



An  
Bord  
Pleanála

## Inspector's Report ABP-310364-21.

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<b>Development</b>	Permission to restore and extend existing semi-ruinous house including a WWTP system.
<b>Location</b>	Keerhaun South, Co. Galway.
<b>Planning Authority</b>	Galway County Council.
<b>Planning Authority Reg. Ref.</b>	21/334.
<b>Applicant(s)</b>	M. McDonnell.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	M. McDonnell.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	15 <sup>th</sup> July 2021.
<b>Inspector</b>	A. Considine.

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## 1.0 Site Location and Description

- 1.1. The subject site is located within the rural area, approximately 3.7km to the west of the village of Ballyconneely, in west Connemara, Co. Galway in the townland of Keeraun South, and approximately 90km west of Galway City. The area is served by a large number of small local roads and a small number sporadic housing. Ballybwee Lough lies approximately 80m to the south of the site boundary. There are two existing houses located to the south of the subject site and an unoccupied house to the west.
- 1.2. Access to the site is off the local road and over a small breen/laneway which comprises a gravelled surface for a distance of approximately 24m, to the entrance of the second of the existing houses located to the south of the subject site. Beyond this entrance, the grassy breen extends for approximately 50m before reaching the existing gate to the site.
- 1.3. On the date of my site inspection, I chatted with two gentlemen who advised me that they are the last remaining full-time residents in the area. They showed me the way to the subject site and chatted about the history of this 'village' area. The existing houses to the south of the subject site are occupied as a holiday homes, as are the other houses in the wider area. To the west of the subject site, there is another unoccupied house.
- 1.4. The site has a stated area of 0.4494ha and comprises a number of small fields which are enclosed by dry stone walls. The ground is undulating, reflective of the wider landscape of this area of Connemara. There are some rock outcrops evident on the site as well as rushes in areas of the site rendering it somewhat wet and marshy.

## 2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices, to (1) restore and extend existing semi- ruinous farm cottage for habitable use. The works will involve
  1. minor external alterations to elevations including replacement of roof
  2. internal refurbishment to cottage

3. installation of new proprietary sewerage treatment system with filter area as well as all associated site works.

This planning application is accompanied by an NIS as required under Article 239 of the Planning & Development Regulations, 2001, as amended. Gross floor space of proposed works: 4.00m<sup>2</sup>. Gross floor space of retained works: 32.00m<sup>2</sup> all at Keerhaun South, Co. Galway.

2.2. The application included a number of supporting documents including as follows:

- Plans, particulars and completed planning application form
- Cover letter which sets out a summary of the property history.
- Natura Impact Statement
- Construction and Environmental Management Plan (Draft CEMP)
- Letter from property owner giving permission to apply for planning permission.
- Letter from GWS
- Structural Report and Construction / Augmentation Management Plan
- Design Statement
- Site Characterisation form
- Tricel Site Recommendation Report

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority decided to refuse planning permission for the proposed development for the following stated reasons:

1. The proposed development is located in a Class 5 (Unique) rural landscape at Keerhaun South, Ballyconneely, where special planning controls exist, and where housing needs are restricted to essential residential needs of local households and family farm businesses. Having regard to the requirements of Objective RHO 3 and DM Standard 39 of the Galway County Development Plan, 2015 – 2021, and on the basis that no housing need documentation has

been included with the planning application, it is considered the applicant has not demonstrated long standing local intrinsic rural links to the area, and therefore does not meet the housing need criteria to build a new house in this rural area. Accordingly, to grant the proposed development would contravene materially objectives and a development management standard contained in the county development plan, would be contrary to the Sustainable Rural Housing Guidelines, and therefore, would be contrary to the proper planning and sustainable development of the area.

2. The narrow private boreen roadway to the site of the proposed development is located outside the defined boundaries of the site and is considered to be substandard as it is seriously deficient in terms of its surface, width, alignment and carrying capacity, rendering it unsuitable to carry the increased road and pedestrian traffic likely to result from the proposed development. Accordingly, to grant the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise and would be contrary to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planning report<sup>1</sup> considered the proposed development in the context of the details submitted with the application and the County Development Plan policies and objectives. The report includes a section on Appropriate Assessment, noting that an NIS was submitted with the application, and Flood Risk Assessment section. The Planning Report notes the relevant objectives of the CDP, including Objective RH) 7 – Renovating existing derelict dwelling / semi-ruinous dwelling.

The report concludes that proposed development is not acceptable, and the Planning Officer recommends that permission be refused for the proposed development for two stated reasons relating to rural housing policy objectives and the condition of the private boreen / access.

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<sup>1</sup> The Board will note that there are 2 pages of the Planning Officers report missing from the file – Page 2 which describes the site location / road type, adjoining development and FRA and Page 4 which notes the water supply proposal, the design, planning history and consultations. Page 4 also notes that the access to the site is substandard and not suitable for vehicular traffic.

This Planning Report formed the basis of the Planning Authority's decision to refuse planning permission.

### 3.2.2. **Other Technical Reports**

None.

### 3.2.3. **Prescribed Bodies**

None.

### 3.2.4. **Third Party Submissions**

None

## 4.0 **Planning History**

None.

## 5.0 **Policy and Context**

### 5.1. **Sustainable Rural Housing Guidelines 2005**

5.1.1. The Rural Housing Guidelines seek to provide for the housing needs of people who are part of the rural community in all rural areas and makes a distinction between 'Urban Generated' and 'Rural Generated' housing need. Chapter 3 relates to Rural Housing and the Development Plan and Section 3.2.2, which deals with Holiday Homes and Second Home Development suggest that in areas experiencing significant demand for holiday and second home development, development plans might include objectives and policies to the effect that:

- Proposals to reinstate, conserve and or replace existing, ruinous or disused dwellings will be looked on favourably by the planning authority subject to satisfying normal planning considerations relating to the provision of safe access and the design and provision of any necessary wastewater disposal facilities<sup>2</sup>.

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<sup>2</sup> I note this reference to 'ruinous or disused dwellings' as it is the only place in the guidelines where such properties are discussed. I would also note that the Galway County Development Plan includes Objective RHO7, which deals with the Renovation of Existing Derelict Dwelling/Semi Ruinous Dwelling

- 5.1.2. Chapter 4 of the guidelines relates to rural housing and planning applications and states that in areas under significant urban influence, applicants should outline how their proposals are consistent with the rural settlement policy in the development plan. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply, including 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.
- 5.1.3. The Guidelines further require that new houses in rural areas be sited and designed in a manner so as to integrate well with their physical surroundings and generally be compatible with water protection, roads, traffic and public safety as well as protecting the conservation of sensitive areas.

## 5.2. Development Plan

- 5.2.1. The Galway County Development Plan 2015-2021 is the relevant policy document relating to the subject site. The site is located outside the development boundary for any identified settlement in the area and lies within a Structurally Weak Area.
- 5.2.2. Section 3.8.2 of the Galway CDP deals with structurally weak rural areas, noting that in this rural area type, the key objectives of the Council are:
- To accommodate residential development proposals as they arise subject to satisfactory site suitability and technical considerations;
  - To accommodate residential development proposals in accordance with Chapter 13 (Development Management Standards and Guidelines);
  - To maintain and strengthen existing towns and villages and to direct urban generated housing demand into these areas;
  - To protect areas located in Landscape Category 3, 4 and 5.

The subject is also located within Zone 3 – Landscape Category 3-5.

- 5.2.3. The site is located in the Landscape Character Area 19 – West Coast (Gorteen bay to Clifden) and within an area with a designated landscape value rating as 'Outstanding. The landscape sensitivity is classed as 5 – 'Unique'.
- 5.2.4. In this regard, the following Objectives are relevant:



### **Objective RHO 2 - Rural Housing Zone 2 (Structurally Weak Area)**

It is an objective of the Council to facilitate the development of individual houses in the open countryside in "Structurally Weak Areas" subject to compliance with normal planning and environmental criteria and the Development Management Standards and Guidelines outlined in Chapter 13 and other applicable standards with the exception of those lands contained in Landscape Categories 3, 4 and 5 where objective RHO3 applies.

### **Objective RHO 3 - Rural Housing Zone 3 (Landscape Category 3, 4 and 5)**

Those applicants seeking to construct individual houses in the open countryside in areas located in Landscape Categories 3, 4 and 5 are required to demonstrate their Rural Links\* to the area and are required to submit a Substantiated Rural Housing Need\*. In addition, an Applicant may be required to submit a visual impact assessment of their development, where the proposal is located in an area identified as "Focal Points/Views" in the Landscape Character Assessment of the County or in Class 4 and 5 designated landscape areas. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case-by-case basis. An Enurement condition shall apply for a period of 7 years, after the date that the house is first occupied by the person or persons to whom the Enurement clause applies.

- 5.2.5. In addition to the above, and having regard to the nature of the proposed development, being the restoration and refurbishment of an existing cottage,

**Objective RHO7 - Renovation of Existing Derelict Dwelling/Semi Ruinous Dwelling**, is relevant, and states as follows:

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 the 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.

- 5.2.6. Section 9.4 of the Galway County Development Plan deals with Built Heritage and section 9.4.5 relates to vernacular architecture noting that:

Vernacular architecture refers to the traditional building forms and types built using local materials, skills and building techniques which form a vital component of the landscape. This includes traditional domestic buildings such as thatched cottages but could also include other traditional structures such as shopfronts, farmsteads, outbuildings, aspects of the industrial past, including lime kilns, mills, forges, and their products, such as gates. These structures reflect the unique local history and character of a place. The loss of vernacular architecture may not only result from the removal of whole buildings but also the gradual attrition of details such as the replacement of roof coverings and openings with inappropriate materials. Any changes proposed to a vernacular structure should be sympathetic to its special features and its character while ensuring its continued use.

#### **Objective AH 6 – Vernacular Architecture**

Recognise the importance of the contribution of vernacular architecture to the character of a place and ensure the protection, retention and appropriate revitalisation and use of the vernacular, built heritage, including structures that contribute to landscape and streetscape character and resist the demolition of these structures.

- 5.2.7. **Objective RHO 12 - Waste Water Treatment Associated with Development in Un-Serviced Areas**

Permit development in un-serviced areas only where it is demonstrated to the satisfaction of the Planning Authority that the proposed wastewater treatment system is in accordance with the Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses EPA (2009)/ EPA Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business,

Leisure Centres and Hotels (1999) (or any superseding documents) and subject to complying with the provisions and objectives of the EU Water Framework Directive.

### **5.3. Natural Heritage Designations**

The site is not located within any designated site. The closest Natura 2000 site is the Slyne Head Peninsula SAC (Site Code 002074), is located approximately 5m from the site at its closest point. This SAC encircles the subject site and includes part of the public road which is used to access the site.

The Board will note that the applicant submitted an NIS following a request for further information from the PA. I will address this issue further in my assessment below.

### **5.4. EIA Screening**

- 5.4.1. The subject appeal does not relate to a class of development which requires mandatory EIA.
- 5.4.2. Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) sets out the class of developments which provide that mandatory EIA is required. The proposed development is not of a scale or nature which would trigger the need for a statutory EIAR. It is therefore considered that the development does not fall within any cited class of development in the P&D Regulations and does not require mandatory EIA.
- 5.4.3. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

5.4.4. Having regard to:

- (a) the nature and scale of the development, and
- (b) the location of the development, although close to, but outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded that 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. This is a first party appeal, submitted by Hanley Taite Design Partnership, Architects & Design Consultants (agent), against the decision of the Planning Authority to refuse planning permission for the proposed development. The appeal document sets out a background to the making of the application, noting that the applicant has strong local connections to the site having direct family members residing in the Ballyconneely area and associations with family in the wider Connemara area for generations. It is submitted that the small farm holding on which he seeks permission is in his family ownership for over 20 years. The issues raised are summarised as follows:

- The applicant seeks to create a humble residence suitable to modern living, while contributing to the preservation of a unique historic farm settlement. Galway CDP Objective RHO7 is seen as a positive aspiration to protect the dwindling vernacular and important heritage.
- In terms of the decision to refuse, it is contended that due regard was not given to the principal basis on which the planning application was made being in compliance with Objective RHO7 of the CDP. While the applicant has strong family links to the area, as the proposed development complies with the development plan objective, no material demonstrating long standing intrinsic rural links to the area were considered necessary.

- The Planning Authority evaluated the application under Objective RHO3.
- There was a number of engagements with the Planning Authority both at pre-planning and during the application stage.
- In terms of justifying the consideration of the application under RHO7, the appeal submits as follows:
  - The subject building is an uninhabited dwelling, the use of which has neither been extinguished or superseded by another use.
  - The development description seeks to restore and extend existing semi-ruinous farm cottage.
  - The requirements of RHO7 have been met, including the submission of a structural report.
  - The application included a property history summary indicating the use of the building as a dwelling up to the 1970s.
  - A design statement was submitted with the application and related to the refurbishment of an existing uninhabited cottage, and notes satisfaction with policy RHO7. The statement also notes a number of precedent cases.
  - The structure can be brought back into habitable use without compromising the character of the dwelling as the walls are structurally sound and the roof timbers are in relatively good condition. The existing chimney is still in place within the house.
  - Photographic evidence submitted demonstrating that the building was a dwelling.
- The appeal includes a number of precedent cases for the renovation of existing ruinous or semi-derelict buildings.
- With regard to the adequacy of the access lane for vehicular traffic, the appeal submits as follows:
  - The application proposes that the dwelling be accessed via an existing laneway, part of which is within the applicants' ownership and part right of way.

- The length of the laneway from the dwelling to its junction with the public road is approximately 45m, with a width which does not reduce to less than 2.5m and the gradient of which does not exceed 1:12 at any point.
- While the surface is overgrown through infrequent use, the substrate which forms the original laneway dates from pre-1837.
- Historical maps evidence of the existence of the laneway since at least the early 1800s and the laneway is still used by farm vehicles.
- Photographic evidence was submitted showing a van parked adjacent to the dwelling to show that the site is accessible.
- The laneway is established between two historically constructed dry stone walls and indents in the grass surface is evidence of tracks from irregular passage of vehicles.
- Precedent cases noted with regard access to sites noted.

The appeal submission concludes that Galway County Council adopted an unreasonable approach in determining that the application should be refused. It is submitted that sufficient information was provided to satisfy compliance with policy RHO7 and that there is no material contravention of the CDP. It is requested that permission be granted.

The Appeal includes a number of enclosures.

## 6.2. **Planning Authority Response**

None.

## 6.3. **Observations**

None.

## 7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development & Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards
2. Roads & Traffic Issues
3. Visual Impacts
4. Site Suitability Issues
5. Other Issues

### 7.1. Principle of the development:

7.1.1. The subject site is located within the rural area, approximately 3.7km to the west of the village of Ballyconneely, in west Connemara, Co. Galway in the townland of Keeraun South, and approximately 90km west of Galway City. The site is within an area identified as being Structurally Weak in the Galway County Development Plan 2015-2021. In addition, the site is located within a landscape category 5 area. There is a presumption against development in such areas save for in instances where it can be demonstrated that an applicant complies with the Planning Authority's policies relating to the rural area. Should the Board be minded to grant planning permission in this instance it should be satisfied that the appellant adequately complies with the requirements of these stated policies, as well as National Policy Objective 19 of the National Planning Framework.

7.1.2. Objective 19 of the National Planning Framework seeks to ensure that in rural areas under urban influence, the provision of single housing in the countryside will be based on the core consideration of demonstratable economic or social need to live in a rural area, while in other rural areas, the NPF seeks to facilitate the provision of

single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans..... having regard to the viability of smaller towns and rural settlements. The Galway County Development Plan also seeks to facilitate the development of individual houses in the open countryside in "Structurally Weak Areas" subject to compliance with normal planning and environmental criteria and the Development Management Standards and Guidelines outlined in Chapter 13, Objective RHO2 applies.

- 7.1.3. In addition to the above, the Board will note that the site is located within a Landscape Category 5 area and as such, Objective RHO3 is applicable in this instance. In such landscapes, applicants are required to demonstrate their rural links to the area and are required to detail a substantiated rural housing need. I also note the requirements of DM Standard 39 of the CDP which deals with Compliance with Landscape Sensitivity Designations. As the site is located within a Class 5 – Unique landscape, the Plan notes that 'negligible alterations will be allowed only in exceptional circumstances.'
- 7.1.4. In terms of the subject development, the Board will note that the proposal is for the renovation of an existing semi-ruinous vernacular dwelling. As such, Objective RHO7 of the Galway County Development Plan is relevant. This objective requires that 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 has also been submitted with the application illustrating that the structure can be brought back into habitable use and given the nature of the works proposed, I would be satisfied that the original character of the dwelling will not be compromised.
- 7.1.5. I note that the first reason for refusal from Galway County Council states that it is considered that that the applicant does not comply with the requirements of Objective RHO3, on the basis that no housing need documentation was included with the planning application. The decision considered that the applicant has not demonstrated long standing local intrinsic rural links to the area and therefore does not meet the housing need criteria to build a new home in the area. I consider the thrust of the requirements of Objective RHO3 to be logical, appropriate and in accordance with national policy. However, I note that the proposed development does not seek to construct a new dwelling on the site *per se*. Rather, it is proposed



to renovate and restore an old established traditional cottage dwelling, without any significant extensions or alterations which might compromise the character of the building.

- 7.1.6. I have noted all of the reports and submissions on the Planning Authority file, and I would agree with the applicant that the structure the subject of this application was clearly previously used as a dwelling. I do note that the external chimney has been removed but the remaining features of the building, including the windows and door, roof timbers and internal plaster, as well as the fireplace, in my opinion, clearly suggest a former residential use. Having regard to the information submitted in support of the proposed development, I am generally satisfied that the proposal accords with the requirements of Objective RHO7 of the Galway County Development Plan.
- 7.1.7. I am further satisfied, that the proposed works to the existing building can reasonably be described as being 'negligible' in accordance with the requirements of DM Standard 39 of the CDP, given the location of the site within a Class 5 – Unique landscape. I would accept that the applicant has not provided evidence to suggest a local rural housing need to reside in this area but given that there is no proposal to demolish an existing dwelling, no enurement clause would be applicable in this instance. I am satisfied that the proposal to renovate, restore and modify the existing semi-derelict dwelling is acceptable under the provisions of Objective RHO7 of the Galway County Development Plan.
- 7.1.8. The question, therefore, is whether the provisions of Objective RHO7 of the CDP would override the need for compliance with the rural housing need criteria to build a new home in the area in accordance with the requirements of Objective RHO3 of the CDP. While I accept that the cottage to be restored will require the installation of both electricity and water services, in principle, I do not see that the proposal requires the construction of a new house in the Class 5 landscape. If this is accepted, then the need to demonstrate rural links and substantiate a rural housing need is not necessary.
- 7.1.9. I am further satisfied that the proposal to protect and revitalise the vernacular building accords with the provisions of Objective AH6 – Vernacular Architecture included in the Galway County Development Plan. The subject building is identified

on historic maps within the small 'clachan' at this location, and I am generally satisfied that the proposal to restore and refurbish the cottage is acceptable in principle. Accordingly, I am satisfied that to grant the proposed development would not materially contravene objectives or development management standards contained in the Galway County Development Plan and would not be contrary to the proper planning and sustainable development of the area.

## **7.2. Roads & Traffic Issues**

- 7.2.1. The Board will note that the PAs second reason for refusal relates to the access to the site, which is considered to be substandard. The deficiencies in terms of surface, width, alignment and carrying capacity are noted and it is deemed unsuitable to carry the increased road and pedestrian traffic likely to result from a grant of planning permission. It is considered by the PA that the development would give rise to a traffic hazard or obstruction of road users and would be contrary to the proper planning and sustainable development of the area. I also note the comments in the submitted first party appeal in response to this issue.
- 7.2.2. It is submitted that the dwelling will be accessed via an existing laneway, part of which is located within the applicants' landholding and part of which includes a right-of way with an entitlement to upgrade as necessary. It is noted that the substrate which forms the original laneway dates from pre-1837. In addition, the laneway width does not reduce to less than 2.5m at any point along its length while the gradient does not exceed 1:12. I also note that the laneway continues to be used by farm vehicles, and I would accept that the laneway was used to access the site for the excavation of trial holes in recent times, without any obvious difficulty. While I acknowledge that the surface of the laneway is currently overgrown and under grass, I would accept the historical presence of the access, contained within two dry stone walls.
- 7.2.3. In terms of the proposed access, I would acknowledge the concerns of the planning authority. However, given the nominal scale of the works proposed, together with the nature of the works proposed and the very lightly trafficked nature of the road network in this area of Connemara, I would not consider that a grant of planning permission would give rise to such traffic hazard or obstruction of road users as to endanger public safety in principle.

7.2.4. I would have some concerns however, regarding the nature of the surface finish proposed by the applicant for the laneway. The submitted plans suggest that the driveway will be finished in tarmac which will extend from adjacent to the entrance to the existing house to the south of the site and for a distance of approximately 30m beyond the house to the north, covering a total length of approximately 95m. My concerns lie in the visual impact the driveway will have within this landscape, if finished in tarmac. In the event of a grant of planning permission, the finish of the laneway should be addressed by way of condition to exclude a dark tarmac finish and to replace it with a gravel finish with potential for a grassed centre, which will better reflect the existing roads in the area and minimise the visual impact of the access. Also, the driveway should not extend beyond the provision of two car parking spaces to the front of the cottage, again, in the interest of visual amenity and to protect the unique landscape in which the site lies.

### 7.3. Visual Impacts

- 7.3.1. The proposed development seeks permission to renovate a currently semi-ruinous dwelling house on the site. This area of Connemara is sparsely populated and while I noted a small number of existing houses in the area, the majority are single storey houses or older cottages. The site is located in the Landscape Character Area 19 – West Coast (Gorteen bay to Clifden) and within an area with a designated landscape value rating as ‘Outstanding. The landscape sensitivity is classed as 5 – ‘Unique’. The site is not located on an elevated position and the existing house is set back from the adjacent public road network.
- 7.3.2. Having regard to the nature of the works proposed, I have no objections in principle to the proposed design as submitted and consider that the scale and proposed materials are acceptable at this location.
- 7.3.3. In terms of the requirements of the CDP with regard to house design and siting, Objective RHO9 is considered relevant, which states that it is an objective of the Council to have regard to the Council’s Design Guidelines for Single Rural Houses with specific reference to the following:

- (a) It is an objective to encourage new dwelling house design that respects the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape.
- (b) It is an objective to promote sustainable approaches to dwelling house 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.

7.3.4. Given that the proposal before the Board is for the renovation and minor extension of an existing cottage, and not the construction of a new dwelling, I am generally satisfied that the development reasonably accords with the above requirements. I would also consider that the overall proposed works to the cottage and the proposed materials to be employed generally reflects the character and development pattern in the immediate vicinity. That said, I have already raised my concerns in terms of the potential visual impact associated with the driveway as proposed above.

7.3.5. Having regard to the above, I am satisfied that the proposed development could be accommodated on the site without contravening the relevant provisions of the Galway County Development 2015-2021, including Objectives RHO9, LCM 1 and LCM 2 and DM Standard 6, subject to amendments to the finish and length of the driveway as proposed.

#### **7.4. Site Suitability Issues**

7.4.1. In terms of site suitability, the Board will note that the proposed development is to be served by a private wastewater treatment system, and it is intended to install an Tricel Novo Package Plant which will discharge via pump to a raised soil polishing filter. The soil polishing filter will have a stated area of 40m<sup>2</sup>. It is also noted that the house is to be serviced via the mains water supply.

7.4.2. Having considered the information provided with regard to the proposed development, I am satisfied that the applicant submitted a robust and complete site assessment regarding its suitability in terms of the treatment and disposal of wastewater generated on the site. The site assessment appears to have been carried out by a suitably qualified professional. I note that the trial hole was dug to a

depth of 1.3m in February 2021 and the watertable was encountered at a depth of 1.15m from the ground surface. The applicant included photographs of the test holes dug out at the site. In the context of the subject site, I would advise that there is not a high concentration of houses with individual WWTPs.

- 7.4.3. The Site Assessment Report notes that the bedrock was not encountered in the trial pits. The assessment identifies that the site is located in an area where there is no Groundwater Protection Scheme. The site is categorised as being a Locally Important Aquifer (LI) and has a high vulnerability. A Groundwater Protection Reuse of R2<sup>1</sup> is indicated. The soil is described as AminDW – Deep well drained mineral (Mainly acidic) AminPD - Mineral and the bedrock type is Igneous Intrusive Rocks. The report notes that bedrock outcrops are present within the site and no surface water ponding were noted. Stone walls and a timber fence comprise the site boundaries.
- 7.4.4. \*T tests were carried out on the site at a level of 0.7m bgl, yielding an average value of 25.33 and a \*T result of 13.17. \*P tests were also carried out at the site at a level of 0.4m bgl, yielding an average value of 13.00 and a \*P result of 9.83. The report concludes, recommending a packaged wastewater treatment system and polishing filter, with a PE of 6. The Site Characterisation Report recommends that a soil filter system, with an area of 40m<sup>2</sup>, and an invert level of 15.80m, be constructed and the system will discharge to groundwater at a hydraulic loading rate of 20l/m<sup>2</sup>.d.
- 7.4.5. Overall, I am satisfied that the applicant has submitted a robust and complete site suitability assessment regarding the suitability of the proposed site in terms of the treatment and disposal of wastewater generated on the site. I am generally satisfied that the site appears capable of accommodating the development in the context of wastewater treatment and disposal in principle.

## 7.5. Other Issues

### 7.5.1. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect, in accordance with the Development Contribution Scheme 2016, revised August 21<sup>st</sup> 2019 should be included in any grant of planning permission.

## 8.0 Appropriate Assessment

### 8.1. Introduction:

- 8.1.1. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.
- 8.1.2. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The proposed development is not directly connected with or necessary to the management of a European site. The Board will note that a Natura Impact Statement (NIS) was submitted as part of documentation for permission for the proposed development to assess the likely or possible significant effects, if any, arising from the proposed development on any European site.
- 8.1.3. In accordance with these requirements the Board, as the competent authority, prior to granting a consent must be satisfied that the proposal individually or in combination with other plans or projects, is either not likely to have a significant effect on any European Site or adversely affect the integrity of such a site, in view of the site(s) conservation objectives.
- 8.1.4. Guidance on Appropriate Assessment is provided by the EU and the NPWS in the following documents:
- Assessment of plans and projects significantly affecting Natura 2000 sites – methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001).
  - Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG), 2009.

Both documents provide guidance on Screening for Appropriate Assessment and the process of Appropriate Assessment itself.

## 8.2. Screening for Appropriate Assessment

- 8.2.1. The subject site lies within 5m of the boundary of the Slyne Head Peninsula SAC (&pNHA), (Site Code 002074). The Board will note that there appears to be a small section of text missing from the top of Page 4 of the NIS, Section 2.1.1 – as it relates to the methodology associated with Stage 1 – Screening for Appropriate Assessment, but the omission is not fatal to the completeness or robustness of the document as a whole.
- 8.2.2. Figure 3-1 of the submitted NIS (Stage 1 - Screening for AA) includes a summary of the European Sites located within 15km of the site, 17 in total, and presents the details of the habitats and qualifying interests associated with each of the sites. This figure also notes the distance of each site from the proposed development and notes the potential for connectivity between them.
- 8.2.3. The AA Screening Assessment concludes that the following sites can be screened out in the first instance, primarily for lack of relevant connectivity and the distance:
- Slyne Head Islands SAC (Site Code: 000328)
  - Connemara Bog Complex SAC (Site Code: 002034)
  - Murvey Machair SAC (Site Code: 002129)
  - Dogs Bay SAC (Site Code: 001257)
  - Cregduff Lough SAC (Site Code: 001251)
  - Twelve Ben's / Garraun Complex SAC (Site Code: 002131)
  - Kingstown Bay SAC (Site Code: 002265)
  - West Connacht Coast SAC (Site Code: 002998)
  - Barnahalia Lough SAC (Site Code 002118)
  - Omev Island Machair SAC (Site Cide: 001309)
  - Aughrushbeg Machair and Lake SAC (Site Code: 001228)
  - Inishbofin, Omev Island and Turbot Island SPA (Site Code: 004231)
  - High Island, Inisark and Davillaun SPA (Site Code: 004144)
  - Cruagh Island SPA (Site Code: 004170)

- Connemara Bog Complex SPA (Site Code: 004181)
- Slyne Head to Ardmore Point Islands SPA (Site Code: 004159)

The NIS identifies that the following Natura 2000 site lies proximate to the subject site and is screened in for the purposes of AA Screening:

- Slyne Head Peninsula SAC (Site Code 002074) which lies approximately 5m from the site at its closest point to the north.

8.2.4. Section 4 of the NIS sets out a description of the proposed development site and includes details of the existing habitats and flora present on the site. Section 5 presents the Screening Assessment and concludes that no significant effects are expected on the qualifying interests or conservation objectives of the above Natura 2000 Sites as a result of the proposed development, either alone or in combination with other plans and projects. The report notes the proximity of the site to the Slyne Head Peninsula SAC (Site Code 002074) and concludes that as best practice construction measures are required, the project must be considered under Stage 2 of the Appropriate Assessment process.

### 8.3. **Natura Impact Statement**

8.3.1. The Natura Impact Statement (NIS, dated 25<sup>th</sup> February 2021) examined the potential impacts of the proposed development on the following European Site:

- Slyne Head Peninsula SAC (Site Code 002074)

8.3.2. Having reviewed the NIS and supporting documentation and relevant submissions, and having undertaken a site inspection, I am satisfied that the following identified sites can be screened out in the first instance, as they are located outside the zone of significant impact influence because the ecology of the species and / or the habitats in question is neither structurally nor functionally linked to the proposal site. There is no potential impact pathway connecting the designated sites to the development site and therefore, it is concluded that no significant impacts on the following sites is reasonably foreseeable based on the sites Conservation Objectives, Qualifying and Special Qualifying Interests. I concur with the applicants' determination in relation to the following 16 Natura 2000 sites:

- Slyne Head Islands SAC (Site Code: 000328)



- Connemara Bog Complex SAC (Site Code: 002034)
- Murvey Machair SAC (Site Code: 002129)
- Dogs Bay SAC (Site Code: 001257)
- Cregduff Lough SAC (Site Code: 001251)
- Twelve Ben's / Garraun Complex SAC (Site Code: 002131)
- Kingstown Bay SAC (Site Code: 002265)
- West Connacht Coast SAC (Site Code: 002998)
- Barnahalia Lough SAC (Site Code 002118)
- Omev Island Machair SAC (Site Cide: 001309)
- Aughrushbeg Machair and Lake SAC (Site Code: 001228)
- Inishbofin, Omev Island and Turbot Island SPA (Site Code: 004231)
- High Island, Inisark and Davillaun SPA (Site Code: 004144)
- Cruagh Island SPA (Site Code: 004170)
- Connemara Bog Complex SPA (Site Code: 004181)
- Slyne Head to Ardmore Point Islands SPA (Site Code: 004159)

8.3.3. I am satisfied that a Stage 2 Appropriate Assessment is required for the following European Site on the basis of the proximity of the site to the appeal site and the potential for indirect impacts to water quality arising:

- Slyne Head Peninsula SAC (Site Code 002074)

8.3.4. I am satisfied that the submitted NIS provides adequate information in respect of the site, clearly identifies the potential impacts, and uses best scientific information and knowledge. Section 6 of the NIS presents an Assessment of Likely Effects on European Sites, while Section 6.3 sets out the Best Practice Measures to be employed in the development of the site – again, the Board will note that there are sections of text missing from the submitted document (and the same omissions are contained within the documents uploaded to the Galway County Council website). The NIS concludes, at Section 6.4, that, with the implementation of best practice measures and mitigation as outlined in Section 6.3 of the NIS, on the basis of

objective scientific information, that the proposed plan, individually or in combination with other plans or projects, will not adversely affect the integrity of the European Sites.

8.3.5. The Board will note that the manner in which the NIS was submitted, to both the PA and the Board, made the reading of the document difficult. I also noted that a number of pages had certain text missing, while a number of the tables included in the document were also cropped with text missing. In terms of the best practice and mitigation however, I refer the Board to the submitted Construction and Environmental Management Plan, which includes the detail of the measures. Overall, I am satisfied that the information is sufficient to allow for Appropriate Assessment of the proposed development.

#### 8.4. Consultations and Observations

In the course of the assessment of the proposed development, I note that there were no comments from Council departments or third-party observations with regard to AA.

#### 8.5. Stage 2 Appropriate Assessment

##### 8.5.1. Qualifying Interests

The Qualifying Interests for the relevant European Site are set out below.

European Site	Qualifying Interests
<b>Slyne Head Peninsula SAC (Site Code 002074)</b>	1150 Coastal lagoons 1160 Large shallow inlets and bays 1170 Reefs 1210 Annual vegetation of drift lines 1220 Perennial vegetation of stony banks 1330 Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritimae</i> ) 1395 Petalwort <i>Petalophyllum ralfsii</i>

	<p>1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p> <p>1833 Slender Naiad <i>Najas flexilis</i></p> <p>2110 Embryonic shifting dunes</p> <p>2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)</p> <p>21A0 Machairs (* in Ireland)</p> <p>3110 Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>)</p> <p>3140 Hard oligo-mesotrophic waters with benthic vegetation of <i>Chara</i> spp.</p> <p>4030 European dry heaths</p> <p>5130 <i>Juniperus communis</i> formations on heaths or calcareous grasslands</p> <p>6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites)</p> <p>6410 <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>)</p> <p>6510 Lowland hay meadows (<i>Alopecurus pratensis</i>, <i>Sanguisorba officinalis</i>)</p> <p>7230 Alkaline fens</p>
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### 8.5.2. Conservation Objectives:

8.5.2.1 The Slyne Peninsula SAC comprises the peninsula west of Ballyconneely, Co. Galway. It extends northwards to Errislannan Point to include the shallow waters of Mannin Bay. The peninsula is low-lying and undulating, reaching a maximum height of only 64 m (Doon Hill). The underlying rock is predominantly gneiss, except for schist along the northern shores of Mannin Bay, a granite ridge along the western edge of the peninsula and a conspicuous basalt exposure which forms Doon Hill.

8.5.2.2 The peninsula is fringed with rocky shores and sandy beaches, with some extensive areas of machair and several brackish lakes and lagoons. Inland, the site is a maze of small fields, supporting a mosaic of habitats dominated by grassland and heath, interspersed with numerous lakes and associated swamp, marsh and fen. An important feature of the site is the influence of windblown calcareous sand on these habitats. It is noted that this SAC overlaps with Slyne Head to Ardmore Point Islands SPA (004159). It adjoins Slyne Head Islands SAC (000328) and West Connaught Coast SAC (002998).

8.5.2.3 Detailed Conservation Objectives for the Slyne Head Peninsula SAC (Site Code 002074) are included in the NPWS Conservation Objectives Series for the site, dated February 2015, with the overall objective being to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been designated. The Conservation Objectives for the designated site are as follows:

European Site	Conservation Objectives
<p><b>Slyne Head Peninsula SAC (Site Code 002074)</b></p> <p>Located approx. 5m from the subject development site</p>	<ul style="list-style-type: none"> <li>• The NPWS has identified a site-specific conservation objective to <b>restore</b> the favourable conservation condition of the following Annex I habitat listed as a Qualifying Interest, as defined by a list of attributes and targets:               <ul style="list-style-type: none"> <li>○ Coastal lagoons [1150]</li> <li>○ Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330]</li> <li>○ Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> <li>○ Embryonic shifting dunes [2110]</li> <li>○ Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</li> <li>○ Machairs (* in Ireland) [21A0]</li> </ul> </li> <li>• The NPWS has identified a site-specific conservation objective to <b>maintain</b> the favourable conservation condition of the following Annex I habitat listed as a Qualifying Interest, as defined by a list of attributes and targets:</li> </ul>

	<ul style="list-style-type: none"> <li>○ Large shallow inlets and bays [1160]</li> <li>○ Reefs [1170]</li> <li>○ Annual vegetation of drift lines [1210]</li> <li>○ Perennial vegetation of stony banks [1220]</li> <li>○ Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110]</li> <li>○ Hard oligo-mesotrophic waters with benthic vegetation of <i>Chara</i> spp. [3140]</li> <li>○ European dry heaths [4030]</li> <li>○ <i>Juniperus communis</i> formations on heaths or calcareous grasslands [5130]</li> <li>○ Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</li> <li>○ <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]</li> <li>○ Lowland hay meadows (<i>Alopecurus pratensis</i>, <i>Sanguisorba officinalis</i>) [6510]</li> <li>○ Alkaline fens [7230]</li> <li>○ Petalwort <i>Petalophyllum ralfsii</i> [1395]</li> <li>○ Slender Naiad <i>Najas flexilis</i> [1833]</li> </ul>
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### 8.5.3. Potential Significant Effects

The NIS submits that as the subject site, and proposed works, are located outside the boundary of any European Site, there is no potential for direct effects on the Qualifying Interests of the sites, with mitigation in place. With regard to the consideration of a number of key indications to assess potential effects, the following is relevant:

- Habitat loss / alteration / fragmentation: There shall be no direct loss / alteration or fragmentation of protected habitats within any Natura 2000 site.
- Water Quality: There is potential that aquatic habitats may be indirectly altered in the event of pollution or sediment runoff, primarily during

the construction phase. A reduction in water quality due to chemicals or other substances could potentially impact on the habitats that support aquatic species. No works are proposed within or immediately adjacent to the Natura 2000 site and the proposed development includes a number of best practice and mitigation measures which have been integrated into the proposal. The development will connect to the existing group water scheme and a new WWTP will be installed. No potential adverse effects are considered likely.

- Cumulative / in-combination Impacts: The NIS identifies a suite of plans and projects in the vicinity of the site which were considered in terms of in-combination impacts on the Natura 2000 sites. It is concluded that, subject to adherence with mitigation measures, there is no potential for adverse effects on any European Site.

#### **8.5.4. Mitigation Measures**

Mitigation and best practice measures are proposed to address the potential adverse effects of the development to ensure that the development will not adversely affect the identified European Sites or the conservation status of protected habitats and species they support. A Construction and Environmental Management Plan has also been compiled to oversee the development has also been prepared, which presents, in Section 4 of the document, details of the environmental best practice and mitigation measures in terms of Dust Management, Soil and Groundwater Contamination Control, Terrestrial Ecology Protection Protocols, Water Quality Protection, Noise and Vibration Control, Traffic Control, Waste Management Control, Chemicals and Hazardous Materials Management, Invasive Species, Emergency Management Plan, Construction Compound and Site Bounds.

The NIS also includes a suite of environmental measures which deal with runoff prevention, refuelling and hazardous material storage associated with the construction phase.

#### **8.5.5. Overall Appropriate Assessment Conclusion**

Having regard to the minimal nature of the subject development, the nature of the proposed development and its location within a rural area of County Galway, together with the details presented in the Natura Impact Statement, which I consider

adequate in order to carry out a Stage 2 Appropriate Assessment, I consider it reasonable to conclude on the basis of the information on the file, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the following Natura 2000 sites, or any other European site, in view of the sites Conservation Objectives:

- Slyne Head Peninsula SAC (Site Code 002074)

A Construction and Environmental Management Plan, which includes all mitigation and best practice measures identified in the NIS has been submitted with the application. A condition should be included in any grant of permission that this CEMP is submitted for the written agreement of the Planning Authority prior to the commencement of the development.

## 9.0 Recommendation

I recommend that planning permission be Granted for the proposed development for the following stated reason and subject to the following stated conditions.

## 10.0 Reasons and Considerations

Having regard to the pattern of development in the area, to the provisions of the Galway County Development Plan 2015-2021, and to the nature, layout and design of the proposed restoration and refurbishment of the existing cottage, the Board considered that, subject to compliance with the conditions set out below, the proposed development would accord with the requirements of Objective RHO7 – Renovation of Existing Derelict Dwelling / Semi Ruinous Dwelling and Objective AH6 – Vernacular Architecture as detailed in the Galway County Development Plan 2015-2021, would not seriously injure the residential or visual amenities of adjoining properties, would not seriously injure the residential amenities of future occupants and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.

2.
  - a) No permission is granted for the tarmac finish on the driveway as detailed in the submitted plans and particulars. An alternative finish to better reflect the existing character of the roads in the area shall be submitted for agreement.
  - b) The driveway shall not extend to the northern boundary of the subject site as indicated in the submitted plans but shall extend beyond the northern wall of the cottage to provide for a maximum of two car parking spaces only.

Prior to the commencement of any development on the site, the developer shall submit proposals to comply with the above for the written agreement of the Planning Authority.

**Reason:** In the interest of visual amenity and to protect the unique landscape in which the site lies.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.



3. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwelling house without a prior grant of planning permission.

**Reason:** In the interest of residential amenity.

4. Water supply and drainage arrangements, including the 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.

5. The site shall be landscaped in accordance with a scheme of landscaping, details of which shall be submitted to the planning authority for agreement before development commences. The scheme shall include a timescale for its implementation.

**Reason:** In the interest of visual amenity.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) 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 interest of visual and residential amenity.

7. Site development and building works shall be carried only out between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

8. Prior to the commencement of any development on the site, the developer shall submit a Construction and Environmental Management Plan for the written agreement of the Planning Authority.

**Reason:** In the interests of development control and the proper planning and sustainable development of the area.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of 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 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. Details of the application of the terms of the Scheme 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 the proper application of the terms of the Scheme.

**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.

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A. Considine  
Planning Inspector  
20<sup>th</sup> September 2021