



An  
Bord  
Pleanála

## Inspector's Report

### ABP-320995-24

<b>Development</b>	Construction of a dwelling, wastewater treatment system, domestic garage and associated site works.
<b>Location</b>	Cloonshecahill, New Inn, Ballinasloe, Co. Galway
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	24205
<b>Applicant(s)</b>	Jonathan Creaven
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Jonathan Creaven
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	27 <sup>th</sup> January 2025
<b>Inspector</b>	Ian Boyle

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Appendix 1 – Form 1 ‘EIA Pre-Screening’ and Form 2 ‘EIA Preliminary Examination

## **1.0 Site Location and Description**

- 1.1. The appeal site is in the rural townlands of Cloonshecahill, New Inn, Ballinasloe, Co. Galway. Athenry is roughly 12km to the west. Loughrea is approximately 10km to the south. The M6 Motorway is accessible at Junction 16 ('Loughrea'), which is c. 6km away.
- 1.2. The site is vacant grassland. There is an existing vehicular access via an agricultural entrance / gate directly off the L-7171 (Local Road). This stretch of the L-7171 has several site accesses leading onto it which serve single, one-off dwellings and associated farms and small plots of agricultural land. There is a slight bend in the road at front of the subject property. The road is lightly trafficked and not a major thoroughfare for vehicles.
- 1.3. A gradual fall across the property is evident as one moves from north (higher ground) towards the south (lower ground). The rear and side (west) boundaries of the site are defined by existing hedgerows and trees. There is perimeter fencing around the property, a mixture of timber post and rail, and post and wire mesh. The Roford River is roughly 170m to the south of the property.
- 1.4. The character of the surrounding area is rural countryside with sporadic one-off housing. Most of this comprises detached houses on spacious plots. The pattern of development is mainly linear and orientated to face directly onto the L-7171. There is a particular concentration of small clusters of such housing towards the east of the property. A recently constructed dwelling is also on the adjoining property directly east of the site.
- 1.5. The site has a stated area of c. 0.26ha.

## **2.0 Proposed Development**

- 2.1. The proposed development is for the construction of a dwelling, wastewater treatment system, domestic garage and associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority refused permission on the 11<sup>th</sup> of September 2024 for one reason. The refusal reason is in relation to the proposed vehicular site access and that there would be restricted sightlines given the suboptimal horizontal and vertical alignment of the road.

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

#### **3.2.1. Planning Report**

The Planner's Report can be summarised as follows:

- Two previous applications for the construction of a house were refused permission for reasons of traffic safety (Reg. Refs. 21/1345 and 22/849).
- The site is in the open countryside and within a structurally weak area.
- The application indicates that the proposed WWTS differs from a previously approved system. No justification provided for this particular system or its suitability for the existing ground conditions.
- However, having regard to the overall information provided, it appears that the proposed WWTS is compliant with the current EPA CoP requirements – to the satisfaction of the Planning Authority.
- Surface water is to be managed via soak pits.
- Copy of correspondence with Uisce Éireann (UÉ) is an enquiry on the feasibility of the proposed water connection only. This is not formal confirmation regarding connection feasibility. A request for further information is recommended in such instances.
- The Traffic Survey Report details traffic movements and speed in the area of the proposed entrance. The Site Layout Plan indicates sightlines of 50m are achievable in both directions (adapted to the results of the traffic survey and the requirements of DM Standard 28). However, the explanatory letter

submitted with the application and supported by photographic evidence confirms that 100m sightlines are achievable from the location of the proposed site entrance.

- The Roads and Transportation Department has been consulted regarding the proposed site entrance and alterations of the roadside boundary and they recommend refusal.
- The photographs taken during the site inspection reveal the road configuration and condition with available sightlines from the location of the proposed site entrance.
- The proposed development is acceptable in terms of design and visual impact and responds satisfactorily to the requirements of Policy Objective RH9 and DM Standards 7, 8, 9 and 11.
- The site is not located within an identified fluvial, pluvial, and groundwater flood risk area. Flood risk assessment not required.
- No AA issues arise.
- No EIA issues arise.
- Recommends permission be refused.

## 4.0 Planning History

### *Subject Site*

Reg. Ref. 21/1345: The Planning Authority **refused** permission in January 2021 for the construction of a dwelling, onsite wastewater treatment system, domestic garage and associated site works. The reason for refusal was regarding sightlines and road safety.

Reg. Ref. 22/894: The Planning Authority **refused** permission in September 2022 for the construction of a dwelling, onsite wastewater treatment system, domestic garage and associated site works. The reason for refusal was regarding sightlines and road safety.

### *Surrounding Area*

Several detached dwellings have been permitted and built in the surrounding area in recent years.

## **4.1. Galway County Development Plan 2022-2028**

### **Background**

The Galway County Development Plan 2022-2028 ('Development Plan' / 'CDP') was adopted by the Elected Members of Galway County Council on the 9<sup>th</sup> May 2022 and came into effect on the 20<sup>th</sup> of June 2022.

The following chapters and sections are considered particularly relevant in the assessment of this appeal case are outlined below.

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

The site is within a structural weak area for the purposes of rural housing.

Policy Objective RH 3 (Structurally Weak Areas) is applicable to applicants in this area. It is also shown as lying within Zone 1, wherein the landscape sensitivity is category 1 "low", i.e., unlikely to be adversely affected by change.

- Policy Objective RH3: Rural Housing Zone 3 (Structurally Weak Areas) is to facilitate the development of individual houses in the open countryside in "Structurally Weak Areas" subject to compliance with normal planning and environmental criteria and the *Development Management Standards* outlined in Chapter 15 and other applicable standards with the exception of those lands contained in Landscape Classifications 2,3 and 4 where policy objective RH4 applies.

### **Chapter 7: Infrastructure, Utilities and Environmental Protection**

- Policy Objective WW6: Private Wastewater Treatment Plants seeks to ensure that private wastewater treatment plants, where permitted, are operated in compliance with Environmental Protection Agency (EPA) Code of Practice for Domestic Waste Water Treatment System 2021 (Population Equivalent  $\leq 10$ ).

## **Chapter 15: Development Management Standards**

- DM Standard 9: Site Sizes for Single Houses Using Individual On-Site Wastewater Treatment Systems
- DM Standard 28: Sight Distances Required for Access onto National, Regional, Local and Private Roads
- DM Standard 38: Effluent Treatment Plants
- DM Standard 46: Compliance with Landscape Sensitivity Designations

### **Other Relevant Chapters:**

- Chapter 6: Transport and Movement
- Chapter 11: Community Development and Social Infrastructure

### **Other planning policies**

Note: The Planner's Report (Page 3) cites other relevant planning policies for the proposed development.

## **4.2. Natural Heritage Designations**

The subject site is not directly affected by, or adjacent to, any European Site.

The closest designated sites include:

- Lough Corrib SAC (Site Code: 000297), roughly 7km to the north.
- Monivea Bog SAC (Site Code: 002352), roughly 9.1km to the northwest.
- Lough Rea SAC (Site Code: 000304), roughly 10.6km to the south.
- Lough Rea SPA (Site Code: 004134), roughly 10.6km to the south.
- Rahasane Turlough SAC (Site Code: 000322), roughly 13.9km to the southwest.
- Rahasane Turlough SPA (Site Code: 004089), roughly 13.9km to the southwest.

#### **4.3. EIA Screening**

- 4.3.1. Having regard to the nature the proposed development, which consists of a single residential dwelling and related site works, the nature of the receiving environment, and proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment based on the characteristics and location of the proposed development and types and characteristics of potential impacts. No EIAR is required.
- 4.3.2. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.
- 4.3.3. See Appendix A for further details (Form 1: EIA Pre-Screening and Form 2 EIA Preliminary Examination).

### **5.0 The Appeal**

#### **5.1. Grounds of Appeal**

The main grounds of appeal are as follows:

- Previous applications for a dwelling on the site have been refused permission on sightlines.
- A new design was submitted under the subject application. It has a newly designed entrance and further information in relation to sightlines and traffic movements.
- A traffic survey has been carried out to analyse traffic movements and speed over a given (enclosed with appeal).
- The survey confirms the design speed for this local road is less than 42km/hr meaning the required sight distances at this location at 50km/hr (DM Standard 28 applies).
- The swept path analysis drawing (autotracking) demonstrates clear unobstructed sightlines in both directions for 50m.
- No realignment of the road is required or proposed.



- The Planning Authority' photographs from their site inspection were taken on the day ESB were completing site works. The ESB had parked a truck across the proposed site entrance which caused the photograph to show a misleading situation in terms of sightlines (see photographs included as part of appeal).
- The removal of hedging was carried out years ago as part of improvement works conditioned as part of a permission to construct a dwelling on the adjacent site. This was required so that sightlines could be achieved for that property.
- The appeal is accompanied by additional reports, including a road survey, sightlines and swept path analysis, planning appraisal (submitted with original application) and Council Planner's Report.

## 6.0 **Assessment**

The main planning considerations relevant to this appeal case are:

- Site Access
- Wastewater Disposal – New Issue

### 6.1. **Site Access**

- 6.1.1. The Planning Authority cites a single reason for refusing permission. It states that the proposed site entrance, which is situated on a local road, is unsatisfactory due to the restricted sight distances for vehicles exiting and entering the site. It goes on to say that the scale of proposed remedial works to provide the required visibility sightlines would constitute a significant intervention and that such an arrangement would unduly alter the alignment of the public road, such that this may impair the function of the road, thus, increasing road safety hazards, particularly for vulnerable road users.
- 6.1.2. The Planning Authority concludes by saying that the Applicant has not satisfied the requirements of DM Standard 28 and Policy Objective NNR2 of the County Development Plan and that the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users.

- 6.1.3. I note that two similar applications have been made on the property in recent years which sought permission for the construction of a dwelling, an onsite wastewater treatment system, domestic garage and associated site works. In each of these cases, the Planning Authority refused permission on the basis of sightlines and road safety (see Section 4.0 above). The Applicant states in their appeal that they have endeavoured to address the reason(s) for refusal by way of preparing a new design and means of vehicular access for the site as part of the current application. In this regard, I note that the appeal states that a newly designed entrance and further supporting information and reports have been prepared in relation to the issue of sightlines and vehicular movements.
- 6.1.4. The proposed vehicular access is from the L-7171 (Local Road) which runs along the northern edge of the property. I have referred to the information on file, including that submitted as part of the original application to the Planning Authority and within the first party appeal. I note that a visibility splay of 50m in each direction is proposed with a setback from the road edge at 2.4m. I have also examined the 'Sight Lines layout + Swept Path Analysis' (Drwg. No. LU24-PL-103) and can confirm that the information shown is consistent with my experience of physically inspecting the site and its surrounds.
- 6.1.5. There is a boundary wall on the adjoining property (east), which is to be extended as part of the subject application, thus, maintaining the current road alignment. There is no evidence of any vegetation – such as hedgerows or trees, for example – being cleared or uprooted in the recent past. The application does not seek to alter the existing road alignment or require the removal of any physical features on the property, or adjoining lands, to achieve the required visibility splays. In rural areas such as this it is not unusual for trees, hedges, utilities, small outbuildings, lighting standards, or other items, to physically impede motorist visibility when existing a site. However, this is not the case here, and there is good unobstructed visibility in both directions in my opinion.
- 6.1.6. I note that this stretch of the road has several site accesses serving a number of single, one-off dwellings, associated farms and small tracts of agricultural land. The road is relatively narrow and there are no centre line markings or edge lines. There is a slight curve in the road immediately west of the site. However, during my site inspection the road was lightly trafficked with vehicles travelling at relatively slow

speeds. I also observed that this part of the road has no apparent bumps or hollows which might otherwise impair visibility for vehicles exiting the site. Importantly, and as noted above, the proposed access is compliant with the required exit and entry visibility check requirements, as shown in the documentation on the file.

- 6.1.7. The proposed development is therefore in accordance with the requirements of the County Development Plan, including DM Standard 28 and Policy Objective NNR2, which are in relation to the adequate provision of sight distances for vehicular entrances and exit points and safeguarding of carrying capacity and safety for the County's regional and local road network, respectively.
- 6.1.8. In conclusion, and in having regard to the physical condition and alignment of the L-7171, the nature and location of the proposed vehicular access to the site, the extent and alignment of the visibility splays, which are unimpeded in both directions, I consider that the proposal would not give rise to unacceptable traffic hazard and that safe access and egress can be achieved as part of the proposed development.

## **6.2. Wastewater Disposal – New Issue**

- 6.2.1. This is a new issue, and the Board may wish to seek the views of the parties.
- 6.2.2. The proposed dwelling is intended to be served by an onsite wastewater treatment system (WWTS). The relevant guidance for assessment purposes is the EPA Code of Practice (2021) (CoP) which applies to site assessments and associated wastewater treatment installations with P.E. ≤10 carried out on or after 7th June 2021. The County Development Plan includes relevant policies under Policy Objective WW6 'Private Wastewater Treatment Plants' and Development Management Standard 38 'Effluent Treatment Plants'.
- 6.2.3. The Geological Survey Ireland (GSI) confirms the appeal site is in an area with a locally important aquifer. The groundwater vulnerability is described as M (Moderate). According to the GSI online mapping system the soil types on the property is likely to be degraded grey brown podzolics, peat, brown earth, gleys and podzols. These soils are recognised as heavy soils with impeded drainage characteristics, which would appear to be the case given onsite observations and slow rate of percolation (see below).

- 6.2.4. The Site Characterisation Form (SCF) states that onsite vegetation is grass and that ground conditions are firm under foot. However, during my site visit and visual assessment of the land (morning time, 27<sup>th</sup> January 2025), I noticed the presence of several rush outcrops (an indicator of poor drainage) both onsite and at the front of the property. There was also evidence of water ponding on the site, and I observed that ground conditions were soft and wet underfoot, including along the northern boundary of the property and near the roadside edge. Of particular concern, were what appeared to be test holes holding water right up to surface level, thus, indicating slow soil percolation qualities and poor drainage across the site.
- 6.2.5. The EPA CoP 2021 requires that a trial hole should have a minimum depth of 2.1m. However, the depth of the trial hole dug as part of the onsite assessment shows that a depth of 1.6m was achieved only. This was due to encountering the water table below this level. The SCF also indicates that dense clays and silt are present on the property. The CoP states that subsoils with a high clay content are generally unsuitable.
- 6.2.6. Section 3.2 of the SCF shows that the surface and subsurface presoak tests was carried out over a period spanning more than 48 hours (08:30, 7<sup>th</sup> June 2021 to 09:30, 9<sup>th</sup> June 2021). This is not within the 4-to-24-hour period recommended by the CoP to be followed as part of the pre-soak prior to the percolation test procedure. As a result, and because of the additional time afforded, the true percolation values would likely be significantly higher than of that recorded in the Site Characterisation Form. This would lead to the proposed gravel distribution layer being undersized and incapable of properly and safely distributing effluent from proposed development across the site and possible unsuitability of the infiltration method being proposed.
- 6.2.7. The outcome is a potential risk of contamination occurring and discharge of untreated, or partially treated wastewater, to groundwater and/or surface water receptors. In this regard, I note the proximity of the Roford River, which is roughly 170m to the south of the property. In summary, I do not consider that either the surface or sub-surface test results can be relied upon in this case and that a revised Site Characterisation Report would be required to be completed in order to demonstrate the proposed method of wastewater treatment is in accordance with the EPA CoP 2021.

- 6.2.8. In terms of the wider area, it is my observation that it is characterised by widespread one-off housing, with each house likely relying on its own private wastewater treatment system. Introducing a further DWWTS – particularly one which is not compliant with the EPA CoP 2021 – would not be sustainable, or in the interest of protecting the environment. The concentration of such systems in a relatively condensed rural area raises concerns over the risk of pollution and release of contaminants to soils, subsoils and waterbodies. In my view, the proposed development would likely contribute to this risk and cannot reasonably be considered a sustainable wastewater treatment solution as a result.
- 6.2.9. In conclusion, I am not satisfied based on the information available on file, together with my physical inspection of the site having regard to its drainage characteristics, that the effluent generated by the development as proposed could be suitably attenuated and disposed of in a manner that would not be prejudicial to public health.
- 6.2.10. The proposed development would not therefore be in accordance with the proper planning and sustainable development of the area, and, for this reason, I recommend that permission be refused.

## **7.0 AA Screening**

- 7.1. Having regard to the nature and small scale of the proposed development; which is for a single detached dwelling, installation of a septic tank and treatment system and associated site works, and the distance from the nearest European site and intervening land uses; no Appropriate Assessment issues arise. Therefore, it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission be refused for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the soil conditions and high water table, the proliferation of domestic wastewater treatment systems in this rural area, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the development can be satisfactorily treated and disposed of onsite and that this would not give rise to a risk of groundwater pollution, notwithstanding the proposed use of a secondary and tertiary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health.

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 Boyle  
Senior Planning Inspector

10<sup>th</sup> February 2025

# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála</b>	ABP-320995-24		
<b>Case Reference</b>			
<b>Proposed Development Summary</b>	The proposed development is for the construction of a dwelling, wastewater treatment system, domestic garage and associated site works.		
<b>Development Address</b>	The appeal site is in the rural townlands of Cloonshecahill, New Inn, Ballinasloe, Co. Galway. Athenry is roughly 12km to the west. Loughrea is approximately 10km to the south.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	✓
		<b>No</b>	
<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)?</b>			
<b>Yes</b>	✓		Proceed to Q3.
<b>No</b>			
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			
<b>No</b>	✓		Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			

<b>Yes</b>	✓	10. Infrastructure Projects (b)(i) Construction of more than 500 dwelling units.  (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.	Preliminary examination required (Form 2)
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5. Has Schedule 7A information been submitted?		
<b>No</b>	✓	<b>Pre-screening determination conclusion remains as above (Q1 to Q4)</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_



## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-320995-24
<b>Proposed Development Summary</b>	The proposed development is for the construction of a dwelling, wastewater treatment system, domestic garage and associated site works.
<b>Development Address</b>	The appeal site is in the rural townlands of Cloonshecahill, New Inn, Ballinasloe, Co. Galway. Athenry is roughly 12km to the west. Loughrea is approximately 10km to the south.
<p><b>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<p><b>Characteristics of proposed development</b></p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The nature of the proposed development is not exceptional in the context of the existing environment.</p> <p>The site is at the western side of Redington Woods (housing estate) at the edge of Clarinbridge village, County Galway. The site is therefore at the edge of existing housing development.</p> <p>During the construction phase the proposed development would generate demolition waste. However, given the relatively modest size of the proposed development, I do not consider that the demolition waste arising would be significant in a local, regional or national context.</p>

	<p>No significant waste, emissions or pollutants would arise during the operational phase due to the nature of the proposal, which for residential use.</p>
<p><b>Location of development</b></p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The application site is not within, or immediately adjoining, any protected area(s). There are no waterbodies on the site and the site is not environmental sensitive. The Roford River is roughly 170m to the south of the property.</p> <p>The closest designated sites include:</p> <ul style="list-style-type: none"> <li>• Lough Corrib SAC (Site Code: 000297), roughly 7km to the north.</li> <li>• Monivea Bog SAC (Site Code: 002352), roughly 9.1km to the northwest.</li> <li>• Lough Rea SAC (Site Code: 000304), roughly 10.6km to the south.</li> <li>• Lough Rea SPA (Site Code: 004134), roughly 10.6km to the south.</li> </ul> <p>It is considered that no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on any European Site.</p> <p>I do not consider that there is potential for the proposed development to negatively affect other significant environmental sensitivities in the area from an AA perspective.</p>

<b>Types and characteristics of potential impacts</b>  (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	The site is in a mainly rural area and the proposal is for a single dwelling. The wider vicinity is characterised by widespread one-off housing (i.e., ribbon development).  The proposed house would be similar in size, scale and design as to the existing houses in the area.  I do not consider there is potential for significant impacts in EIA terms.	
<b>Conclusion</b>		
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>	<b>Yes or No</b>
There is no real likelihood of significant effects on the environment.  <b>EIA not required. ✓</b>	EIA is not required.	No.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.		
There is a real likelihood of significant effects on the environment.		

**Inspector:** Ian Boyle

**Date:** 10th February 2025

**DP/ADP:** \_\_\_\_\_

**Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)