouse, unless a conclusive case for demolition based on technical evidence is made for the Planning Authority's consideration on a case by case basis. It will be the requirement that any new dwellinghouse be designed in accordance with Galway County Council's Design Guidelines for Rural Housing in the Countryside. Applicants who require the demolition of an existing dwellinghouse shall be accommodated without the requirement to establish a housing need or proof of residence and will not be subject to an enurement clause.
- 9.3. Objective RHO7 relates to the renovation of existing derelict dwellings/semi-ruinous dwellings. It is an objective of the Council that proposals to renovate, restore or modify existing derelict or semi-derelict dwellings in the county are generally dealt with on their merits on a case by case basis, having regard to relevant policies and objectives of this plan, the specific location and the condition of the structure and the scale of any works required to upgrade the structure to modern standards. The

derelict/semi-ruinous dwelling must be structurally sound, have the capacity to be renovated and/or extended and have the majority of its original features/walls in place. A structural report will be required to illustrate that the structure can be brought back into habitable use, without compromising the original character of the dwelling. Where the total demolition of the existing dwelling is proposed, an enurement clause for seven years duration will apply.

- 9.4. Objective RHO9 relates to design guidelines. It is an objective of the Council to have regard to Galway County Council's Design Guidelines for Single Rural Housing with specific reference to the following:
- (a) It is an objective to encourage new dwellinghouse design that respects the character, pattern and tradition of existing places, materials and built form that fit appropriately into the landscape.
  - (b) It is an objective to promote sustainable approaches to dwellinghouse design and encouraging proposals to be energy efficient in the design and layout.
  - (c) It is an objective to require the appropriate landscaping and screen planting of proposed developments by using predominantly indigenous/local species and groupings.
- 9.5. Objective TI6 seeks the protection of national routes and strategically important regional road networks.
- 9.6. It is an objective of the Council to protect the capacity and safety of the national road network and strategically important regional road network (listed in DM Standards and Guidelines in Chapter 13) in the county to ensure compliance with the Spatial Planning and National Roads Planning Guidelines (2012). Galway County Council will not normally permit development proposals for future development that include direct access or intensification of traffic from existing accesses onto any national, primary or secondary road outside the 50-60 kph speed limit zone of towns and villages.
- 9.7. DM Standard 20 relates to site distances required for access onto national, regional and local roads. It states that vehicular entrances and exit points must be designed by the developer as part of the planning application with adequate provision for visibility so that drivers emerging from the access can enjoy good visibility of oncoming vehicles, cyclists and pedestrians. Where a new entrance onto a public

road is proposed, the Planning Authority must consider traffic conditions and available sightlines. Road junction and visibility requirements shall comply with geometric design of major/minor priority junctions and vehicular access to national roads Volume 6, Section 2, Part 6 NRA TD41-42/11 November, 2011 (including any updated/superseding document). In the case of a design speed of 100 mph a sight distance on national, primary and secondary roads of 215 metres is required.

- 9.8. In terms of flooding, the OPW CFRAM studies indicate that the site, while not located directly within an area prone to flooding, it is located within an area where localised flooding is ubiquitous particularly to the south and south-west of the site, north-east and north of the site on the northern side of the N67. The wider area in which the site is located is prone to pluvial and groundwater flooding.

## **10.0 EIA Screening Determination**

- 10.1.1. Having regard to the nature of the development, comprising of a single dwelling in a rural area, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can therefore, be excluded by way of preliminary examination.

## **11.0 Planning Assessment**

- 11.1. I have read the entire contents of the file, visited the site in question and have had particular regard to the Planning Authority's reason for refusal and the grounds of appeal in respect of the Planning Authority's decision. I consider that the Board can restrict its deliberations to two issues namely:

- Compliance with Development Plan Policy on Rural Housing
- Access Considerations

- 11.2. The subject site is located in an area under strong urban pressure being located within the Galway Transportation Planning Study. Within this area it is generally accepted in principle that urban generated housing should take place within the built-up areas or on lands identified through the local area plan process. However, Objective RHO6 is also relevant to the current application and appeal before the Board. It states that in the case of replacement dwellings, where a conclusive case



for demolition based on technical advice has been made, applicants who require the demolition of an existing house shall be accommodated without the requirement to establish a housing need or proof of residence and will not be subject to an enurement clause. The applicant has presented evidence, including photographic evidence, that the existing dwelling is located in the small depression within the site which is subject to fluvial/groundwater flooding events. The existing structure there, notwithstanding its aesthetic qualities and its historic character is therefore appears not to be suitable to accommodate a residential home. I do note however that the architect's report submitted with the planning application states the following:

*“It would be technically possible but very challenging to amend and adopt the existing house to mitigate and manage the risk of flooding. The extent of works required would call into question the sustainability of such an intrusive refurbishment”.*

It would therefore appear that it is not altogether impossible to carry out refurbishment works in order to combat against the possibility of flooding. Therefore, while it may be possible to amend and adapt the existing house to mitigate and manage against the risk of flooding, the relocation of the dwelling within the site to form a replacement dwelling is technically the more feasible option. For this reason, it can in my view be reasonably argued that the proposal complies with the requirements of Objective RHO6.

- 11.3. With regard to access arrangements, notwithstanding the fact that the original application included a proposal to relocate the access to the north-western boundary of the site approximately 60 metres from the existing access, the appeal before the Board requests that the Board would deliberate and adjudicate on both accesses for the purposes of determining the application and appeal. This is primarily due to the fact that since the lodging of the application, the adjoining landowner to the south-west has constructed a new roadside boundary wall which it is readily acknowledged in the grounds of appeal impinges on sightlines in a south-westerly direction from the more recently proposed access at the north-western corner of the site.
- 11.4. If the Board are minded to grant planning permission for the proposed dwellinghouse with access arrangements from the existing entrance near the north-eastern boundary of the subject site, it would in my view be pertinent that the applicant be

requested, prior to any decision issued by the Board, to issue revised public notices indicating that the replacement dwelling is intending to utilise the existing access. It is clear that the original site notice made reference to works “including a new site access to replace the existing site access”. What the applicant is requesting the Board to consider in the grounds of appeal constitutes a material change to the proposed planning application which would warrant revised public notices prior to making a final determination where the Board intended to grant planning permission.

- 11.5. I would have significant concerns in granting planning permission for the relocated dwellinghouse utilising the existing access. The visibility requirement on the N67 National Secondary Route at a point where the 100 kilometre speed limit applies is 215 metres in each direction. The grounds of appeal clearly indicate that sightlines are restricted at the existing entrance to 139 metres to the north-east and 112 to the south-west. In both instances this is significantly below the required sightline distances in order to ensure an appropriate level of traffic safety. As alluded to in the various documentation submitted with the planning application, the original dwellinghouse on site and associated entrance were constructed in a period when such visibility standards were not required. Utilising the existing entrance quite clearly contravenes the Geometric Design Guidelines for Junctions in relation to minor roads accessing onto major roads where the 100 kilometre speed limit applies.
- 11.6. With regard to the proposed new access at the north-western boundary of the site, original documentation submitted with the planning application suggested that sightlines of 215 metres were achievable in both directions. Having inspected the site and having assessed the sightlines in both directions at the proposed new entrance I would consider that such unobstructed sightlines would only be barely achievable, if at all, at the proposed new access. However, a complicating factor has arisen with the construction of a bell shaped wingwall at the entrance of the adjoining property to the south-west. This wall protrudes beyond the post and wire fence of the appellants’ roadside boundary undoubtedly restricts sightlines in a south-westerly direction at a point 2.4 metres back from the edge of the carriageway at a height 1.05 metres above ground level. The grounds of appeal readily acknowledge “*that the location of this wall does restrict sightlines from our clients’ access point*”. The grounds of appeal also go on to suggest that the structure may in fact be unauthorised and this fact should be taken into consideration by the Board in

adjudicating on the application before it. It is not the purpose of An Bord Pleanála to adjudicate upon the planning status of any structure, be it authorised or otherwise on lands outside the application site which clearly impedes sightlines. Any such works undertaken could be the subject of a referral under the provisions of Section 5 of the Act. Any such determination in relation to the planning status of the works undertaken on the adjacent site is outside the remit for the adjudication of the application and appeal before the Board. It is possible that the structure in question may come within the provisions of exempted development under Schedule 2, Part 1, Class 5 of the Planning and Development Regulations 2001 (as amended). This matter will ultimately be adjudicated upon by Galway County Council/ and or An Bord Pleanála. However, in my view the erection of the said wall undoubtedly impinges upon sightlines in a south-westerly direction from the proposed access point. It would also be in my view premature for the Board to reach any firm conclusions in respect of the planning status of the recently constructed wall at the adjoining property to the south-west which impinges upon sightlines in a south-westerly direction.

- 11.7. On the basis of my assessment above I would recommend that the Board uphold the decision of Galway County Council and refuse planning permission for the same reason as that issued by the Planning Authority.

## **12.0 Appropriate Assessment**

Having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the proximity to the nearest European site, as the AA screening report submitted with the planning application concludes it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **13.0 Decision**

Refuse planning permission for the proposed development based on the reasons and considerations set out below.

## 14.0 Reasons and Considerations

1. It is considered that the proposed development would endanger public safety by reason of a traffic hazard because the site is located alongside the heavily trafficked national secondary route N67 at a point where the speed limit of 100 km/h applies. It is further considered that the proposed access to the relocated dwelling at the north-western boundary of the site is located at a point where sightlines are restricted in a south-westerly direction and that the traffic turning movements generated by the development would interfere with the safety and freeflow of traffic and would therefore constitute a traffic hazard.

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Paul Caprani,  
Senior Planning Inspector.

23rd July, 2019.