



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317793-23

#### Development

For the renovation & development of a back garden single storey roofless stone structure - the 'Old Dispensary' into a two storey dwelling with coaching & retreat practice spaces with associated hard & soft landscaping.

#### Location

Killaan, Woodlawn, Ballinasloe, Co. Galway.

#### Planning Authority

Galway County Council

#### Planning Authority Reg. Ref.

221178

#### Applicant

Dr. Liz Hayes

#### Type of Application

Permission

#### Planning Authority Decision

Refuse Permission

#### Type of Appeal

First Party

#### Appellant

Dr. Liz Hayes

#### Observer

P. Mahon & Family

#### Date of Site Inspection

16<sup>th</sup> January 2024

**Inspector**

Ian Campbell

## 1.0 Site Location and Description

- 1.1. The appeal site is located on the western side of the R359, c. 1.3 km south of Woodlawn, Co. Galway. The appeal site is located in a rural area outside of a settlement.
- 1.2. The appeal site, has a stated area of 0.4638 Ha. is irregular in shape and accommodates a detached two storey Arts and Crafts style dwelling and a number of outhouses situated to the north of the dwelling. A ruinous stone building referred to as 'The Old Dispensary' is situated in the north-east corner of the appeal site. This building comprises four outer walls. The appeal site is served by a vehicular access to the north-west. The roadside boundary of the appeal site comprises a stone wall. The appeal site is divided in two by a timber fence, with lands south of the house comprising a field and accessed via a field gate.
- 1.3. The adjacent site to the north (the observers' property) accommodates a detached two-storey dwelling.
- 1.4. There are a number of detached dwellings in the vicinity of the appeal site. Woodlawn Church of Ireland church is located to the immediate south of the appeal site.

## 2.0 Proposed Development

- 2.1. The proposed development comprises;
  - Renovation of a stone structure (referred to as 'The Old Dispensary') into a two storey dwelling with coaching and retreat practice (stated floor area c. 150 sqm). The coaching retreat use will accommodate 4 no. clients and 1 no. practitioner (i.e. the applicant).
  - Decommissioning of existing septic tank and replacement with a secondary treatment system and soil polishing filter (to serve the existing dwelling on the site and the proposed dwelling/coaching and retreat practice).
  - Hard and soft landscaping, new car parking area (5 no. spaces).
  - Renovation of existing gateway.
  - Associated site works.

- 2.2. The planning application was accompanied by the following;
- Cover letter from the applicant outlining the background to the proposal.
  - Architectural Design Overview setting out the design rationale for the proposal.
  - Correspondence confirming ability to provide water supply from a local group water scheme.

### 3.0 Planning Authority Decision

#### 3.1. Request for Further Information

Prior to the decision of the Planning Authority to refuse permission for the proposed development, the Planning Authority requested Further Information.

##### 3.1.1. Further Information was requested on the 19<sup>th</sup> of January 2023 as follows:

Item 1: (i) omit the residential element in light of the concerns of the PA in relation to the provision of a second standalone dwelling on an un-serviced rural site, amenity concerns, over-development considerations, traffic safety and the haphazard and disorderly nature of the proposal; and, (ii) provide a justification for the proposed coaching and retreat practice with reference to Objective CD1 and DM Standard 17 of the Galway County Development Plan 2022 – 2028.

Item 2: submit structural report to demonstrate the capacity of the structure which is to be redeveloped.

Item 3: submit an Archaeological Impact Assessment for the proposal.

Item 4: revise proposal to incorporate a shared access arrangement, in compliance with DM Standard 28 of the Galway County Development Plan 2022 – 2028.

Item 5: revise design of the proposal to reflect the historic context of the existing structure, specifically the roof and porch element of the structure, and omit the proposed balcony.

Item 6: confirm that the proposed treatment system is adequately sized (with reference to Item 1 (i) above) with regard to the EPA Waste Water Treatment Manual – Small Communities, Business, Leisure Centre and Hotels.

Item 7: submit proposals to address the potential for surface water run-off from the site to discharge to the public road.

**3.1.2. Further information submitted on 29<sup>th</sup> of June 2023:**

Item 1: (i) overnight accommodation is considered by the applicant to be essential to the proposal, the applicant is amenable to a condition requiring that the proposal is not used as a residence. (ii) Regarding compliance with Objective CD1 - the rural setting is an important characteristic of the site and for the intended use; the practice will involve a single practitioner and a maximum of 4 clients; there will be negligible environmental and traffic impacts arising from the proposal, and it is envisaged that a sizable proportion of clients will use public transport with car parking also provided on the site; and there will be no adverse impacts on residential amenity. Regarding compliance with DM Standard 17, the proposal entails the repurposing of a 19<sup>th</sup> Century building to a 21<sup>st</sup> Century use, restoring the building is the best way of conserving the building. The proposal will be used to coach clients in a specific environment.

Item 2: a Structural Report prepared by Westcon Consulting Engineers concludes that the existing stone structure is salvageable, the walls should not be used for load bearing and that the new load-bearing frame should be constructed independently of the existing masonry walls. The report notes that new foundations will be required to support the new structure, and that this carries with it a risk to the foundations of the existing structure and as such should be carried out carefully.

Item 3: an Archaeological Impact Assessment was carried out by Fiona Rooney. The assessment included a walk-over of the site and test trenching (3 no. locations). No features were recorded based on the test trenching and no further mitigation is recommended.

Item 4: it is proposed to use the northern access during construction of the proposal and when the southern access has been upgraded to use this access to serve both the exiting dwelling on the site and the proposed renovated structure, and to close off

the northern access. The submission notes that the upgraded access complies with DM Standard 28<sup>1</sup> of the Galway county Development Plan 2022- 2028.

Item 5: the design of the proposal emerged from a detailed design process and the applicant is not proposing to amend same. A design rationale has been submitted which notes the relationship/response of the proposal to nature; the rationale for the use of curved features in the design; notes that the balcony does not result in overlooking and is important to the functionality of the proposal; and that the design honours the past but evolves to reflect the modern needs.

Item 6: the EPA Waste Water Treatment Manual – Small Communities, Business, Leisure Centre and Hotels is not relevant as the proposal is akin to a family home. The proposal still includes an accommodation element and the proposed system is suitable for the use.

Item 7: there will be no discharge of surface water to the public road or adjoining property. Surface water drainage proposal indicated on *Drawing 7b* (i.e. soakaways, French drains and gravel for the car parking area).

### 3.2. Decision

The Planning Authority issued a Notification of Decision to REFUSE Permission on the 21<sup>st</sup> of July 2023 for 2 no. reasons, summarised as follows;

1. The Planning Authority is not satisfied that the proposed development would be in accordance with Policy Objective CD1 and DM Standard 17 of the Galway County Development Plan. The proposed development would constitute a substantial scale of development that would be more appropriately located on serviced zoned lands within an urban setting, and would create a precedent for similar future developments in the area and would therefore be contrary to the proper planning and sustainable development of the area.
2. The proposed roof, balcony and porch additions constitute a different architectural language to the existing build and are at variance with the fabric of the structure. The proposed development would be contrary to

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<sup>1</sup> I note that no sightline drawing was submitted to demonstrate compliance with DM Standard 28.

Policy Objective AH1 and Policy Objective LCM 1 as it does not reflect the context of the site and the existing architecture thereof, and would have a negative impact on the surrounding landscape context.

### **3.3. Planning Authority Reports**

#### **3.3.1. Planning Reports**

3.3.2. The first report of the Planning Officer generally reflects the issues raised in the request for Further Information.

Request for Further Information recommended.

3.3.3. The second report of the Planning Officer generally reflects the refusal reasons in the Notification to Refuse Permission.

3.3.4. The report of the Planning Officer recommends that permission is REFUSED consistent with the Notification of Decision which issued.

#### **3.3.5. Other Technical Reports**

Architectural Conservation Officer – report notes that the Old Dispensary building is listed on the National Inventory of Architectural Heritage; that the design of the proposal differs to that of the original building and that this is without justification; and recommends that the roof be amended to reflect to historic context of the site and existing architecture.

### **3.4. Prescribed Bodies/Government Departments**

DoEHLG – report notes that the site is partly located within the Zone of Notification for Recorded Monument, RMP – GA086-152 (Church and Graveyard). The report recommends that an Archaeological Assessment is undertaken, including test excavations.

### **3.5. Third Party Observations**

The report of the Planning Officer refers to 1 no. observation having been received in relation to the planning application and summarises the issues raised as surface water

concerns; the impact of the proposed development on an adjacent watercourse; and restrictions in relation to the use of the proposal.

## 4.0 Planning History

There is no recent relevant planning history associated with the appeal site.

## 5.0 Policy Context

### 5.1. National Policy

#### 5.1.1. Code of Practice Domestic Wastewater Treatment Systems (p.e. ≤ 10) 2021

The Code of Practice (CoP) sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses.

### 5.2. Development Plan

5.2.1. The Galway County Development Plan 2022-2028 is the relevant development plan. The appeal site is not subject to any specific land-use zoning under the Galway County Development Plan 2022-2028.

5.2.3. The provisions of the Galway County Development Plan 2022 - 2028 relevant to this assessment are as follows:

#### Chapter 4 – Rural Living and Development:

- Section 4.13: Commercial Developments in Rural Areas.
- Objective CD1: Rural Enterprises.

#### Chapter 12 – Architectural, Archaeological and Cultural Heritage:

- Objective AH6: Vernacular Architecture.

#### Chapter 15 – Development Management Standards:

- DM Standard 28: Sight Distances Required for Access onto National, Regional, Local and Private Roads

5.2.4. In terms of Landscape Character Type, the appeal site is located within the 'North Galway Complex Landscape' (see Appendix 4 of CDP). Regarding landscape



sensitivity, the appeal site is located within a Class 1 'Low Sensitivity Landscape'. The appeal site is not affected by any protected views (see Map 08, Appendix 4) or scenic routes (see Map 09, Appendix 4).

### 5.3. Natural Heritage Designations

The appeal site is not located within or close to any European Site.

### 5.4. EIA Screening

The proposed development<sup>2</sup> does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, (as amended) and therefore is not subject to EIA requirements.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

This is a first-party appeal against the decision to refuse permission. The grounds for appeal can be summarised as follows;

- Refusal reasons are unreasonable and unsubstantiated.
- There is no intention to create a second permanent dwelling on the site.
- The proposal accords with NPO 17 and NPO 21 of the National Planning Framework (NPF) in respect of enhancing the value of heritage assets through appropriate and sensitive use, and enhancing the competitiveness of rural area by supporting innovation in the rural economy.
- Regarding refusal reason 1;
  - Objective CD1 and Objective DM17, whilst part conditioned by reference to 'agriculture', 'existing farm buildings' and 'farm related business' do not preclude non-farming related activities from considerations.

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<sup>2</sup> Following a request for Further Information the applicant confirmed that the proposal comprises overnight accommodation for clients. The appeal submission further clarifies the nature and extent of the proposed development, and specifically notes that the proposal does not entail a permanent dwelling.

- The PA's report notes that the structure is not agricultural and that its use has long since lapsed. This interpretation is unreasonable and unrealistic.
- The PA's interpretation of the proposal is misinformed, specifically the PA refer to it as comprising offices and short term accommodation.
- Most people living in rural areas are not farmers and most properties in rural areas are not farms, and therefore policies to facilitate rural economic development should not be confined to farm related schemes.
- The proposal would not result in an unacceptable intensity of use or an undesirable precedent.
- Regarding refusal reason 2;
  - Objectives AH1 and LCM1 have only minor relevance to the proposal.
  - NPO 14 of the NPF, which seeks to protect and promote the sense of place and culture of the Irish rural landscape, and make Ireland's rural areas attractive places to live, work and visit, is cited as being relevant to the proposal. The proposal entails renovating the Old Dispensary building, a historic element which without intervention will disappear.
  - The immediate locality of the site does not have a coherent architectural character and Objective AH1 is not relevant. The buildings on the site are not Protected Structures. The AIA did not reveal any findings. The proposal would not affect the house on the site, which is on the NIAH.
  - The design of the proposal is intentionally different in terms of architectural style to the existing structure, and the PA's contention that it is at variance with the existing structures misses this point. No plans of the existing structure exist.
  - Objective LCM1 concerns the protection of the landscape, however the landscape has a low value/sensitivity. The proposal is concealed from public view and would therefore have minimal impact.
- Regarding rural housing policy, which the appellant contends is implied as a reason for refusal, the proposal does not entail the provision of a dwelling.

Overnight accommodation is proposed however and this is an essential element of the offering. The proposal entails a single treatment system and a single entrance.

## 6.2. Planning Authority Response

None received.

## 6.3. Observations

An observation from P. Mahon and Family was received in respect of the appeal and can be summarised as follows;

- The boundary wall of a structure on the observers' property is in proximity to the back wall of the Old Dispensary and concerns are raised in relation to the potential for damage to occur to the observers' property as a result of construction works, in particular noting the age of the observers' property. The Old Dispensary is also elevated relative to the observers' property. The observation queries the feasibility of the proposal given the degree of interconnection with their property, and raised the potential for the building to collapse.
- A river runs beneath the observers' site adjacent to the Old Dispensary. The observers raises concerns in relation to the potential impact, including from subsidence, of the proposal on the subterranean brick support walls of the river which are located under the observers' property.
- The proposal results in overlooking of the observers' property, and also of neighbouring lands.
- The proposal would result in the devaluation of the observers' property.
- The proposal will affect the observers' enjoyment of their property through the creation of noise and traffic generation.
- Concern in relation to the use of the proposal as a residence.

## 6.4. Further Responses

The applicant/appellant submitted a response in respect of the observation. This submission is summarised below.

- The proposal does not encroach onto the observers' property.
- The structural report submitted addresses the viability of the proposal. Any proposal would be carried out carefully. The proposal will not interfere with the river on the adjoining site.
- The proposal does not result in overlooking. The balcony faces a bog.
- The proposal will not result in the creation of noise or traffic. The preservation of tranquillity is essential to the proposal.
- The proposal is not for a separate dwelling.

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the appeal, and observation, having inspected the site, and having regard to the relevant national and local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Refusal Reason No. 1
- Refusal Reason No. 2
- Impact on Residential Amenity
- Waste Water (New Issue)
- Other Issues

### 7.2. Refusal Reason No. 1

7.2.1. The first reason for refusal is that the proposed development would not accord with the requirements of Objective CD1 and DM Standard 17 of the Galway County Development Plan 2022 – 2028, and that the proposed development would be more appropriate on serviced, zoned lands within a settlement.

7.2.2. I note Objective CD1 which seeks to –

‘support the establishment of small scale rural orientated enterprises in un-serviced rural areas outside of town or village settings which can be accommodated in existing farm buildings or can be established on a brownfield site, subject to satisfying a number of criteria, specifically;

- (a) compatibility and general suitability to an un-serviced rural area (primary consideration will be given to agriculture, renewable and marine resources, forestry, tourism, recreation or food production related enterprise activities and services);
- (b) the scale of development (assimilate appropriately into a rural setting);
- (c) the nature of the development (raw materials sourced locally);
- (d) consideration of social and environmental impacts; the enterprise must not constitute a road safety hazard or have a major adverse impact on the road network, road capacity and traffic levels; and,
- (e) residential amenity (enterprise must not have a significant adverse impact on residential amenity)’.

7.2.3. I note Objective DM 17 which provides that –

‘consideration will be given to rural enterprises, and resource development (such as agriculture, agri-food sector, agri-tourism, commercial fishing, aquaculture, marine tourism, forestry, bio-energy, the extractive industry, recreation, cultural heritage, marine enterprise sector, research and analysis) and renewable energy resources (such as wind/ocean energy) in rural and coastal areas within the County subject to consideration of the following:

- (a) the conversion of existing farm buildings in rural areas for small scale employment purposes;

(b) agriculturally related industry, new buildings will be considered in rural areas for the provision of agricultural related locally sustainable industry;

(c) farm-related business directly related to farming, such as the servicing and repair of farm machinery, land reclamation, drainage work, agricultural contracting etc., where it will not give rise to adverse environmental effects, have safe access and not be prejudicial to residential amenity’.

Objective DM 17 also requires that specific information for such a proposal is submitted, including a justification as to why it is not proposed within a settlement; anticipated levels of traffic generated by the proposal, accessibility, and car parking; and the effects on the amenities of the adjoining occupiers particularly in relation to hours of work, noise and general disturbance.

7.2.4. The basis for the Planning Authority’s contention that the proposal would not accord with Objective CD1 is provided in the report of the Planning Officer where it is noted that the structure within which the use is to be accommodated is not an ‘agricultural build’; ‘the use of the structure as a dispensary on the site has long since lapsed’; that the proposal is for offices associated with the applicant’s profession and short term accommodation; and that in the absence of a substantiated case for the proposal at the location proposed that it would be more suitably located in an urban setting.

7.2.5. The crux of the appellant’s submission in relation to refusal reason No. 1 is that while Objective CD1 and Objective DM 17 refer to a number of uses which can be considered in the context of proposals for rural enterprises they do not preclude other uses, that the PA’s position in relation to the subject structure being non-agricultural and that its use has lapsed is unreasonable, and that the proposed development is supported by objectives in the NPF.

7.2.6. In relation to the principle of the proposed development at this location I note that the appeal site is located within part of the County which is identified as a ‘Structurally Weak Rural Area’, and that these areas exhibit a weaker economic structure based on indices of income, employment and economic growth. I also note Section 4.13, Chapter 4 of the CDP, which sets out the Planning Authority’s approach to enterprise

in the rural area, and in particular that new employment related development<sup>3</sup> should be directed towards settlements. In my opinion the proposal is not ‘an employment related development’ as it would be operated solely by the applicant. Section 4.13 also notes that it is recognised that there are instances where a development can be more readily accommodated, or is more appropriate to a rural area. Having regard to the information submitted with the planning application and the appeal I consider that the proposal is unique, relatively modest in scale and in my opinion the requirement for being located within a rural area has been substantiated, and in particular I note the requirement for quietness and a degree of remoteness. I also note that the appeal site is proximate to Woodlawn train station which would facilitate the use of public transport. I therefore consider the principle of the proposed development to be acceptable at this location.

7.2.7. I note that Objective CD1 seeks to support the establishment of small scale rural orientated enterprises in un-serviced rural areas in existing farm buildings but also brownfield sites<sup>4</sup>. The appeal site, in my opinion, could be considered a brownfield site and therefore the proposal would in my opinion comply with Objective CD1 in this regard. Objective CD1 states that ‘primary consideration’ will be given to specific types of development which include agriculture, tourism, recreation uses, however in my opinion, whilst primary consideration is afforded to specific uses I do not consider that uses outside of these are restricted under Objective CD1. I note that the scale of the proposal is modest, that the proposal would not result in significant adverse impacts on the environment, or rural amenity, would not result in a traffic hazard and that the use of the proposal would not be detrimental to the residential amenity of neighbouring property<sup>5</sup>.

7.2.8. In summation, having regard to the unique nature of the proposed development, the compatibility of the proposed use to the rural area and the provisions contained in Objective CD1 of the Galway County Development Plan 2022 – 2028 which support rural orientated enterprises in un-serviced locations, including brownfield sites, I am satisfied that the proposed development would accord with Objective CD1.

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<sup>3</sup> My emphasis.

<sup>4</sup> My Emphasis.

<sup>5</sup> The issue of overlooking is addressed separately under para. 7.4.1. (below).

7.2.9. I note that Objective DM17 relates to ‘rural enterprises and resource development’ whereas Objective CD1 concerns rural ‘orientated’ enterprises. In my opinion Objective CD1 is more relevant in the context of the proposal as it relates to un-serviced rural areas, allows for consideration of development on brownfield sites, and is broader in terms of the types of development which it provides for. Having regard to the forgoing I do not consider that refusal reason no. 1 should be upheld.

### 7.3. **Refusal Reason No. 2**

7.3.1. The second refusal reason cited by the Planning Authority relates to the design of the proposed structure, specifically the roof, balcony and porch, which the Planning Authority consider to be incongruous with the existing structure, and with the design of the dwelling on the site. The Planning Authority refer to the proposal as being contrary to Objectives AH1 and Objective LCM1 of the Galway County Development Plan 2022 – 2028.

7.3.2. The appellant contends that the design idiom of the proposal is deliberately different to the original structure, albeit noting that there are no plans or elevations available of the structure; that the design approach follows a specific design ethos, which is related to the proposed use; that the proposal is not overtly visible in the adjacent landscape or from the public road; and that reference by the Planning Authority to Objectives AH1 and Objective LCM1 of the Galway County Development Plan 2022 – 2028 is misplaced, as Objective AH1 relates to preserving architectural heritage whereas there is no coherent character to the area, and noting that Objective LCM1 concerns landscape impacts, whereas the appeal site is located within an area of low landscape value/sensitivity.

7.3.3. I note that the house on the appeal site is listed on the National Inventory of Architectural Heritage (NIAH), however the Old Dispensary building, which the proposal seeks to redevelop, is not included on the NIAH, nor is it referred to in the description of the house in the NIAH. In my opinion, the Old Dispensary is vernacular architecture and therefore has conservation value. I note that Objective AH6 of the Galway County Development Plan 2022-2028 seeks to ensure ‘the protection, retention and appropriate revitalisation and reuse of the vernacular built heritage’. The Old Dispensary is a modest structure which would have had a simple roof profile, and



whilst adaptations to the structure are required to incorporate a new use and meet modern requirements, as detailed in the structural report, appropriate revitalisation of a vernacular structure in my opinion requires that at the very least the basic form of the structure is retained so as to be recognisable, in line with conservation principles. In my opinion to adopt the approach advocated by the appellant results in the structure being subsumed into a modern building with little evidence of what was previously on the site, contrary to the requirements of Objective AH6 which requires protection and retention of vernacular built heritage. I concur with the Planning Authority that the roof form, balcony and porch, which comprises contemporary architectural forms, are not reflective of the form of the Old Dispensary building. Additionally, I note that the design of the proposal neither reflects nor complements the existing dwelling on the site and in my opinion the proposal detracts from its character and setting. In my opinion the proposed development should be refused on this basis.

- 7.3.4. Noting the low landscape sensitivity of the appeal site I do not consider that the proposal would be contrary with Objective LCM1 of the Galway County Development Plan 2022-2028. I submit to the Board that non-compliance with the requirements of Objective AH6 is not a new issue as it relates to a similar, albeit more specific, requirement to protect architectural heritage as Objective AH1.

#### **7.4. Impact on Residential Amenity**

- 7.4.1. The observation to the appeal raises concerns in relation to the potential for overlooking to occur from the proposal. From reviewing the floor plans and elevations of the proposal I note that a bedroom is indicated at first floor level with windows on the northern and western elevation which at the closest point will be located c. 3 metres off the northern boundary of the site. Both windows would afford views into the private amenity space of the adjoining property to the north. In my opinion, the proposal would result in a significant degree of overlooking of the neighbouring property, a loss of privacy, and consequently a diminution in the residential amenity of the neighbouring property to the north.
- 7.4.2. Concerns are also raised in the observation in relation to noise, both in the context of the use of the proposal and also from traffic. Noting the extent of the proposal and its intended use I am satisfied that the proposed development would not result in

significant levels of noise such as to cause a nuisance, or significant detriment to the amenity of the adjacent property to the north, or to any neighbouring property in the vicinity. I similarly do not consider that the noise generated by cars from clients travelling to the proposal would result in significant adverse noise impacts.

## **7.5. Waste Water (New Issue)**

- 7.5.1. The proposed development entails the decommissioning of an existing septic tank which serves the dwelling on the site and the installation of a secondary treatment system with a soil polishing filter to serve the dwelling and the proposed retreat/coaching use within the Old Dispensary building.
- 7.5.2. The Planning Authority initially noted that the relevant guidance in respect of the proposal was 'Treatment Systems for Small Communities, Business, Leisure Centres and Hotels', 1999, EPA, however I note that the purpose of this manual is to provide guidance in the selection, operation and maintenance of small wastewater treatment systems for population equivalents between 10 – 500, and noting the sizing of the proposed treatment system (i.e. 8PE) I consider that the applicable guidance in this instance is the EPA Code of Practice, 2021, Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ ).
- 7.5.3. The Site Characterisation Report submitted with the application identifies that the subject site is located in an area with a 'Locally Important Aquifer' where the bedrock vulnerability is 'Extreme'. A ground protection response to R2(1) is noted. Accordingly, I note the suitability of the site for a treatment system (subject to normal good practice). The applicant's Site Characterisation Report identifies that there is no Groundwater Protection Scheme in the area.
- 7.5.4. The trial hole depth referenced in the Site Characterisation Report was 2.3 metres. Bedrock was not encountered in the trial hole. The water table was encountered in the trial hole at 1.7 metres below ground level (bgl). The soil conditions found in the trial hole are described as comprising sandy silt and clay. Percolation test holes were dug and pre-soaked. A T value/sub-surface value of 5.19 was recorded. A P/sub-surface test was not carried out. I observed the conditions in the trial hole during my site

inspection and noted the presence of water in the trial hole at the approximate depth of the water table indicated in the Site Characterisation Report.

- 7.5.5. Based on the EPA CoP 2021 (Table 6.4) the site is suitable for a secondary treatment system and a soil polishing filter, as proposed. Table 6.3 of the EPA CoP 2021 requires a minimum depth of unsaturated permeable subsoil of 0.9 metres below the base of the polishing filter following secondary treatment systems. The Site Characterisation Report notes that a depth of unsaturated permeable subsoil in excess of the minimum requirement will be provided. No sectional drawings indicating compliance with this requirement have however been submitted. The Site Characterisation Report submitted with the application concludes that the site should be suitable for treatment of waste water. I am satisfied that the proposal complies with the required separation distances set out in Table 6.2 of the CoP 2021.
- 7.5.6. The proposed development, which entails the replacement of a septic tank serving the dwelling on the site with a secondary treatment system and soil polishing filter (8 PE) to serve both the existing dwelling and the proposed retreat use within the Old Dispensary building, represents a significant intensification in terms of the discharge of effluent to the ground. I have a number of concerns in relation to the suitability of the site to cater for the treatment of effluent in general, and more specifically where the proposal would represent an intensification in effluent discharge. During my site inspection I observed rushes on the appeal site which are indicative of poorly drained soils/poor permeability. I also note that there are a number of watercourses and drainage ditches within the vicinity of the appeal site (these are indicated on GSI mapping). The EPA CoP<sup>6</sup> 2021 notes that a high density of streams or ditches tends to suggest either a shallow water table or that there is low-permeability subsoil, and in this regard I note that the trial hole results verify this to be the case (i.e. slowly draining soil). I also note the presence of bogs in the vicinity of the appeal site which are synonymous with poorly drained soils, and I note that the description of soil in the trial hole refers to clay, a soil type with low permeability and poor drainage qualities. Regarding the suitability of the appeal site to cater for the treatment of effluent, and in particular noting that the proposal represents an intensification in relation to effluent

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<sup>6</sup> See Paragraph 5.4.1. Visual Assessment.

discharge to the ground, having regard to the observed site conditions, which are indicative of poorly drained soils/poor permeability, and the information contained in the Site Characterisation Form, I am not satisfied that appeal site can cater for the proposed on-site waste water treatment system without detriment and increased risk over to ground water and above that which currently exists on the appeal site.

7.5.7. In summation, notwithstanding that the proposal complies with the EPA CoP 2021, noting the observed site conditions, the drainage characteristics of the area, the description of soil on the site, and importantly the significant intensification in terms of the loading of effluent which will be discharging to ground, I am not satisfied that the proposed development would not pose a risk to groundwater and on this basis I recommend that permission is refused. This is a new issue and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out above, it may not be considered necessary to pursue the matter.

## 7.6. Other Issues

7.6.1. Rural Housing Policy – whilst the development description in the public notices refers to the proposed development as comprising a ‘dwelling’ I note that following a request for Further Information and based on the appeal submission the applicant clarified that the structure which it is proposed to redevelop would not be used as a separate dwelling unit, but rather the proposed development would be used as a coaching and retreat practice with overnight accommodation for clients. On the basis of the forgoing I do not consider that the requirements of the rural housing policy as set out in Chapter 4 of the Galway County Development Plan 2022 – 2028 apply, and as such he applicant is therefore not required to demonstrate compliance with same.

7.6.2. Damage to adjoining property - the observers raise concerns in relation to the proximity and relationship of the Old Dispensary building, which it is proposed to renovate, relative to their property, and the potential for damage to occur to their property, including to subterranean brick support walls of the river which are located under the observers’ property. Having inspected the appeal site and also viewed the location of the proposed development from the observers’ property I note that works will be located on/at the boundary between both properties, and having regard to the

extent of the works proposed should the Board be minded to grant permission for the proposed development I recommend that a pre and post construction survey be carried out of the observers' property, including of any underground supports.

7.6.3. Encroachment - the observers also raise concerns in relation to encroachment onto their property. Whilst the appellant notes that the proposal is located entirely within the boundary of her Folio I note that implementing the proposal, if permitted, would likely entail gaining access to the observers' property to facilitate the carrying out of works to the Old Dispensary structure. I note however that this would be a civil issue and as such is outside the scope of this appeal.

7.6.4. Use of proposal as residence – the observers raise concerns in relation to the potential for the proposal to be used as a residence. I note that the proposed development is not intended to be used as a residence/dwelling but rather to provide overnight accommodation to clients. Should the Board permit the proposed development I recommend that a condition be attached stipulating that the proposed use of the building is restricted to retreat/coaching, with overnight accommodation limited to no more than 1 night per client.

## 8.0 **Appropriate Assessment Screening**

8.1. Having regard to the nature and limited scale of the proposed development and the lack of a hydrological or other pathway between the site and European sites, it is considered that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

## 9.0 **Recommendation**

9.1. I recommend that planning permission for the proposed development should be refused for the reasons and considerations set out below.

## 10.0 Reasons and Considerations

1. It is considered that the design of the proposed building, specifically the massing and profile of the main roof, the balcony feature and the design of the entrance porch, would be unsympathetic to the form of the original vernacular structure, would detract from its character, and would therefore be contrary to Objective AH6 of the Galway County Development Plan 2022 – 2028, which requires the appropriate revitalisation of vernacular built heritage. Additionally, the proposed building, by virtue of its design and massing, would be incongruous with the existing Arts and Crafts style dwelling on the site, which is listed on the National Inventory of Architectural Heritage, and if permitted would be harmful to the character and setting of the dwelling on the site. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the observed site conditions, the drainage characteristics of the area, the description of soil in the trial hole, and importantly the significant intensification in terms of the loading of effluent which will be discharged to the ground, the Board is not satisfied that the site is capable of treating foul effluent arising from the proposed development and considers that the method of foul water disposal will render the treatment of the effluent unacceptable and could increase the risk of serious water pollution. Accordingly, the proposed development would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
3. The proposed development would result in direct overlooking of the adjacent property to the north and would therefore be contrary to the proper planning and sustainable development 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.

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Ian Campbell  
Planning Inspector

10<sup>th</sup> June 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

|   |   |  |   |
|---|---|--|---|
| <b>An Bord Pleanála<br/>Case Reference</b>  | ABP-317793-23   |  |   |
| <b>Proposed Development<br/>Summary</b>   | Renovation & development of a back garden single storey roofless stone structure - the 'Old Dispensary' into a two storey dwelling with coaching & retreat practice spaces with associated hard & soft landscaping. |  |   |
| <b>Development Address</b>  | Killaan, Woodlawn, Ballinasloe, Co. Galway.   |  |   |
| <b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b><br>(that is involving construction works, demolition, or interventions in the natural surroundings)  |   | <b>Yes</b>                               | X   |
|   |   | <b>No</b>                                | No further action required                  |
| <b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>   |   |  |   |
| <b>Yes</b>  |   |  | EIA Mandatory EIAR required                 |
| <b>No</b>   |   | X  | Proceed to Q.3                              |
| <b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b> |   |  |   |
|   | <b>Threshold</b>  | <b>Comment<br/>(if relevant)</b>         | <b>Conclusion</b>                           |
| <b>No</b>   | X   | Not of Class specified in Part 2, Sch. 5 | No EIAR or Preliminary Examination required |
| <b>Yes</b>  | Class/Threshold.....  |  | Proceed to Q.4                              |



**4. Has Schedule 7A information been submitted?**

|            |  |   |
|------------|--|---|
| <b>No</b>  |  | <b>Preliminary Examination required</b> |
| <b>Yes</b> |  | <b>Screening Determination required</b> |

**Inspector: Ian Campbell**

**Date: 10<sup>th</sup> June 2024**