



An  
Bord  
Pleanála

## Inspector's Report

### ABP-306028-19

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<b>Development</b>	House - Gross floor space of work to be retained: 85 sqm.
<b>Location</b>	Gooreenatinny, Omev Island, Co. Galway.
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	19599
<b>Applicant(s)</b>	Olive Butler
<b>Type of Application</b>	Retention Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	John Finucane
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	18/02/2020
<b>Inspector</b>	Gillian Kane

## 1.0 Site Location and Description

- 1.1.1. The subject site is located on the western side of Omey Island, a tidal island to the west of Claddaghduff in west Galway. The island which is only accessible at low tide has a single road running east to west, off which are a number of one-off dwellings. A number of the surrounding fields had livestock on the date of the site visit.
- 1.1.2. The subject site comprises a bungalow with attic accommodation. It is bound to the east and west by similar properties.

## 2.0 Proposed Development

- 2.1.1. On the 23<sup>rd</sup> April 2019, planning permission was sought to retain an existing single storey dwelling of 85sq.m. on a site of 0.156ha.
- 2.1.2. A cover letter submitted with the application states that the rear extension would ordinarily be exempted development due to its size and the fact that the attic is used for storage only. The letter notes that as planning permission 65286 in 1997, the extension is therefore unauthorised.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. On the 22<sup>nd</sup> November 2019, the Planning Authority issued a notification of their intention to GRANT retention permission subject to 5 conditions. Condition no. 5 restricts the use of the attic floor to storage purposes only.

### 3.2. Planning Authority Reports

- 3.2.1. **Planning Report:** Existing dwelling house appears as permitted plans. Unauthorised development would not adversely affect the house or visual amenity of the area. Additional details required regarding the existing septic tank, percolation area, surface water disposal proposals and a floor plan of the first floor.
- 3.2.2. **Second Planning Report:** Condition should be attached restricting attic to storage use only. Recommendation to grant planning permission.

## 4.0 Planning History

- 4.1.1. Planning Authority reg. ref. **65286**: Planning permission granted for the change of use from a stable to a dwelling house.
- 4.1.2. Enforcement: EN17/025 unauthorised extension to rear and velux windows in roof.  
EN08/094 unauthorised extension, balcony, porch and deck.

## 5.0 Policy Context

### 5.1. Galway County Development Plan 2015-2021

- 5.1.1. Chapter 3 refers to Urban & Rural Housing. Section 3.7 refers to Single Housing in the Countryside and has regard to the distinction between urban and rural generated housing and the requirement for sustainable rural housing. S.3.8 identifies Rural Area Types – Map RH01 refers – the subject site is located in a Structurally Weak Rural Area. Section 3.8.2 refers and provides the objectives for such areas. This includes: *To protect areas located in Landscape Category 3, 4 and 5.* Map RHO2 shows that Omey Island is located in Zone 3 Landscape Category 3-5. As per Section 3.8.3 the Site is within Rural Housing Zone 3.
- 5.1.2. **DM Standard 6**: Assimilation of Development into Landscape: All permissible buildings should avoid locally obtrusive elevated locations and should be located on mid slopes or lower slopes of rising ground where possible.
- 5.1.3. **DM Standard 8**: Landscaping

### 5.2. Natural Heritage Designations

The subject site immediately adjoins the Omey Island Machair (001309) and the Inishbofin, Omey Island and Turbot Island SPA (004231). To the south (0.4km) is the West Connacht Coast SAC (002998).

### 5.3. EIA Screening

- 5.3.1. Having regard to nature and scale of the development to be retained, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. A third-party appeal against the decision of the Planning Authority to grant permission has been lodged by the owner of the property to the immediate west of the subject site. The appeal submission provides details of the history of the site, including what he states are historic non-compliance with previous planning permissions. The grounds of the appeal can be summarised as follows:

- The applicant has not complied with the conditions of the permission granted in 1992.
- The subject house was almost entirely rebuilt in 2018. The suggestion that the upper floor is for storage is not credible. The size of the gable window, the number of velux windows, the installation of an en-suite and the existence of a bed in the room demonstrate that the space is not for storage.
- The velux and extension were to be removed in 2018.
- The three velux windows are 3m from the appellant's property, within which he has lived permanently since 2010. These windows overlook the appellants garden.
- The plans submitted to Galway County Council are inaccurate as they fail to show the 5 no. velux windows which are on the roof.
- The appeal is accompanied by documentation relating to the planning and enforcement history of the site, the appellants interactions with Galway County Council, photographs and

### 6.2. Applicant Response

6.2.1. The applicant responded to the third-party appeal with a lengthy submission. The response provides detail of the planning and legal history of the site and the appellants site. She states that a balcony erected over her flat roofed conservatory had no planning permission and its removal (on foot of enforcement proceedings) caused the conservatory roof to leak. The response can be summarised as follows:

- The roof was not raised during refurbishment. It was replaced and extended to cover the exempted development extension of 27.7sq.m.

- Velux windows were installed in 1995 and more recently.

### **6.3. Planning Authority Response**

- 6.3.1. None on file.

## **7.0 Assessment**

- 7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the single issue raised is the principle of development.

### **7.2. Principle of Development**

- 7.2.1. As a starting point, the many disputes between the two parties are not a matter for the Board. They are civil matters, to be raised with and addressed by the relevant bodies.
- 7.2.2. The scale and extent of development to be retained is not clear – the public notices refer to a “gross floor space of work to be retained – 85sq.m.”, the applicant and the appellant both refer to the rear extension and the plans show the rear extension ground and first floor outlined in red. The applicant refers to a 27.7sq.m. rear extension that she states is exempted development. A Managers Order granting permission for the change of use from a stable to a dwelling house in 1992 is submitted with the appeal but no floors plans are available. The extent of permitted development is not clear. Further, I note that the three velux windows on the western elevation, which were visible on the date of my site visit are not shown on the plans and permission to retain same has not been sought. Drawing no. 01904, 3 of 5 shows the western elevation with no rooflights, stating “As it will look after the 3 roof lights are removed”.
- 7.2.3. I note that the Planning Authority accepted the development to be retained to be the entire house – single story. On balance, I am minded to agree with this reasoning. The red line boundary is around the entire site, not just the rear extension. It is considered that the use of a red line around the newly-built extension and some of the rooflights, while confusing, do not intend to indicate the extent of development to be retained.

- 7.2.4. In a situation where a discrepancy exists between a drawing and the description of development in the public notices, the test should be whether anyone was inconvenienced by the uncertainty in the drawing. Given the appellants comprehensive analysis of the development, it is clear that the discrepancy did not hinder his understanding of the existing development and / or the development to be retained.
- 7.2.5. The applicant states that the attic level is for storage only, however it was clearly in use for residential purposes on the date of my site visit. In principle, the use of the attic for residential use is acceptable – it does not negatively impact the existing or neighbouring properties in any way. There are no undue impacts in terms of overshadowing, overlooking or visual amenity. I see no reason to attach a condition restricting the use of the attic for storage purposes only.
- 7.2.6. Likewise, the existing dwelling as extended to the rear causes no undue impacts on residential amenity or visual amenity. The rooflights on the western elevation would not cause undue overlooking of the appellants site. They are indicated on the plans as being removed however and therefore any condition to grant is subject to their removal.

### 7.3. **Appropriate Assessment**

- 7.3.1. The subject site immediately adjoins two designated sites Omey Island Machair SAC (site code: 001309) and the Inishbofin, Omey Island and Turbot Island SPA(004231). Indeed, the boundaries of both appear to purposefully avoid the plots of development on the island. A third site (West Connaught Coast SAC (002998) lies 0.4km to the site.
- 7.3.2. For Omey Island Machair SAC the qualifying interests are *Machairs, Hard Water Lakes and Petalwort* and for West Connaught Coast SAC it is the *Common Bottlenose Dolphin*. In regard to Inishbofin, Omey Island and Turbot Island SPA the qualifying interest in the *Corncrake*.
- 7.3.3. Potential pathways for indirect effects on the qualifying interests would arise in the form of deterioration of surface water quality resulting from pollution, associated with the construction and operational phase of the development. During the operational phase in accordance with best practice there should be no significant impact based

on the proper installation and maintenance of the sewage treatment systems according to the EPA regulations.

- 7.3.4. Having regard to nature and scale of the development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 8.0 Recommendation

- 8.1.1. It is recommended that permission to retain be granted subject to conditions for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

- 9.1 Having regard to the zoning objective of the area, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development to be retained would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development for which permission to retain is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

- 1 The development shall be retained in accordance with the plans and particulars lodged with the application, as amended by the further information submitted to the Planning Authority on the 30<sup>th</sup> day of October 2019, except as may otherwise be required in order 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 particulars.

**Reason:** In the interest of clarity.

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Gillian Kane  
Senior Planning Inspector

06 March 2020