



An
Bord
Pleanála

Inspector's Report

ABP-310693-21

Development	Demolition of House and the Construction of a New Replacement Dwelling House
Location	Mullenmore South, Crossmolina, Co. Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	20957
Applicant(s)	Pat and Julie Fox
Type of Application	Permission
Planning Authority Decision	Refused Permission
Type of Appeal	First Party v Decision
Appellant(s)	Pat and Julie Fox
Observer(s)	None
Date of Site Inspection	10 th September 2021
Inspector	Susan Clarke

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.954 ha and is located at Mullenmore South, Crossmolina, Co. Mayo. The site is accessed via the R315 regional road which extends in a north/south direction from Ballycastle through Crossmolina to Castlebar. The site is nested between the R315 to the west and Lough Conn further east. Crossmolina is approximately 1.23 km north of the site.
- 1.2. The site is accessed via an entrance off the R315. It is irregularly shaped and includes a detached, single storey dwelling with outbuildings. The remaining adjoining lands are agricultural in nature, with mature hedgerows along the boundaries. The southern Mullenmore Spring is located just outside the site, but within the Applicant's overall landholding. A minor tributary of the Spring is partially located along the north-western boundary of the site. The Mullenmore Stream flows from the Springs to Lough Conn. A partially stoned access track runs from the site entrance to the existing dwelling. The site levels differ across the site. The existing dwelling is located on a low plateau with the balance of the site sloping in a north-western direction down towards Lough Conn and the southern Mullenmore Spring.
- 1.3. The existing dwelling is uninhabited at present. Whilst the property appears to have an ESB supply and the roof is largely intact, it would appear that the dwelling has not been occupied for a significant period of time. The dwelling is well screened from the public road by a dense hedgerow along the road and vegetation throughout the site and overall landholding.
- 1.4. The proposed two storey dwelling is located west of the existing dwelling on the most elevated point on the lands overlooking the southern Mullenmore Spring.
- 1.5. Whilst the site is not included in the proposed OPW's River Deel (Crossmolina) Drainage Scheme, it abuts the proposed drainage scheme. The OPW proposes to develop a washland on the Applicant's lands, however the washland does not encroach on the subject site.

2.0 Proposed Development

- 2.1. The proposed development consists of:

- Demolition of an existing single storey dwelling and associated outbuildings (143.197 sq m),
- Construction of a new replacement two storey, 4-bedroom dwelling (260.503 sq m),
- Provision of a new wastewater treatment system and polishing filter,
- 'entrance modifications' that includes a new entrance south of the existing entrance onto the R315, and
- Associated site works to facilitate the development.

2.2. Further Information

A Request for Further Information was sought by the Local Authority on 3rd February 2021 relating to *inter alia* the preparation of an assessment under Article 6 of the Habitats Directive; submission of an ecological assessment; indication of floor levels; confirmation if the applicants are in a position to setback lands indicated in blue, south of the proposed site for a minimum distance of 3m from edge of carriage for the full length of the field frontage in blue and site frontage; and submission of a site-specific flood risk assessment.

The Applicant confirmed in a RFI Response that the 3m hedgerow setback could be achieved. There were no significant amendments made to the proposed development as a result of the RFI.

3.0 Planning Authority Decision

3.1. Decision

The Local Authority issued a Notification of Decision to Refuse to Grant Permission on 2nd June 2021 subject to one reason:

It is considered that the proposed development located on a section of the R315, which requires an excessive loss of hedgerow would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the extra traffic generated.

3.2. Planning Authority Reports

3.2.1. Planning Reports (27th May 2021)

The Planner's Report (27th May 2021) notes concerns raised by the Ballina MD Engineer regarding the proposed access arrangements and highlights that the issue of safety of the existing site entrance was flagged at pre-planning stage. The Planning Officer considered that the proposed entrance was a serious traffic hazard notwithstanding removal of hedgerows. Furthermore, the Planning Officer considered that whilst the design of the new house was acceptable, the removal of significant hedgerow would open up the lakeside site and the substantial proposal may have an adverse visual impact. The Planning Report concludes by recommending a refusal in line with the Area Engineer's traffic concerns.

Other Technical Reports

- **Area Engineer** (19th January 2021 and 26th May 2021): Concerns regarding achieving suitable sight distances at the site exit location due to the nature/speed of vehicles observed on adjacent, busy regional road. Concerns that an exit from this site could present as a serious hazard due to the site location on this section of the R315 and adjacent mature hedging. Queried whether the application is premature pending road re-alignment associated with proposed OPW channel diversion.
- **Water Services** (11th January 2021): No objection subject to conditions.
- **Environment Flooding** (25th May 2021): No objection to a grant of planning as per site layout submitted.

3.3. Prescribed Bodies

- **DAU (Natural Heritage)** (21st January 2021): Requirement for a bat survey to be completed in respect of the existing dwelling on-site and an assessment under Article 6(3) of the Habitats Directive should be completed to ensure there will be no impact on European protected sites.
- **Irish Water:** No comments received.

3.4. Third Party Observations

None received.

4.0 Planning History

4.1. No planning applications were identified in relation to the subject site.

4.2. The Commissioners of Public Works submitted the River Deel (Crossmolina) Drainage Scheme to the Minister for Public Expenditure and Reform for confirmation in October 2020. Public consultation in respect of the drainage scheme concluded in January 2021. The consultation is currently being reviewed by the Minister. The proposed flood scheme for the River Deel is a 1km long diversion channel upstream of Crossmolina with a capacity of 110 cumec, which will redirect flood waters away from the town, directly to the flood plains of Lough Conn. The scheme will be designed to cater for the 1% Annual Exceedance Probability (AEP) flood event but will also cater for a larger flood event as the diversion channel has additional capacity. The Scheme includes for the creation of washlands between the end of channel and Lough Conn. The washlands include part of the Applicant's landholding but excludes the location for the existing dwelling and proposed house and associated wastewater treatment system. Mapping of the proposed washlands was included with the subject planning application.

5.0 Policy Context

5.1. National Planning Framework (NPF)

In planning for the development of the countryside, the NPF acknowledges that there is a need to differentiate between demand for housing in areas under urban influence and elsewhere, as per the following objective:

National Objective 19: Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or

social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements,

- In rural areas elsewhere, 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.

5.2. Sustainable Rural Housing Guidelines for Planning Authorities (2005)

The Guidelines confirm development plans should identify the location and extent of rural area types as identified in the NSS (now superseded by the NPF). These include: (i) **rural areas under strong urban influence** (close to large cities and towns, rapidly rising population, pressure for housing and infrastructure); (ii) **stronger rural areas** (stable population levels within a well-developed town and village structure and in the wider rural area; strong agricultural economic base and relatively low level of individual housing development activity); (iii) **structurally weaker rural areas** (persistent and significant population decline and weaker economic structure); and, (iv) **areas with clustered settlement patterns** (generally associated with counties of the western seaboard).

Development plans must tailor policies that respond to the different housing requirements of urban and rural communities and the varying characteristics of rural areas.

5.3. Mayo County Development Plan 2014-2020

The 2014-2020 county development plan remains in place until such time as the draft 2021-2027 plan is adopted.

5.3.1. Rural Housing

The subject site is located in a '**structurally weaker rural areas**' with reference to Map 3 (Rural Area Types) of the Development Plan. In such cases, permanent residential development (urban and rural generated) will be accommodated, in

particular special consideration will be given to the provision of housing in rural areas that have sustained population loss since 1951, subject to good planning practice.

Section 1.3 of Volume 2 to the Plan states that the **replacement of dwellings** or development of other structures to habitable homes will be considered in all areas, subject to normal planning considerations, including the availability of services, the adequacy of ground conditions for the disposal of effluent from the development, traffic safety, residential amenity and visual amenity. Where it is proposed to replace a dwelling, the replacement dwelling may require to be located on the footprint of the existing structure and the scale and character of the existing building may require replication or of similar scale and design, depending on the location of the development (e.g. sensitive or vulnerable locations such as coastal, lakeside or upland areas).

5.3.2. **Housing Policies and Objectives**

Key policies and objectives from the Development Plan include *inter alia*:

RH-01: It is an objective of the Council to ensure that future housing in rural areas complies with the Sustainable Rural Housing Guidelines for Planning Authorities 2005 (DoEHLG), Map1 Core Strategy Conceptual Map and the Development Guidance document of the development plan.

RH-02: It is an objective of the Council to require rural housing to be designed in accordance with the Design Guidelines for Rural Housing (Mayo County Council). Consideration will be given to minor deviations from these guidelines where it can be demonstrated that the deviation will not have an adverse visual impact on the landscape or on local residential amenity in the area.

Section 20.2.2 of Volume 2 to the Development Plan states that in unserved rural areas, where a proposed house cannot connect to the public sewer, a site suitability assessment will be required. The assessment must be carried out in accordance with the Environmental Protection Agency (EPA) Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses (population equivalent ≤ 10) (2009), taking into account the cumulative effects of existing and proposed developments in the area.

5.3.3. **Landscape Appraisal**

The Landscape Appraisal of County Mayo confirms the subject site is located in Landscape Area G (North Mayo Drumlins) which contains mild low lying lakeland drumlins at the southern end merging into similar coastal topography in the north east surrounding Killala Bay. More severe, steeper drumlins occur around the foothills of the mountains to the north-west and the Ox Mountains to the east. The flood plain of the River Moy is also incorporated within this area. The land cover is dominated by pasture with sporadic areas of moorland and patches of exposed rock in the rugged drumlins to the east. Hedgerows and small patches of scrub and woodland create a patchwork of farmer landscapes in this area.

5.3.4. **Roads and Access Policy**

Appendix 4 of the Development Plan confirms that the R315 is not a designated Strategically Important Regional Road.

Access visibility standards for roads with a speed-limit restriction of 80km/h are not listed in the Plan. However, Table 9 (Access Visibility Requirements) outlines that a minimum visibility splay of 120m is required from a position setback 3m from the back edge of the road, where a 70km/h design speed applies. Section 38.3.4 of Volume 2 states that site visibility requirements shall be provided within the development boundary of the site.

Section 14.4.1 of Volume 1 states that while existing hedgerows should be retained around the site, where removal is required to meet visibility standards, a new hedgerow with native species shall be planted at the required setback. Where hedgerow removal is required this should not be carried out during the nesting period.

Section 2.1 (Road Setback & Site Entrance) from the Mayo Rural Housing Design Guidelines 2008 provides further commentary in relation to road setbacks and site entrances.

5.4. **Natural Heritage Designations**

The site is within 200m of the River Moy SAC (site code 002298), Lough Conn and Lough Cullin SPA (site code 004228), and Lough Conn and Lough Cullin Proposed NHA (site code 000519).

5.5. EIA Screening

Having regard to the nature and scale of the proposed development, comprising the demolition of existing dwelling and outbuildings, the construction of one residential dwelling and the provision of a new treatment unit and percolation area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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

A First-Party Appeal has been lodged by Simon Beale + Associates on behalf of the Applicant, the grounds of which can be summarised as follows:

- The Applicant owns the lands, which contains a house (in need of repair but with a current water and ESB supply) and more importantly an entrance onto the R315.
- The Planning Authority advised at pre-planning stage that the existing entrance should be improved where possible and this was the basis of the entire investment and submission of the application.
- The Applicant confirmed at RFI stage that it was possible to set back the lands indicated in blue, south of the proposed site, for a minimum distance of 3m from the road edge for the full length of field frontage in blue and site frontage.
- The reason for refusal is unclear and confusing.
- The loss of the hedgerow can be removed at the appropriate time of year to be ecologically sensitive and replaced on the land behind the setback. It is not the Client's intention to 'open up' the lands, but rather to enhance safety and retain privacy.
- Queries how a significant improvement of an existing entrance could endanger public safety.
- There is a dwelling on the site which the Applicant is perfectly entitled to live in and use.

- Any works associated with the project would be completed by a competent contractor with full consideration for all road users.
- The Refusal is unfair and not reflective of the real situation on the ground and has taken no consideration of the existing entrance nor the Applicant's desire and intention to improve matters.

6.2. **Planning Authority Response**

None received.

6.3. **Observations**

None.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including the First-Party Appeal, inspection of the site, and having regard to relevant local/regional/policies and guidance, I consider that the main issues on this appeal are as follows:

- Site Access / Road Safety,
- Appropriate Assessment,

New Issues

- Rural Housing Policy,
- Flood Risk, and
- Wastewater Disposal.

Each of these issues is addressed in turn below.

7.2. **Site Access / Road Safety**

The Planning Authority issued a Notification of Decision to Refuse to Grant Permission for one reason relating to a traffic hazard. The grounds of appeal assert that the

hedgerow along the R315 can be removed and replaced on the land behind the setback which would enhance safety to the site.

The site is positioned on the R315, which extends in a north/south direction from Ballycastle through Crossmolina to Castlebar. The road is not listed as a Strategically Important Regional Road in the Development Plan. However, the road has a speed-limit restriction of 80km/h and a continuous white-line marks the centre of the road fronting the appeal site. As is evident from the attachment photographs, the hedgerows on either side of the road are mature and provide little visibility into the adjoining lands.

The grounds of appeal assert that replacing the existing house with a new house would not result in increased traffic. Whilst the existing house may have a ESB supply and water supply, it has not been occupied for a significant period of time. I note from the images included in the Ecological Survey that the dwelling's interior is in significant disrepair. Substantial refurbishment works would be required to facilitate its reoccupation.

The Site Layout Plan (Dwg. No. 20-066-A-3-1003) delineates a 120m sightline, 2.4m setback from the edge of the road. In order for the sightlines to be achieved a significant amount of the hedgerow would have to be removed. This also includes hedgerow from the lands to the north of the site which do not appear to be in the ownership of the Applicant. As stated in Section 5.3.4, a minimum visibility splay of 120m is required from a position setback 3m from the back edge of the road, where a 70km/h design speed applies. Access visibility standards for roads with a speed-limit restriction of 80km/h are not listed in the Plan. However, having visited the site and reviewed maps for this area, I am satisfied that a design speed of 70km/h for the local road would be appropriate in assessing the access visibility requirements.

I note from my site visit that the visibility, in particular visibility to the north, as one exits the lands from the existing site is poor due to the road alignment and hedgerows. Furthermore, I note the Local Authority's reason for refusal. However, if the new site entrance was relocated a further 20 metres south from the centreline of the proposed entrance increased visibility would be possible. Whilst sightlines measuring 120m would not be achieved, I consider that such a proposal would be acceptable having regard to the existing house and entrance on the site and would not result in a traffic

hazard having regard to the rural nature of the area. I reiterate that the R315 is not a designated Strategically Important Road in the Development Plan. The existing hedgerow along the site could be setback as stated by the Applicant thereby protecting the privacy of the site and maintaining the character of the site. Should the Board be minded to grant permission for the proposal the new entrance details and planting arrangement could be agreed with the Local Authority.

7.3. Rural Housing Policy – New Issue

Development Plan Objective RH-01 seeks to ensure that future housing in rural areas complies with the Sustainable Rural Housing Guidelines for Planning Authorities 2005 (DoEHLG), as well as Map 1 Core Strategy Conceptual Map and the Development Guidance document of this Plan.

The site is located in a Structurally Weak Rural Area where permanent urban and rural generated residential development will be accommodated. It is also stated in the Rural Housing Guidelines that any demand for permanent residential development should be accommodated as it arises subject to good practice in matters such as design, location and the protection of important landscapes and any environmentally sensitive areas.

Therefore it would appear that the Applicant does not have to demonstrate any specific rural housing need to construct a dwelling at this location. I note that the Applicant has not included any justification for a dwelling at this location. Whilst the development is referred to in the Statutory Notices as a ‘replacement’ dwelling, it should be noted that the existing dwelling has not been inhabited for some time. I accept the flooding reasons for locating the proposed dwelling on an elevated point on the lands in comparison to the existing dwelling. Furthermore, I consider the design of the proposed dwelling to be acceptable at this location.

7.4. Flood Risk - New Issue

The southern Mullenmore Spring is located just outside the site, but within the Applicant’s overall landholding. As outlined above, the proposed flood scheme for the River Deel is a 1km long diversion channel upstream of Crossmolina with a capacity of 110 cumec, which will redirect flood waters away from the town, directly to the flood

plains of Lough Conn. The scheme will be designed to cater for the 1% Annual Exceedance Probability (AEP) flood event but will also cater for a larger flood event as the diversion channel has additional capacity. The Scheme includes for the creation of washlands between end of channel and Lough Conn that includes part of the Applicant's landholding but excludes the location for the proposed house and associated wastewater treatment system.

A site-specific flood risk assessment was requested by the Planning Authority as part of a Request for Further Information (RFI) to determine the effects of the scheme on the property. In addition, the Applicant was requested to consult with the OPW flood management services on the flood risk assessment as part of the process. Correspondence (dated 9th April 2021) on file from Mr Tom McDonnell, Senior Executive Engineer, Flood Risk Management in the Local Authority confirmed to the Applicant that a letter, site layout map showing the access road levels, and correspondence from Ryan Hanley (who prepared the drainage system on behalf of the OPW) would suffice in responding to the flood query in the RFI. Ryan Hanley advised the Applicant that provided the finished floor level of the house is 17.75m Ordnance Datum (Malin), the house would be sufficiently elevated relative to the proposed washlands for the drainage scheme. I note from Dwg. No. 20-066-A-P-1000 that the Ground Floor Plan will have a split floor level with F.F.Ls of 17.75m and 18.55m, respectively. The Applicant confirmed in response to RFI item No. 4 that the levels are measured to Ordnance Datum (Malin). Furthermore, Ryan Hanley confirmed verbally to the Local Authority's Environment Flooding Section that the entrance and access to the development is outside the washland area and as such would be acceptable from a flood risk perspective. Whilst a site-specific flood risk assessment was not prepared, I consider that sufficient evidence has been provided with the application to demonstrate that there is no significant flood risk associated with the development and that the proposal will not impede the delivery of the River Deel (Crossmolina) Drainage Scheme. As such, I would not recommend refusal on the grounds of flood risk.

7.5. Wastewater Treatment - New Issue

The Site Characterisation Form submitted with the planning application notes that the site is located in an area with a regionally important aquifer and where groundwater

vulnerability is moderate. A groundwater protection response of R3¹ applies due to the SO classification. The bedrock type is noted as Dinantian Pure Bedded Limestone, while the soil type is recorded as surface water Gleys/groundwater Gleys. Lough Conn is listed as being the closes public/Group Scheme Water Supply. The location for the proposed treatment system is approximately 600m as-the-crow-flies from Lough Conn and approximately 60m as-the-crow-flies from the southern Mullenmore Spring. The Ecological Survey submitted at RFI stage notes that under the WFD/NRBMP the surface water in Lough Conn is considered to be of “Good” status with an objective of “protect” and “Not at “Risk”. The southern Mullenmore Spring to the north of the site is also considered to be of “Good” status and “Not at “Risk”. Whilst Section 3.1 of the Site Characterisation Form notes that there are no karst features, I understand from the Environmental Impact Assessment Report prepared in respect of the River Deel (Crossmolina) Drainage Scheme that there are many such features in the area including the Mullenmore Springs. Bedrock nor the water table were encountered in the 2.2m-deep trial hole. Beneath the topsoil (which has a depth of 0.3m) silty fine sand was recorded for 2m, with silty fine sand/clay recorded at 2.1m. The predicted groundwater flow direction is to the east/northeast (i.e. in the direction of Lough Conn and the southern Mullenmore Spring). Details of any existing wastewater treatment for the house on site are not provided with the planning application. There is not a high concentration of dwellings in the area and there are no wells noted in close proximity to the site.

The ground conditions were dry during my site visit, however I highlight that the visit was conducted in a relatively dry period in early September. The land between the location for the proposed dwelling and the R315 was recently ploughed. The Site Characterisation Form (dated December 2020) records that this area contained widespread rushes. I note from Google Earth aerial photography that this land and the balance of the landholding to the east of the existing dwelling appears to have been heavily poached by livestock in the past. As is evident from Photograph Nos. 11 and 12 attached to this Report, the site may have been recently chemically treated for weeds as dead dock leaves and thistles were visible.

A T-value of 9.72 was calculated based on tests undertaken in August 2020. (No P-test was conducted.) The test results indicate that the soils should be suitable for use in a percolation area/polishing filter system. It is proposed to install a secondary

treatment system (mechanical aeration unit) with a gravity flow discharge into percolation trenches. The Site Characterisation Form details that raw effluent will gravity flow from the house and be treated initially in the mechanical aeration unit. The treated effluent will then gravity flow to a distribution chamber located centrally within the proposed percolation area. It is stated that the effluent should discharge to ground in four percolation trenches of 9m length and 0.5m width. Trenches will be excavated at 2.5m centres and to a depth of 850mm. Two trenches will run in a northerly direction and two in a southerly direction. 300mm of distribution gravel should be placed in the trenches. Details provided on the proposed site layout plan indicate that the system would generally comply with the EPA Guidelines minimum separation distances to features of interest. I am satisfied that the assessment and the proposed development design details comply with those required within the 'Code of Practice - Wastewater Treatment and Disposal Systems serving Single Houses (population equivalent ≤ 10) (EPA, 2009)'.

In conclusion, the proposed development would not be prejudicial to public health and would not be likely to cause a deterioration in the quality of waters in the area. I do not recommend that permission should be refused for reasons relating to wastewater treatment.

7.6. **Appropriate Assessment**

The subject site is located approximately 200m from a terrestrial section of the River Moy SAC (site code: 002298) and the Lough Conn & Lough Cullin SPA (site code:004228). The site is approximately 600m from the aquatic section of the SPA and SAC. As outlined above, the site for the new dwelling and associated wastewater treatment system is approximately 60m from the southern Mullenmore Spring. The Mullenmore Stream connects directly to Lough Conn.

It is proposed to install a secondary treatment system (mechanical aeration unit) with a gravity flow discharge into a percolation area, while stormwater discharge will be managed using soak pits.

The qualifying interests for the River Moy SAC (site code: 002298) are: (1092) White-clawed Crayfish *Austropotamobius pallipes*, (1095) Sea Lamprey *Petromyzon marinus*, (1096) Brook Lamprey *Lampetra planeri*, (1106) Salmon *Salmo salar*, (1355)

Otter *Lutra lutra*, (7110) Active raised bogs, (7120) Degraded raised bogs still capable of natural regeneration, (7150) Depressions on peat substrates of the Rhynchosporion, (7230) Alkaline fens, (91A0) Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles, and (91E0) Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*).

The conservation objectives for the SAC are:

1. To restore the favourable conservation condition of Active raised bogs (7110),
2. The long-term aim for Degraded raised bogs still capable of natural regeneration is that its peat-forming capability is re-established; therefore, the conservation objective for this habitat is inherently linked to that of Active raised bogs (7110). A separate conservation objective has not been set in River Moy SAC. (7120),
3. Depressions on peat substrates of the Rhynchosporion is an integral part of good quality Active raised bogs (7110) and thus a separate conservation objective has not been set for the habitat in River Moy SAC (7150),
4. To maintain the favourable conservation condition of Alkaline fens (7230),
5. To maintain the favourable conservation condition of Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles (91A0),
6. To maintain the favourable conservation condition of Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) (91E0),
7. To maintain the favourable conservation condition of White-clawed Crayfish (1092),
8. To maintain the favourable conservation condition of Sea Lamprey (1095),
9. To maintain the favourable conservation condition of Brook Lamprey (1096),
10. To maintain the favourable conservation condition of Salmon (1106), and
11. To maintain the favourable conservation condition of Otter (1355).

The qualifying interests for the Lough Conn & Lough Cullin SPA are: (A061) Tufted Duck *Aythya fuligula*, (A065) Common Scoter *Melanitta nigra*, (A182) Common Gull *Larus canus*, (A395) Greenland White-fronted Goose *Anser albifrons flavirostris*, and (A999) Wetland and Waterbirds.

The conservation objective for the SPA is to maintain or restore the favourable conservation condition of the wetland habitat at Lough Conn and Lough Cullin SPA as a resource for the regularly occurring migratory waterbirds that utilise it.

I note that the Ecological Survey submitted at RFI stage concludes that *“It can be stated with a high degree of confidence that there were no summer maternity roosts present within the structure nor it is being used for hibernating.”* The Assessment advises that should permission be granted for the development the existing dwelling should be resurveyed for bats prior to works commencing in case the dwelling is used by bats in the interim.

Having regard to:

- the nature and scale of the proposed development (i.e. demolition of an uninhabited single storey dwelling and construction of a new dwelling),
- the nature of the immediate receiving environment,
- the existing use of the lands (i.e. primarily agricultural use with associated limited anthropogenic activity),
- the separation distance between the site and the subject SAC and SPA sites and the southern Mullenmore Spring,
- the relatively short-term demolition and construction phase,
- no direct discharge to any surface waterbody and the installation of a packaged wastewater treatment system and polishing filter,
- no loss, fragmentation disruption or disturbance to the European sites or their annexed species either directly or indirectly, and
- the findings of the Ecological Survey prepared by Paul Neary in respect of the development,

I do not consider that the proposal would be likely to significantly impact the qualifying interests of the European sites. I do not consider 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. As such, I consider that no Appropriate Assessment issues arise.

I note that a screening statement prepared by Paul Neary, Environmental Consultant, was submitted at RFI stage, which comes to the same conclusion (i.e. Stage 2 Appropriate Assessment is not required).

7.7. Recommendation

I recommend that planning permission be granted for the proposed development based on the reasons and considerations set out below.

8.0 Reasons and Considerations

Having regard to the existing dwelling and entrance to the site in a rural area, and the nature and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not endanger public safety by reason of a traffic hazard and obstruction of road users and would be acceptable in terms of traffic safety and would therefore be in accordance with proper planning and sustainable development of the area.

9.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 7th May 2021 to the Planning Authority, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The materials, colours and textures of all the external finishes to the proposed house shall be submitted to and agreed in writing with the planning authority before the commencement of development.</p>

	Reason: In the interest of the visual and residential amenities of the area.
3.	<p>The new site entrance shall be relocated 20 metres south from the centreline of the proposed entrance.</p> <p>The existing hedgerow along the site frontage shall be setback for a minimum distance of 3m from the edge of carriage for the full length of the field frontage.</p> <p>A landscaping plan, including boundary treatments shall be submitted and agreed with the Local Authority prior to the commencement of the development.</p> <p>Reason: In the interest of the traffic safety and visual amenities of the area.</p>
4.	<p>(a) Prior to the commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p>(b) Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
6.	<p>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, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning</p>

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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Susan Clarke
Planning Inspector

4th October 2021