



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313445-22

#### Development

Retention of the reinstatement of a collapsed roof and making good of an existing chimney. The unblocking of window opes and replacement of timber framed windows on the front elevation, recently erected CCTV cameras on the building to be in place for a temporary period.

#### Location

Emlaghmore , Ballyconnely, Co. Galway.

#### Planning Authority

Galway County Council

#### Planning Authority Reg. Ref.

212405

#### Applicant(s)

Patrick Ridge

#### Type of Application

Retention Permission

#### Planning Authority Decision

Grant Permission with conditions

#### Type of Appeal

Third Party

#### Appellant(s)

Peter & Bridget Lee & Family.

#### Observer(s)

None.

**Date of Site Inspection**

5<sup>th</sup> October 2022.

**Inspector**

Bríd Maxwell

## 1.0 Site Location and Description

- 1.1. This appeal relates to a remote rural site 0.667 hectares located within the townland of Emlaghmore in Ballyconneely, west Connemara, County Galway. The site is part of an overall landholding of 10.2 hectares fronting onto Emlaghkeeragh Lough to the east and lies circa 4km to the south east of Ballyconneely village, 8km south of Clifden and 7km to the north west of Roundstone.
- 1.2. The appeal site is accessed via a private laneway, (indicated as a right of way) off a local access road which runs to the east of the Regional Road R341. An unnamed river flows along the southern boundary of the appeal site which feeds from Emlaghkerragh Lough and then flows into Maumeen Lough to the southeast and from there to the sea. The unnamed river and aforementioned loughs form part of the designated Connemara Bog Complex SAC (Site Code 002034) and Connemara Bog Complex SPA (Site Code 004181).
- 1.3. The appeal site is locally elevated rising from a spot level of 14.4m towards the southwestern boundary to 33m at the northeastern extremity (lands rising further beyond the site) and is occupied by a cottage type stone building (finished floor level 23m floor area 43sq.m) with a stone ruin to its rear (northeast). The building includes a doorway and three window opes to its front (southern) elevation. CCTV cameras are located on elevated poles at both gable ends of the building and various points around the building. The southern portion of the site is overgrown with scrub and hedging whilst the northern part of the site is grassland. The wider landscape is characterised by typical Connemara upland and bog features with rocky terrain and small lakes.

## 2.0 Proposed Development

- 2.1. The application as set out in planning notices involves retention permission for development at a semi-ruinous cottage involving:
  - (a) The reinstatement of a collapsed roof and making good of an existing chimney.
  - (b) The unblocking of window opes and replacement of timber framed windows on the front elevation.

(c) Recently erected CCTV cameras on the building in place for a temporary period.

2.2 The application is accompanied by a Screening for Appropriate Assessment by Aster Environmental Consultants Ltd.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1 By order dated 7<sup>th</sup> April 2022 Galway County Council issued notification of the decision to grant permission and 3 conditions were attached which included the following:

Condition 1. Development in accordance with plans and particulars.

Condition 2. Permission relates to that as advertised in public notices with the exception of CCTV installation. CCTV is not permitted and shall be removed within 1 month of grant of permission.

Condition 3. Surface water disposed of within the site. Only clean uncontaminated water to be discharged to soakaway system / surface waters. Development shall not impair land or road drainage.

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

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

A request for additional information sought full land registry details of the site and access route, clarification of when the roof was replaced on the structure and evidence in this regard, and confirmation that recent upgrade works to the road did not impinge on the archaeological feature referenced in third party submission.

Final Planning Report by Senior Planner recommends permission subject to conditions as per subsequent decision.

### 3.2.2. Other Technical Reports

No other reports.

### 3.3. Prescribed Bodies

No submissions.

### 3.4. Third Party Observations

Submission from Caitlin Lee, Bridget Lee. Peter Lee and Peter Lee Junior Emlaghmore, Ballyconneely, object to the proposal on grounds that the application materially understates the level of unauthorised development. Work was undertaken with the intent and effect of rebuilding a house from a building that was more than semi-ruinous. Building was for long a roofless ruin and not a viable structure. If permitted and inhabited without water and sewage services will have negative environmental impacts including damage to nearby SAC. Ownership of the site questioned. Negative impact on shared private roadway and adjoining lands. Impact on burial ground National Monument. CCTV camera surveillance represents a disproportionate intrusion on neighbour's privacy. Elevated cameras overlook more than the property. Ignoring the purpose of the building should not be a basis for an application to circumvent planning requirements. The applicant would not qualify for permission for retention of development if he were to apply for reconstruction of a house at the site which his previous applications show was his objective. Not possible post facto to demonstrate that the unauthorised development was undertaken at this site since c 2004 had no effect on the SAC at the time of work. Site is within 200m of GA049-031 Children's Burial Ground - Archaeological investigation is required.

## 4.0 Planning History

**21/89** Incomplete application to (1) Remove existing roof structure added to semi-ruinous cottage in circa 1990's (2) Retain works associated with alterations to existing window opes (3) Retain and complete works to reinstate and make good

existing stone chimney (4) Retain security cameras fixed to existing building façade for a temporary period until the cottage is developed and prior to its occupation or a period of 2 years if undeveloped (5) Restore existing semi-ruinous farm cottage to make habitable; including formation of new roof with roof covering material more appropriate to the character of the building; alteration of openings and fitting of new timber framed windows; alterations to the internal plan layout; application of insulation to walls, roof and floor internally, damp proofing; installation of services and all ancillary works (6) Restore existing ruinous outhouse to make same usable as an outhouse using appropriate materials (7) Install new proprietary sewage treatment system with filter area as well as all associated site works. This planning application is accompanied by a NIS, as required by Article 239 of the Planning and Development Regulations, 2001 (as amended). Gross floor space of retained works: 71.40 m sq

**20/1112** Refusal of permission to (1) Restore existing unoccupied farm cottage (2) Raise wall plate level of existing cottage to allow for habitable loft space to comply with current building regulation standards (3) Form single storey extension to cottage and adjoining outhouse (4) Convert, extend and restore existing outhouse to form part of overall single dwelling (5) Install new proprietary sewage treatment system with filter area as well as all associated site works. This planning application is accompanied by a NIS, as required by Article 239 of the Planning and Development Regulations 2001 ( as amended). Gross floor space of proposed works: 25.00 sqm. Gross floor space of work to be retained: 97.00 sqm

There were four reasons for refusal relation to perpetuation and intensifying unauthorised development, environmental risk and risk to Natura 2000 sites, fluvial risk and absence of evidence of a potable water supply.

**70254** Refusal of permission to reconstruct and extend a derelict dwelling. Refusal grounds relating to housing need, location within an area of outstanding scenic amenity and design.

## 5.0 Policy Context

### 5.1. Development Plan

The Galway County Development Plan 2022-2028 refers. (The plan was adopted on 9<sup>th</sup> May 2022 and came into effect on 20<sup>th</sup> June 2022. )

In terms of rural area type the site is located within a structurally weak area.

As set out in Rural Housing Policy Map 4.2 the site is within zone 4 – Landscape Sensitivity Category 2-4.

Policy Objective RC2 Rural Housing in the Countryside is “*To manage the development of rural housing in the open countryside by requiring applicants to demonstrate compliance with the Rural Housing Policy Objectives as outlined in Section 4.6.3*”

In Chapter 8. Tourism and Landscape I note

Landscape Sensitivity Map 8.2 shows the site within Category 3 Special landscape with a High Sensitivity to Change.

### **Policy Objectives Landscape Conservation and Management**

#### **LCM1 Preservation of Landscape Character**

*“Preserve and enhance the character of the landscape where, and to the extent that, in the opinion of the Planning Authority, the proper planning and sustainable development of the area requires it, including the preservation and enhancement, where possible of views and prospects and the amenities of places and features of natural beauty or interest.”*

#### **RH4 Rural Housing Zone 4 (Landscape Classification 2, 3 and 4)**

*“ Those applicants seeking to construct individual houses in the open countryside in areas located in Landscape Classification 2,3 and 4 are required to demonstrate their demonstrable economic or social Rural Links or Need\* as per RH 2, i.e.*

*1(a) Those applicants with long standing demonstrable economic and/or social Rural Links or Need\* to the area through existing and immediate family ties seeking to develop their first home on the existing family farm holding. Consideration shall be given to special circumstances where a landowner has no immediate family and wishes to accommodate a niece or nephew on family lands. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis.*

OR

*1(b) Those applicants who have no family lands, or access to family lands, but who wish to build their first home within the community in which they have long standing demonstrable economic and or social Rural links or Need\* and where they have spent a substantial, continuous part of their lives i.e. have grown up in the area, schooled in the area or have spent a substantial, continuous part of their lives in the area and have immediate family connections in the area e.g. son or daughter of longstanding residents of the area.*

*Having established a Substantiated Rural Housing Need\*, such persons making an application on a site within an 8km radius of their original family home will be accommodated, subject to normal development management.*

*To have lived in the area for a continuous seven years or more is to be recognised as a substantial, continuous part of life and also as the minimum period required to be deemed longstanding residents of the area.*

*Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis.*

Or

*1(c) Those applicants who can satisfy to the Planning Authority that they are functionally dependent in relation to demonstrable economic need on the immediate rural areas in which they are seeking to develop a single house as their principal family Residence in the countryside. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis.*

OR



*1(d) Those applicants who lived for substantial periods of their lives in the rural area, then moved away and who now wish to return and build their first house as their permanent residence, in this local area. Documentary evidence shall be submitted to the Planning Authority to illustrate their links to the area in order to justify the proposed development and it will be assessed on a case by case basis.*

OR

*1(e) Where applicants can supply land registry or folio details that demonstrate that the lands on which they are seeking to build their first home, as their permanent residence, in the area have been in family ownership for a period of 20 years or more, their eligibility will be considered. Where this has been established to the satisfaction of the Planning Authority, additional intrinsic links/need will not have to be demonstrated.*

OR

*1(f) In cases where all sites on the family lands are in a designated area, family members will be considered subject to the requirements of the Habitat's Directive and normal planning considerations.*

*In addition, an Applicant may be required to submit a visual impact assessment of their development, where the proposal is in an area identified as "Focal Points/Views" in the Landscape Character Assessment of the County or in Class 3 and Class 4 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."*

## **RH 7 Renovation of Existing Derelict Dwelling**

*"It is a policy objective of the Planning Authority 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 policy 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 derelict dwelling must be structurally sound and have the capacity to be renovated or extended and have the majority of its original features 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. Natural Heritage Designations**

The site is within 4m and 12m respectively of the Connemara Bog Complex SPA and Connemara Bog Complex SAC.

## **5.3. EIA Screening**

The development does not constitute a prescribed class of development as set out in Schedule 5 of the Planning and Development Regulations 2001 and given its nature and scale can be excluded from the requirement for EIA.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1 The appeal is submitted by Doyle Kent Planning Partnership Limited on behalf of Peter Lee and Bridget Lee of Emlaghmore. Ballyconneely. The appeal submission is accompanied by copies of dated OSI aerial imagery dated and sworn affidavits addressing the timing and nature of works carried out which seek to elucidate the appeal case. Grounds of appeal are summarised as follows:

- Development as granted will materially interfere with the proper planning and sustainable development of the area.
- Proposal would intensify existing unauthorised development on the site.
- Negative Impact on Natura 2000 sites.
- Lack of Water and Wastewater treatment.
- Lack of clarity within the application in relation to the status of the building.

- Use of the structure for habitable purposes had been abandoned and retention of the works would result in an undesirable precedent within this sensitive landscape.
- Application 21/89 was deemed invalid by reason of retention works being proposed and the need to carry out AA.
- Application Fee paid €102 and basis for calculation was domestic extension / other improvements. Question why this was accepted as the appropriate fee would be agricultural use or other class.
- Planning Report and recommendation suggest that the retention works have been assessed as relating to works to a dwelling.
- The Planning Authority screened for appropriate assessment despite having previously refused to deal with the application as it included an element of retention.
- Planning Authorities are precluded by Part III Section 34 of the Planning and Development Act 2000 from considering retention of unauthorised development on lands for which an environmental impact assessment or AA screening would have been required as part of an application for permission before such work would have commenced.
- The Planning report places excessive reliance on the applicant's evidence that the unauthorised development works took place before 2000. Ordnance Survey Aerial Imagery clearly show roofless structure in 1995 and 2000 and with roof in 2005.
- While the affidavit declaration submitted by the applicant is vague dating the works to circa the late 1990s, affidavits included from Peter Lee and Martin Lee assert that the works were carried out after 2000.
- As works were carried out in 2003 therefore they require substitute consent.
- Roofing was just part of the unauthorised rebuilding since c2004. Broken walls and gables were rebuilt. Full band beam in concrete at roof level was installed and faced on the exterior with stone. In 2020 one of two collapsed chimneys was rebuilt and the window opes unblocked and widened, and door and window frames inserted. Glazing and lintels installed as well as new roof timbers, metal roofing and concrete barges. Unauthorised concrete full band beam is clearly visible and set out in the applicant's screening report photo 1. Photo shows approximately 1m of

reconstructed concrete and stone wall under the concrete beam. Original stonework was built with lime and mortar while the rebuilt top half of the building is bonded with concrete and cement and faced with stone.

- Development amounts to the reconstruction of a derelict cottage last occupied in the 1960s and should be evaluated on that basis.
- The Planning Authority has not addressed the issues raised in the previous decision to refuse permission and do not refer to the planning history in their assessment. Housing need issue not addressed.
- Decision does not protect the SAC by preventing the reconstructed ruin from being converted to a habitable structure. The roofed and sealed building could easily be made habitable through interior works that would necessitate sewage and water systems for which the applicant has not sought permission and which would damage the nearby SAC the immediately adjacent river and the domestic well.
- Given the history the assessment of the extent of the unauthorised works and an evaluation of the development by prescribing the use and features of the structure is necessary.
- Fundamental planning principal issues have not been addressed including effluent treatment, potable water, traffic, design and risk to integrity of European sites in the vicinity.
- NIS identifies groundwater pathways to European sites. No assessment of the existing septic tank (not used since 1960s) percolation characteristics and impact on groundwater. There is inadequate evidence to rule out adverse impacts without any degree of scientific certainty.
- Galway County Council erred in its assumption that the unauthorised rebuilt ruin is a dwelling. It was abandoned and more than semi ruinous from 1968-2003 during which time it was referred to by the Planning Authority as an “old ruin”
- Proposal must be assessed from first principles and satisfy the standards for housing need in Landscape Category 4, design, traffic safety and waste water treatment that do not give rise to material impacts, traffic hazard or risk of interfering with the integrity of European sites in the vicinity.

- Retention of the works which in this case would require substitute consent would perpetuate and intensify and existing unauthorised development on the site.

## 6.2. Applicant Response

6.2.1 Response by Hanley Taite Design Partnership on behalf of the applicant is summarised as follows:

- Appeal is vexatious and obstructive to applicants enjoyment of the property.
- Appeal misrepresents and exaggerates the work undertaken for which retention is sought and incorrectly portrays the semi-ruinous cottage as a habitable house.
- There is historical evidence that the structures on site formed a farm dwelling and outhouses and are in excess of 100 years old. Dwelling was inhabited until the late 1960s.
- In 1994 permission was sought to reconstruct and extend the dwelling.
- In 1998 the property was purchased by the Ridge family and Mr Ridge commissioned the replacement of the collapsed roof on the dwelling to protect the building from further dilapidation and instructed the work without being aware that doing so ordinarily requires planning permission.
- In March 2018 Mr Ridge set about bringing electricity supply to the site and to carry out road improvement works to access laneway.
- In January 2020 existing windows were reopened, repairs to chimney were completed and electricity connection. Intention was to have a place of refuge in inclement weather for persons visiting or working on the farm.
- Following pre planning discussions it became apparent that an enforcement file had been opened in respect of the site.
- In August 2020 a planning application was submitted in light of the enforcement warning letter 20/112 in advance of having obtained clarity as to the exact elements that were considered by the Planning Authority to be unauthorised. The accompanying NIS related to proposed new works.

- In January 2021 enforcement officer of Galway Co Council issued communication outlining that the elements considered unauthorised development are new roof and chimney, new /widened window openings in front elevation and recently erected CCTV cameras materially affecting the external appearance of the building.
- Application 21/89 planning application was submitted on 1<sup>st</sup> February 2021 involving retention of works and restoration of cottage. Notification of invalidation was received from Galway County Council on March 26 2021.
- Subsequently the current application was lodged to retain works done to the cottage only.
- Legal advice from William Fry and Partners suggest it is open to the planning authority to make a screening determination in relation to the previous works in accordance with Section 177U(1) of the Planning and Development Act 2000.
- Previous works do not constitute development of a type set out in Schedule 4 of the Planning and Development Regulations 20001 therefore an EIA nor determination in relation to EIA area required.
- Regarding fees paid the building is a dwelling albeit uninhabitable. Accepting that the dwelling fell into considerable disrepair its use as a dwelling has never changed or been superseded by another use since it was last occupied.( Ref: Judicial review No 878 JR/2011)
- The application is materially different from the previous applications as there is no element of new works proposed. Legal analysis advised that the appropriate means of resolving the regularisation and retention elements was by way of an application for those elements alone together with a stage 1 screening assessment.
- Galway Co Council undertook a screening for Appropriate Assessment in accordance with Section 177U and were correct in conclusion that the development did not have a significant impact on the adjoining Connemara Bog Complex.
- Regarding the timing of roof works it is not relevant as to whether the work was completed in late 1990s or early 2000s. Submission of Mr Ridge and Mr Conneely made in good faith and they stand by their recollection of work undertaken in late 1990s.

- Maps submitted dated from 1995 and 2000 are not of sufficient clarity to determine when the building was roofed.
- Regarding assertions of an obligation to apply for substitute consent the screening assessment carried out by Galway County Council correctly sets out that there will not be a significant impact on the adjoining designated sites.
- Client has not misrepresented the extent of works undertaken for which retention is sought. Roof was entirely replaced and it sits on a concrete beam at wall plate level front and rear with a concrete barge capping on either gable. Window ope were blocked with stone and this was removed and crude handmade timber framed windows were inserted. Ope dimensions were not altered horizontally or vertically and reflect the original window sizes. A collapsing chimney was rebuilt using blocks and stone internally from an existing height of approximately 1.8m from floor upwards and through the roof. An electricity connection was formed to the building with meter cabinet on a block pier several metres from the building. Cables routed underground and along the surface of the external wall from ground to roof level terminating internally at a fuse board. CCTV was surface mounted to the external façade of the building.
- The application seeks to retain certain works to a semi-ruinous cottage. There is no effort to reconstruct a house. Any proposals to carry out further works to the cottage or to make it a habitable building will require a future planning application.
- Suggestions of a pattern of ongoing unauthorised development is misleading. No work as taken place since late 2019 /early 2020
- Grant of permission does not alter the status of the building as a semi ruinous cottage. It is not intended for any other purpose than temporary shelter /respite. There is no requirement for sanitary provision or a water supply and traffic movements will be no other than normal movements expected for such a farm holding.
- CCTV erected to ensure protect the property. Request that the Board consider the removal of condition 2 to permit a reasonable timeframe for the provision of alternative measures to protect the property.

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

The Planning Authority did not respond to the grounds of appeal.

## 7.0 **Assessment**

7.1. I note that the applicant has questioned the validity of the appeal asserting that it is vexatious. In my view the third party appeal raises valid planning issues and I consider it appropriate that these are assessed on their planning merit. I consider that the principal issues raised in the appeal can be addressed under the following broad headings.

Principle of the Development

Appropriate Assessment Screening

Other Matters

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

7.2.1 On the question of principle, the third party appellant asserts that the proposal should be assessed from first principles as the structure was abandoned in the late 1960s and therefore it is asserted that the residential use has ceased in planning terms. It is asserted that the structure was more than semi-ruinous from 1968-2003. To support this case reference is made to photographic evidence (Ordnance Survey Aerial photographs 1995 and 2000 showing an apparently roofless structure which is a marked contrast to the 2005 image clearly showing a roofed structure). It is asserted that the application misrepresents the extent of works undertaken since c2004 and the affidavits of Mr Peter Lee and Mr Martin Lee recalling the timing and extent of works are noted in this regard (Appendix 2 of appeal docs). The third party appellant further questions the Planning Authority's basis for consideration of the proposal noting that the application fee was calculated on basis of 'domestic extension / other improvements' whereas it would be more appropriate to calculate as 'agricultural or other class'. It is asserted that the lack of clarity with regard to the status of the building is unacceptable and the development proposed for retention cannot be considered in a vacuum without having regard to the wider potential



planning considerations relating to housing need, landscape impact, servicing and waste treatment and the impact on the integrity of European Sites.

7.2.2 The first party in response to the appeal asserts that the building is a dwelling / semi-ruinous cottage albeit uninhabitable. Whilst accepting that the dwelling fell into considerable disrepair, it is asserted that its use as a dwelling has never changed or been superseded by another use since it was last occupied. It is also contended that the appeal misrepresents and exaggerates the work undertaken for which retention is sought. It is asserted that the building is now intended for persons visiting the farm in terms of a place of shelter in inclement weather and that matters of housing need, water and wastewater servicing and the wider planning issues and considerations do not arise. The applicant accepts that any further works or development to make it a habitable building will require a future application.

7.2.3 Having considered the matter in detail I acknowledge the concerns regarding the adequacy of the application and the inherent contradiction of confining assessment of the structure as a shelter for farm visitors (with no requirement for water or wastewater facilities) whilst at the same time accepting the applicant's assertion (and application basis) that the structure is 'a dwelling'. Based on the details provided to the Board the use of the structure as a house ceased in the 1960s and it appears as an apparently roofless structure in the aerial photography of 1995 and 2000 (Appendix 1 of appeal submission). In its assessment of the 1994 planning application on the site 0070254 which sought permission to reconstruct and extend a derelict dwelling, the local authority Planner referenced the structure as 'a ruin'. (as reported in the Planner's report in respect of subsequent application 20/1112). Given the structure's abandonment and its state of ruin for a protracted period, it is reasonable in my view to conclude that the residential use of the site ceased. Given the prevalence of similar such ruinous structures in the wider Connemara landscape the status of the building is an important consideration in terms of potential for precedent.

7.2.4 Notwithstanding these concerns, the application as submitted is limited to the retention elements for:

- Reinstatement of a collapsed roof and making good of an existing chimney
- The unblocking of window opes and replacement of timber framed windows on the front elevation.
- Recently erected CCTV cameras on the building to be in place for a temporary period.

In terms of the assessment of the proposal in terms of the wider policies and objectives of the Development Plan, I note the unserviced location and visual sensitivity of the site. However, the works carried out are minor in nature and intended to maintain and secure the property. In my view given the restricted nature of the works and subject to use solely for the stated purpose of shelter I consider that the development proposed for retention is acceptable in principle.

### **7.3 Appropriate Assessment Screening.**

#### **7.3.1 Compliance with Article 6(3) of the Habitats Directive**

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under Part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

#### **7.3.2 Background to the application**

On the issue of appropriate assessment, the application is accompanied by a Screening Assessment by Aster Environmental Consultants Limited. The appropriate assessment screening report provides a description of the development proposed for retention, identifies European Sites within a possible zone of influence of the development, identifies potential pathways and impacts, and assesses the significance of potential impacts.

The applicants AA screening report concluded that the works and development in themselves or in combination with other plans or projects do not give rise to significant effects on a European site and that the project is screened out for Appropriate Assessment.

### 7.3.3 Screening for Appropriate Assessment – Test of likely significant effects

The development proposed for retention is not directly connected with or necessary to the management of a European site and therefore it needs to be determined if the development is likely to have significant effects on a European Site.

The development proposed for retention is examined in relation to any possible interaction with European sites designated Special Conservation Areas SAC and Special Protection Areas SPA to assess whether it may have given rise to significant effects on any European site.

### 7.3.4 Description of Development

The applicant provides a description of the project in Section 2 of the AA Screening Report. In summary, the proposal comprises the following

Reinstatement of collapsed roof and making good of an existing chimney

Unblocking of window opes and replacement of timber framed windows on front elevation.

Recently erected CCTV Cameras to the building

Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Construction related – uncontrolled surface water silt / construction related pollution.
- Habitat loss / fragmentation
- Habitat disturbance / species disturbance (construction and or operational)

### 7.3.5 Submissions and observations.

Third party submissions raise concerns regarding surface water runoff to River and Connemara Bog Complex SAC and Connemara Bog Complex SPA. Concern is raised with regard to possible future conversion to a habitable structure and future installation of wastewater treatment system provision of potable water supply.

### 7.3.6 European Sites

The development site is located adjacent to the Connemara Bog Complex SAC Site Code 002034 (within 12m) and the Connemara Bog Complex SPA Site Code 004181 (within 5). A number of other European sites occur within 15km of the site within a possible zone of influence. Where a possible connection between the development site and a European Site has been identified, these sites are examined in more detail. European sites within 15km possible zone of influence include :

Slyne Head to Ardmore Point Islands SPA Site Code 004159 2.5km

Murvey Machair SAC Site Code 002129 2km

Slyne Head Peninsula SAC Site Code 002074 3km

Dogs Bay SAC 001257 5km

Cregduff Lough SAC 002151 6km

Slyne Head Islands SAC 8km

West Connacht Coast SAC 002998 9km

The Twelve Bens / Garraun Complex 002031 SAC 9km

Rosroe Bog SAC 9km

Inisbofin Orney Island and Turbot Island SPA 004231 13km

Kilkieran Bay and Islands 002111 SAC 12km

Lough Nageeron SAC 14km

Kingstown Bay SAC 002265 13km

Barnahalia Lough SAC 002118 15km

### 7.3.7 Identification of Likely Effects

The site of the development proposed for retention comprises a former dwelling ruin last occupied as a dwelling late 1960s. The extent of works were carried out either in

the late 2000s or 2003. The development proposed for retention is not connected with or necessary for the conservation management of any Natura 2000 site. The site of the development proposed for retention is not located in a European site however is within 5m of the Connemara Bog Complex SPA and within 12m of the Connemara Bog Complex SAC and. On the basis of absence of source pathway receptor connection to the remaining 15 sites above there is no likelihood of significant effects on these sites and they are screened out.

Hydrological connection and proximity to the Connemara Bog Complex SPA and Connemara Bog Complex SAC is noted. The range of activities arising from the development proposed for retention that would possibly have had any potential effects on European sites would relate to pollution of surface water during construction activities. Given the minor nature of the works proposed for retention and distance of the building to the designated sites 40m/45m and intervening screening it can be concluded that the works proposed for retention did not give rise to significant effects on the Connemara Bog Complex SPA and Connemara Bog Complex SAC and AA and the submission of an NIS is not therefore required.

As regards In-combination effects there are no other known development projects or plans with which significant in-combination effects would arise.

#### **7.3.8 Mitigation Measures**

No measures designed or intended to avoid or reduce any harmful effects of the development proposed for retention on a European site have been relied upon in this screening exercise.

#### **7.3.9 Screening Determination**

The development proposed for retention has been considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that there is no likelihood of significant effects to the European sites within the possible zone of influence. AA and submission of an NIS is not therefore required.

This determination is based on the following:

- The nature and extent of the development proposed for retention, with emphasis placed on surface water discharges,
- The proximity to European sites, and
- The known pathways between the site and the European sites.

The possibility of significant effects on European sites has been excluded on the basis of objective information. Measures intended to reduce or avoid significant effects have not been considered in the screening process.

## **7.4 Other Matters**

**7.4.1** On the matter of the CCTV cameras, I am inclined to concur with the Planning Authority that the elevated cameras erected over the roofscape of the structure are visually discordant, detrimental to the character of the structure and detrimental to rural amenity and are not justified. On this basis I consider that these cameras should be excluded from the grant of retention.

**7.4.2** As regards matters raised within the submissions to the local authority with respect to works to the roadway access to the site and potential archaeological implications, I note that the applicant indicates that recent works carried out as part of the Co Council local improvement scheme and are not part of the current application for retention.

## 8.0 Recommendation

- 8.1 Having I have read the submissions on the file, visited the site and had due regard to the development plan and all other matters arising. I recommend that the Board uphold Planning Authority's decision and grant permission subject to the following conditions.

### Reasons and Considerations

Having regard to the use of the site, and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the development proposed for retention would not injure the amenities of the area and would thus accord with the proper planning and sustainable development of the area.

### Conditions

1. The development herein permitted relates to the retention of the reinstatement of collapsed roof and making good of an existing chimney, unblocking of window opes and replacement of timber framed windows on the front elevation 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.

Reason: In the interest of clarity.

2. The CCTV equipment erected on the property is not included within the grant of retention and shall be removed within one month of the date of permission.

Reason: In the interest of residential and visual amenity.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to use for temporary shelter associated with the agricultural use of the adjoining lands as specified in the lodged documentation, unless otherwise authorised by a prior grant of planning permission.

Reason: To clarify the permission and to protect the amenities of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

---

Bríd Maxwell  
Planning Inspector  
23<sup>rd</sup> May 2023