



An
Bord
Pleanála

Inspector's Report ABP-314416-22

Development	Erection of dwelling house, domestic garage, wastewater treatment system, percolation area, and all associated services.
Location	Cill Ogula, Moycullen, Co. Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	21/2038
Applicant(s)	Shane Costello & Celine Higgins
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party v Decision
Appellant(s)	Shane Costello & Celine Higgins
Observer(s)	Richard Devaney
Date of Site Inspection	7 th December 2022
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located 1.93 km to the south of Moycullen and 1.46 km to the west of that portion of the N59 national secondary road, which runs between Galway City and Maam Cross. The site lies on rising lands to the west of Lough Corrib, which are typically composed of fields that are enclosed by means of stone walls and hedgerows and which are punctuated by individual dwelling houses and farmsteads. It is served by the local road network.
- 1.2. The site itself is regular in shape and it extends over an area of 0.2950 hectares. This site rises generally from south to north and from its south-eastern corner to its north-western one. The site is composed of portions of three distinct fields, which are enclosed largely by means of stone walls. These walls are supplemented in places by hedgerows and individual trees. An agricultural gate provides access from a local road that bounds the site to the south. This road rises from the east/south. It terminates further to the west, and it affords access to the existing dwelling houses, including two that accompany the site further to its east and west.

2.0 Proposed Development

- 2.1. The proposal would entail siting a new dwelling house towards the centre of the northern half of the site. This dwelling house would comprise a one-and-a-half storey element, which would be laid out on an east/west axis, and a single storey element, which would project southwards from the front elevation. These elements would be of simple rectangular form under double pitched slated roofs. The former would be finished in render and the latter would be finished in stone. The former element would include feature windows, which would extend above the eaves line, and the latter element would have corner windows. The dwelling house would afford four-bed/eight-person accommodation over a floorspace of 210.30 sqm.
- 2.2. The proposal would also entail siting a domestic garage (37.50 sqm) to the rear of the dwelling houses in the north-western corner of the site. A wastewater treatment system would be installed, which would discharge to a percolation area sited to the south-west of the dwelling house. A new access would be formed from the local road in the vicinity of the existing one. This access would be accompanied by a recessed area on either side, which would be enclosed to the rear by means of a stone wall.

Existing trees would be retained along the roadside boundary to the east of the access. Likewise, existing trees would be retained along the western boundary. The new northern and southern boundaries would be enclosed by means of stock proof timber post and rail fences. Existing stone walls within the site would be removed to ensure that the grounds to the dwelling house would be continuous.

- 2.3. The application is made by two applicants, i.e., Shane Costello and Celine Higgins. For the purposes of presenting the case for a local rural housing need, Celine is the relevant applicant, and so I have adopted the convention of referring to her as “the applicant” singular throughout my report. Where the plural is used, both applicants are being referred to.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reason:

Having regard to requirements of Objective RH4 of the Galway County Development Plan 2022 – 2028, and on the basis of the housing need documentation included with the planning application, it is considered the applicant 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 a policy objective and a development management standard contained in the Galway County Development Plan 2022 – 2028, would be contrary to the Sustainable Rural Housing Guidelines, and therefore would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further information was requested with respect to the applicant’s alleged ownership of a dwelling house in Galway City, details of proposed site boundary treatments and the extent of the landowner’s holding, and the need to factor-in any bored wells within 250m of the site to the Site Characterisation exercise. The applicant responded by confirming her ownership of a dwelling house in Galway City, and by submitting the requested details and a revised Site Characterisation exercise.

3.2.2. Other Technical Reports

None

4.0 Planning History

Site: None.

Site to the east:

- 03/7075: Dwelling house, garage, septic tank, and percolation area: Refused on the grounds that the applicant was not an intrinsic part of the community, absence of sightline information, visual obtrusion, and public health concern over siting of percolation area.
- 04/3640: Dwelling house, garage, septic tank, and percolation area: Permitted.

5.0 Policy and Context

5.1. National Planning Framework and National Planning Guidelines

- National Planning Framework

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.

- Sustainable Rural Housing Guidelines

5.2. Development Plan

Under Map 4.2 of the Galway County Development Plan 2022 – 2028, the site lies within the following zones:

- Zone 2: The Galway County Transport and Planning Study (GCTPS), which is an area under strong urban influence for the purpose of assessing applications for rural dwelling houses,
- Zone 4: Landscape Sensitivity Category 3 “Special”, i.e., the Landscape Character Type Lake Environs and the Landscape Character Unit 4b Lower Corrib Environs, and
- Zone 5: An Gaeltacht Area.

The following policies are of relevance to the current proposal for a dwelling house on the site:

Rural Communities Policy Objective 2:

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 Section 4.6.3, Rural Housing Policy Objective 2 (Rural area under strong urban pressure – GCTPS – outside Rural Metropolitan Area Zone 1):

It is policy objective to facilitate rural housing in this rural area under strong urban pressure subject to the following criteria:

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, legal witness or 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 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.

OR

1(g) Rural families who have long standing ties with the area but who now find themselves subsumed into Rural Villages. They have no possibility of finding a site within the particular Rural Villages. Rural Villages dwellers who satisfy the requirements for Rural Housing Need as outlined in RH2 will not be considered as Urban Generated and will have their Housing Need upheld.

2. 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.

Definitions applied above:

** Rural Links*

For the purpose of the above is defined as a person who has strong demonstrable economic or social links to the rural area and wishes to build a dwelling generally within an 8km radius of where the applicant has lived for a substantial continuous part of their life. 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.

** Substantiated Rural Housing Need:*

Is defined as supportive evidence for a person to live in this particular area and who does not or has not ever owned a house/received planning permission for a single rural house or built a house (except in exceptional circumstances) in the area concerned and has a strong demonstrable economic or social need for a dwelling for their own permanent occupation. In addition, the applicants will also have to demonstrate their rural links as outlined above.

** Urban generated housing demand Rural Village Dwellers:*

Urban generated housing is defined as housing in rural locations sought by people living and working in urban areas, including second homes. There are many rural families who have long standing ties with the area but who now find themselves subsumed into Rural Villages.

They have no possibility of finding a site within the particular Rural Villages. Rural Villages dwellers who satisfy the requirements for Rural Housing Need as outlined in RH2 will not be considered as Urban Generated and will have their Housing Need upheld.

** Urban Fringe:*

Urban Fringe of Gort, Loughrea, Athenry and Tuam. Applicants who wish to build within this area must generally be from within an 8km radius of the proposed site and will be requested to establish a Substantiated Rural Housing Need as per RH2.

Rural Housing Policy Objective 4 (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.

Rural Housing Objective 5: Rural Housing Zone 5 (An Ghaeltacht)

It is a policy objective of the Planning Authority to facilitate Rural Housing in the open countryside subject to the following criteria:

(a) Those applicants within An Ghaeltacht which are located in Zone 1 (Rural Metropolitan Area) and Zone 2 (The Rural Area Under Strong Urban Pressure-GCTPS)

and Zone 4 (Landscape Sensitivity) shall comply with the policy objectives contained in RH 1, RH 2 and RH 4 as appropriate.

(b) It is a policy objective of the Planning Authority that consideration will be given to Irish speakers who can prove their competence to speak Irish in accordance with Galway County Council's requirements and who can demonstrate their ability to be a long-term asset to the traditional, cultural and language networks of vibrant Gaeltacht communities. This consideration will apply to applicants seeking to provide their principal permanent residence, in landscape designations Class 1 and 2. It will extend into Class 3 areas that are not in prominent scenic locations. This consideration will not apply to applicants seeking to build in Zone 1 (Rural Metropolitan Area).

A Language Enurement of 15 years duration will apply to approved developments in this category.

Rural Housing Policy Objective 9: Design Guidelines

It is a policy objective of the Planning Authority to have regard to Galway County Council's Design Guidelines for the Single Rural House with specific reference to the following:

- a). It is the policy 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 the policy objective to promote sustainable approaches to dwelling house design and encouraging proposals to be energy efficient in their design and layout;*
- c). It is the policy objective to require the appropriate landscaping and screen planting of proposed developments by using predominately indigenous/local species and groupings.*

Rural Housing Policy Objective 11: Waste Water Treatment Provision

Where a connection to the public wastewater network is not available, provide for sustainable rural housing in the county in accordance with the EPA Code of Practice: Wastewater Treatment Systems for Single Houses (2009).

The following development management standards are also of relevance:

No. 8 Site selection and design:

Apply the following guidance in assessing planning applications for rural housing:

- The scale, form, design and siting of the development should be sensitive to its surroundings and visually integrate with the receiving landscape.*

- *Simple design forms and materials reflective of traditional vernacular should be used.*
- *Have regard to the scale of surrounding buildings. A large house requires a large site to ensure effective integration into its surroundings (either immediately or in the future, through planned screening).*
- *A visual impact assessment may be required where the proposal is located in an area identified as “Protected Views/Scenic Routes” in the Landscape Character Assessment of the County or in Class 3 and 4 designated landscape sensitivity areas.*
- *The design, siting and orientation of a new dwelling should be site specific responding to the natural features and topography of the site to best integrate development with the landscape and to optimise solar gain to maximise energy efficiency.*
- *The siting of new development shall visually integrate with the landscape, utilising natural features including existing contours and established field boundaries and shall not visually dominates the landscape. (Cutting and filling of sites is not desirable).*
- *New buildings should respect the landscape context and not impinge scenic views or skylines as seen from vantage points or public roads.*
- *Larger houses (e.g., in excess of 200sqm) should incorporate design solutions to minimise visual mass and scale e.g. sub-divided into smaller elements of traditional form to avoid bulky structures.*
- *Use a simple plan form to give a clean roof shape – a long plan in preference to a deep plan. This will avoid the creation of a bulky shape.*
- *Where existing vernacular structures exist on site, consideration should be given to their re-use, adaptation and extension in preference to new build.*
- *Clustering with existing rural buildings is generally preferable to stand-alone locations.*

No. 9: Site sizes for single houses using individual on-site wastewater treatment systems:

- *A minimum site size of 2000m² is generally required for a single house so as to provide for adequate effluent treatment, parking, landscaping, open space and maintenance of rural amenity.*

- *For house sizes, with a Floor Footprint greater than 200m². The site size shall be increased by 10m² for each 1 m² of house footprint area above 200m².*
- *Special consideration will be given to existing houses and to proposed developments who can demonstrate Rural Housing Need and comply with EPA guidelines where the minimum size is not totally achievable. For house sizes, with a site size less than 2000m². The house footprint shall be decreased by 1 m² of house area for each 10m² below 2000m².*

Appendix 5 sets out “Design Guidelines for the Single Rural House”.

5.3. Natural Heritage Designations

- Lough Corrib SAC & pNHA (000297)
- Lough Corrib SPA (004042)
- Ballycurke Lough pNHA (000228)
- Moycullen Bogs NHA (002364)

5.4. EIA Screening

Under Item 10(b)(i) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2022, where more than 500 dwelling units would be constructed the need for a mandatory EIA arises. The proposal is for the development of 1 dwelling. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall well below the relevant threshold, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal cite the Galway County Development Plan 2015 – 2021, which has been superseded. I will, however, set out the relevant extracts from this

CDP so that the applicant's case can be understood. These extracts are from Rural housing objective (RHO 1) – Rural Housing Zone 1 (Rural area under strong urban pressure – the Galway Transportation and Planning Study (GTPS) area):

- *It is an objective of the Council to facilitate Rural Housing in the open countryside subject to the following criteria:*

2.(b) To recognise that exceptional health circumstances, supported by relevant documentation from a registered medical practitioner and disability organisation, may require a person to live in a particular environment or close to family support. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis.

The applicant's mother is a 68-year-old widow. The applicant is an only child. She will be her mother's sole carer as she grows old. The family GP confirms these details and adds that her mother has "some health issues".

- *It is an objective of the Council to facilitate Rural Housing in the open countryside subject to the following criteria:*

1.(b) Those applicants who have no family lands but who wish to build their first home within the community in which they have long standing Rural links and where they have spent a substantial, continuous part of their lives i.e. have grown up in the area, schooled in the area and have immediate family connections in the area e.g. son or daughter of longstanding residents of the area. 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. Having established a Substantiated Rural Housing Need*, such persons making an application on a site within a 8km radius of their original family home will be accommodated, subject to normal development management criteria and provided the site does not encroach into the Urban Fringe* of the towns of Gort, Loughrea, Athenry or Tuam. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis.*

The applicant's mother resides in the family home, which is located less than 1km from the site, i.e., well within 8km.

- *It is an objective of the Council to facilitate Rural Housing in the open countryside subject to the following criteria:*

2.(a) 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. Special consideration will be given to one member of the immediate family of emigrants returning to this local area to live near their immediate family. 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.

The applicant was born and raised in Moycullen and lived there until the age of 29.

- The applicant has submitted supporting evidence to demonstrate that she has a local rural housing need. Neither applicant has received planning permission for a rural dwelling house or has built a rural dwelling house in the locality of the site. The applicant confirms by means of an auctioneer's letter that her residential property in Galway City is "sale agreed".

6.2. Planning Authority Response

None

6.3. Observations

Richard Devaney of Bogganfin, Ballymurray, Co. Roscommon

- Housing need

Under further information, the applicant confirmed that she owns and resides in a dwelling house in Galway City.

Under the current CDP, the site is located in a rural area under strong urban pressure – the GCTPS. Key objectives for this area distinguish between rural and urban generated housing need. As the applicant already owns her own home, the proposal is not for a "first home" as cited under Rural Housing Policy Objective 4 Item 1(b). This understanding is echoed in the Sustainable Rural Housing Guidelines.

Under the National Planning Framework, commuter catchment areas are regarded as being areas under strong urban influence, i.e., in the case of

Galway City, the GCTPS area. The site lies within this area and so, under NPO 19, applicants for rural housing need must “demonstrate economic or social need to live in a rural area”. It manifestly lies in such an area given the high incidence of one-off dwelling houses in the surrounding area. Neither the applicant nor her family of origin are/were dependent upon the rural economy for their livelihoods. Accordingly, she does not have a rural housing need.

- Scale, mass, and height

The proposed two-storey dwelling house would be sited in an elevated position in relation to the adjacent local road and the nearest dwelling houses on either side. This position would be conspicuous and the finished floor levels would raise the dwelling house up still further. By contrast, the dwelling houses on either side are more discretely sited at lower levels within the landscape. Consequently, the proposed dwelling house would be visually obtrusive.

- Overlooking

The observer farms the land to the north and east of the site. Habitable room openings in the proposed dwelling house would afford views down into this land and lead to overlooking of the same.

- Finished floor level

The submitted plans cite different finished floor levels.

- Open well

The observer highlights the presence of an open well, 15m away from the western boundary of the site. This well supplies potable water for the adjacent dwelling house. It is not addressed under the submitted Site Characterisation Form. Two other wells, to the south of the site, are addressed. Each of the wells would be under threat from the proposed wastewater treatment system.

- Boundary treatment

The submitted plans contain very little detail on boundary treatments. This is of concern to the observer, as he has livestock on his adjoining land to the north and east of the site.

The proposed development would entail the loss of considerable lengths of drystone granite walls, which are presently on the site. The Design Guidelines for the Single Rural house state that field boundaries “are standing records of the area’s history of land ownership and display important evidence of local geology, local craftsmanship, and local farming practice.” The applicant should at least reuse the stone in these walls to enclose the northern and eastern boundaries of the site.

- **Sightlines**

The sightlines on either side of the proposed access indicate “y” distances of 63m and 66m. They are drawn to the far side rather than the nearside of the single lane carriageway and so they are exaggerated. The provisions of DM Standard 20 of the Galway County Development Plan 2015 – 2021 have not been met and so the proposed access would pose a risk to road safety.

6.4. Further Responses

None

7.0 Assessment

7.1. I have reviewed the proposal in the light of the National Planning Framework (NPF), the Sustainable Rural Housing Guidelines, the Galway County Development Plan 2022 – 2028 (CDP), relevant planning history, the submissions of the parties and the observer, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Rural settlement policy and local rural housing need,
- (ii) Landscape and visual impacts,
- (iii) Access,
- (iv) Water, and
- (v) Appropriate Assessment.

(i) Rural settlement policy and local rural housing need

- 7.2. Under NPF NPO 19 a distinction is made between rural areas that are under urban influence, i.e., the commuter belt, and elsewhere. Within the commuter belt, single housing will be facilitated based on the core consideration of demonstrable economic or social need to live in a rural area.
- 7.3. The site lies within the Galway City Transportation Planning Study (GCTPS) area, which is accepted as being the rural area around Galway City that is the subject of urban influence for the purpose of assessing applications for single rural housing.
- 7.4. The Sustainable Rural Housing Guidelines recognise the distinction between urban and rural generated housing need. They also recognise that within rural areas that are the subject of urban influence, applicants will need to demonstrate that they are either an intrinsic part of the rural community or that they work full-time or part-time in rural areas.
- 7.5. The Galway County Development Plan 2022 – 2028 (CDP) reflects the NPF's NPO 19 and the advice set out in the Sustainable Rural Housing Guidelines. Under Map 4.2 of the CDP, the site is shown as lying within:
- Zone 2, the aforementioned GCTPS,
 - Zone 4, the Landscape Character Type "Lake Environs" and the Landscape Character Unit 4b "Lower Corrib Environs", which has a Landscape Sensitivity Category 3 "Special", and
 - Zone 5, An Gaeltacht Area.

Rural Housing Policy Objectives 2, 4 & 5 relate to Zones 2, 4 & 5, and so they are of relevance to the current application.

- 7.6. The applicant has submitted a completed rural housing need application form, in which she states that the proposed dwelling house would be for her occupation and that of her husband and son. She states that she is an only child, and she wants to live beside her mother so that she can take care of her. The applicants confirm that they both work in Galway City and neither of them has previously obtained planning permission for or built a rural dwelling house. In support of her application, the applicant submitted a copy of her birth certificate, a copy of a Land Registry Folio of

her mother's dwelling house, and letters confirming her attendance in a local school and her childhood formation in the local parish church.

- 7.7. As unsolicited further information, the applicant identified Rural Housing Objective RHO 1 Item 2(b) of the Galway County Development Plan 2015 – 2021, as being of relevance to her application. This Item refers to situations wherein “exceptional health circumstances” may require a person to live in a particular environment or close to family support. The applicant submits a letter from her mother's GP in this respect.
- 7.8. By way of response to the Planning Authority's request for further information, the applicant interacted with Rural Housing Objective RHO 1. In relation to Item 1(b), she confirms, amongst other things, that she owns a dwelling house in Galway City, and she has lived therein, as her primary residence, for the last 6 years. She also cites Items 1(c), 2(a), and 2(b).
- 7.9. Between the date upon which the Planning Authority requested further information and its receipt, the Galway County Development Plan 2015 – 2021 was superseded by the Galway County Development Plan 2022 – 2028. A comparison of the rural housing objectives in these Plans indicates that the provisions of the NPF's NPO 19 have been incorporated into the latest wording of objectives and some rationalisation has occurred, e.g., RHO 1 Item 2(b) cited by the applicant has been omitted.
- 7.10. The Planning Authority refused permission on the grounds that the applicant owns and resides in a dwelling house in Galway City and so, under RH 4 of the current CDP, she is no longer in a position to seek permission to build her “first home” in a rural area.
- 7.11. The applicants have appealed the Planning Authority's refusal on four grounds the first three of which cite the superseded CDP.
 - The first ground cites RHO 1 Item 2(b) concerning “exceptional health circumstances”. While there is no parallel provision in the current CDP, Section 4.3 of the Sustainable Rural Housing Guidelines does cite it. However, the health circumstances in view appear to be those of the applicant rather than a relation. Even if a relation's health could be construed to be in view, the applicant's GP does not report that her mother has any “exceptional

health circumstances”. Accordingly, the applicant does not have a local rural housing need on this basis.

- The second ground cites RHO 1 Item 1(b) concerning applicants from a locality where they have no family lands upon which to build but where they apply for planning permission to build on a site within 8km of their family home. The equivalent of this objective is RH 2 Item 1(b) in the current CDP. The applicant has submitted documentary evidence to support her claim that she is from the locality, and she has confirmed that her family of origin home is well within 8km of the application site.
- The third ground cites RHO 1 Item 2(a) concerning applicants who as emigrants want to return to the locality that they are originally from. The equivalent of this objective is RH 2 Item 1(b) in the current CDP. While this objective does not explicitly refer to emigrants, the parent wording in Section 3.2.3 of the Sustainable Rural Housing Guidelines does refer to emigrants. The applicant is from the locality, and she lived there until she was 29. She now wants to return from Galway City.
- The fourth ground refers, by implication, to the proceeding grounds. It states that the applicant has a local rural housing need. It reiterates that the applicants have not previously obtained planning permission or built a rural dwelling house, and it provides an update on the sale of their existing dwelling house, which has reached the stage of being “sale agreed”.

7.12. I consider that the key question raised by the applicant’s appeal is whether she has an urban generated or a rural generated housing need. Insofar as she lives and works in Galway City, her present circumstances are clearly within an urban rather than a rural context. Critically, insofar as she has purchased and resided in her own dwelling house in Galway City, she is no longer in a position to build her “first home”. A pre-condition for establishing that applicants have a rural housing need is that they have not purchased a dwelling house as their first home in an urban area. The applicant is not in this position and so she does not have a rural housing need. In these circumstances, none of the other considerations that she cites can serve to overturn the absence of a rural generated housing need. I, therefore, concur with the Planning Authority’s reason for refusal.

7.13. I conclude that the applicant does not have a rural generated housing need.

(ii) Landscape and visual impacts

7.14. Under the CDP, the site is shown as lying in a borderline position wherein it appears to be just inside the Landscape Character Type “Lake Environs” and the Landscape Character Type 4b “Lower Corrib Environs”. The accompanying Landscape Sensitivity Category is “Special”, i.e., high sensitivity to change, and so the design and choice of location of proposed development in the landscape are critical considerations.

7.15. The site comprises parts of three fields that are the subject of gentle/moderate gradients that rise in a northerly direction. These fields lie within a wider area of undulating farmland that rises generally in a westerly direction from Lough Bhaile Ui Choirc towards upland bogs beyond. Dwelling houses lie to their east and west, as well as to the south beyond a local road. They are enclosed by drystone granite walls and hedgerows.

7.16. The site assembly envisaged by the application would entail the removal of the existing drystone granite walls from within the site and the majority of accompanying trees. Such removal would be necessary to facilitate the siting of the proposed dwelling house centrally in the northern half of the site and its accompanying driveway and surrounding grounds.

7.17. The finished floor level of the main body of the dwelling house, i.e., the one-and-a-half-storey portion, would be similar to the existing contours of the site over which it would be constructed, i.e., 58m OD (cf. clarification of this in the applicant’s letter of 6th December 2021). The single storey portion of the dwelling house would project forward, in a southerly direction, from the front elevation of the main body of the dwelling house. Its finished floor level would be 58.6m OD, which would be c. 1m higher than the existing contours.

7.18. The dwelling house would be composed of simple rectangular forms under straight gabled, double pitched, slated roofs. The main body would be finished in smooth plaster render and its main elevations would have feature first floor windows that would extend above the eaves line. The projecting element would be finished in local stone to a random course and its exposed corners would have feature wrap around windows. The driveway would climb from its entrance off the local road to the south,

to lap around the dwelling house and terminate beside the proposed garage, which would be sited in the north-western corner of the site. Existing boundary treatments to the west and south would be retained, except insofar as a new entrance would be formed in the southern one. The new northern and eastern boundaries would be denoted by means of stock proof timber post and rail fences and accompanying hedgerow planting.

- 7.19. Under Policy Objective RH 9 of the CDP, the Planning Authority undertakes to have regard to its Design Guidelines for the Single Rural House. It emphasises the need for “house design that respects the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape.” Under Development Management Standard No. 8 of the CDP, advice is given on site selection and design, which emphasises the importance of siting new dwelling houses so that they “visually integrate with the landscape, utilising natural features and including existing contours and established field boundaries”.
- 7.20. During my site visit, I observed that the site overlaps with three fields that are largely bound by drystone granite walls, which comprise an array of stone sizes. These walls are typical of the surrounding area, and they contribute significantly to its landscape character. The removal of such walls from within the site for the purpose of its assembly and proposed development would be to the serious detriment of this local character and it would be contrary to the provisions and advice set out in the above cited extracts from the CDP.
- 7.21. The observer draws attention to the aforementioned removal and the absence from the proposal of any use of the salvaged stone to enclose the new boundaries, which would be denoted by stock proof timber post and panel fences.
- 7.22. The proposed dwelling house would be sited towards the higher end of the site. Its design would incorporate a narrow plan form, and its traditional finishing materials would reflect the local vernacular. However, the elevated element to the front, which would project from the one-and-a-half storey main body of the dwelling house, would be unduly strident and dominant. The proposed window and door openings would display a range of sizes and designs and the absence of vertical alignment would contribute to too great a variety of openings. Given the siting and scale of the proposed dwelling house, it would stand out within the local landscape and, given its

design, it would neither reflect the local vernacular sufficiently nor be a wholly contemporary alternative to this vernacular. The observer concludes his visual critique of the proposal by stating that it would be visually obtrusive. I consider that it would be visually intrusive, too.

7.23. The observer considers that the proposal would overlook his lands, which adjoin the site to the north and to the east. He expresses the concern that these agricultural lands would experience a loss of privacy. However, I consider that this category pertains to residential properties rather than farmland.

7.24. I conclude that landscape and visual impacts of the proposal would be harmful to the character of the local landscape and detrimental to its visual amenity.

(iii) Access

7.25. Under the proposal, the existing access point to the site would be resited to a position slightly to the east and it would be formally laid out as a recessed domestic entrance. Accompanying sightlines would have an x dimension of 2.4m and easterly and westerly y dimensions of 66m and 63m, respectively.

7.26. The observer critiques the stated y dimensions as they would cross to the far side of the roadway before connecting with the nearside edge of the carriageway. During my site visit, I observed that the local road is of single lane width, and it climbs and weaves its way towards the site from the east and the south. Along the frontage of the site, the road is relatively straight. Thereafter, to the east and to the west, it curves gently away from the line of the frontage. The carriageway is accompanied on either side by verges, which are subject to some overgrowth above.

7.27. The applicants, in their letter of 6th December 2021, contend that the local road can only be travelled along at 25 kmph, and so, under CDP standards, the stated y distances would be ample. While I am unable to conform this exact speed, I do consider that low speeds, i.e., below 50 kmph, would be the norm. I also consider that the envisaged sightlines, at just short of 70m, would be appropriate in these circumstances.

7.28. I conclude that the proposed access arrangements for the site would be satisfactory.

(iv) Water

- 7.29. Under the proposal, the new dwelling house would be served by the public water mains. The applicants have made a pre-connect enquiry of Irish Water in this respect. Surface water run-off from the roof of the dwelling house would discharge to soakaways, which would be sited in positions adjacent to the eastern and western boundaries of the site. Surface water run-off from the extensive driveway does not appear to have been addressed. If the Board is minded to grant, then this matter should be conditioned.
- 7.30. Under the OPW's flood maps, the site is not shown as being the subject of any identified flood risk.
- 7.31. Under the proposal, the new dwelling house would be served by a wastewater treatment system (WWTS), i.e., the Tricel Novo IRL6 treatment unit. This WWTS would discharge to a percolation area, which would be installed in the south-western quadrant of the site. The applicants have submitted a completed Site Characterisation Form (SCF) in support of their proposed wastewater arrangements. This SCF sets out the following information:
- The aquifer is poor and of extreme vulnerability. The groundwater protection response is R2₁. The EPA's Code of Practice: Domestic Waste Water Treatment Systems (2021) states that this response is "Acceptable subject to normal good practice. Where domestic water supplies are located nearby, particular attention should be given to the depth of subsoil over bedrock such that the minimum depths required in Chapter 6 are met and the likelihood of microbial pollution is minimised."
 - Local groundwater is assumed to flow in a south-easterly direction.
 - The trial hole was dug to a depth of 2.1m. The sub-soil is composed of brown sandy clay with cobbles. Water was not encountered, but rock was, at 1.4m. An accompanying note states that "it will be necessary to place distribution gravel of polishing filter a minimum of 900mm above rock level."
- 7.32. The "T" and "P" test results were 5.5 min/25mm and 7.5 min/25mm. Accordingly, both the sub-soil and the topsoil have suitable percolation properties.

- 7.33. In the light of the above factors, the site assessor recommends that a secondary treatment system and soil polishing filter be installed, which would discharge to groundwater at an invert level of 53.89m OD.
- 7.34. The submitted plans show the specification of the above cited invert level. They also show that there would be a clearance of 1.2m between the gravel layer and the depth of 2.1m, which was dug down to in the trial hole, i.e., the minimum clearance of 0.9m would be exceeded. However, the applicant's SCF reported that rock was encountered at 1.4m and so this depth, rather than 2.1m, would be the relevant baseline for calculating the minimum clearance of 0.9m. The submitted plans do not depict these requirements and so I am unable to reconcile them with the SCF.
- 7.35. The observer draws attention to an open well to the west of the site. The applicants' revised SCF identifies two wells to the south of the site, at distances of 130m, but not the one to the west. In their letter dated 6th December 2021, the applicants report that they have found no record of this well, and so they have not included it in their revised SCF. The two identified wells would be in excess of the relevant minimum clearance distance of 60m.
- 7.36. I conclude that the applicants have not demonstrated that the proposed percolation area would be capable of being installed at the requisite level to ensure that the minimum clearance depth of 0.9m from underlying rock would be achievable. Consequently, the advice of the EPA's relevant Code of Practice remains to be upheld and public health safeguarded thereby.

(v) Appropriate Assessment

- 7.37. The site does not lie in nor beside a European site, and it is not accompanied by any watercourses. Under the proposal, the new dwelling house would be served by a wastewater treatment system, which would discharge to groundwater. The nearest European site is Lough Corrib SAC (000297), which includes Lough Bhaile Ui Choirc some 1.5km to the east north-east. I am not aware of any source/pathway/receptor route between the site and this or any other European site. Accordingly, no Appropriate Assessment issues would arise.
- 7.38. Having regard to the nature, scale and location of the proposed development, the nature of the receiving environment, and the proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed

development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Conclusion

In the light of my assessment, I have concluded that the applicant does not have a rural housing need and so there is an, in principle, objection to the proposal. I have also concluded that the landscape and visual impacts of the proposal would lead to visual obtrusion and intrusion, and the details of the proposed percolation area do not reflect the findings of the applicants' Site Characterisation Form. In these circumstances, I have adopted the convention of only drafting a reason for refusal for the, in principle, objection. If the Board disagrees with this reason, then the remaining matters would be "new issues" upon which the parties may need to be consulted.

9.0 Recommendation

That permission be refused.

10.0 Reasons and Considerations

1. Having regard to:

- Objective 19 of the National Planning Framework,
- The Sustainable Rural Housing Guidelines, which distinguish between urban and rural generated housing need, and
- The Galway County Development Plan 2022 – 2028, which shows the site as lying within a rural area under urban influence, wherein Policy RH 2 is applicable,

It is considered that, as the applicants live and work in an urban area in which they have purchased their first home, they have an urban generated housing need, and so are no longer in a position to build their first home in a rural area. Consequently, to grant planning permission for the proposed dwelling house on a site within a rural area under urban influence would contribute, unjustifiably, to its encroachment by means of random rural development, which would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed dwelling house would, therefore, be contrary to the above cited national and local planning objectives and, as such, it would fail to accord with the proper planning and sustainable development of the area.

Hugh D. Morrison
Planning Inspector

27th January 2023