



An
Bord
Pleanála

Inspector's Report ABP-321642-25

Development

Cead pleanála chun teach cónaithe agus córas séarachais a choinneáil agus chun an córas séarachais a uasghrádú chomh maith le gach obair a bhaineann leis an fhorbairt.

Location

Tóin na Brocaí, Gaillimh.

Planning Authority

Galway County Council.

Planning Authority Reg. Ref.

24317.

Applicant

Debbie O Flaherty.

Type of Application

Retention.

Planning Authority Decision

Refuse Retention.

Type of Appeal

First Party.

Appellant(s)

Debbie O Flaherty.

Observer(s)

Kieran Carr, Nicola Barrett, Martin and Ethna Murtagh; and Romain Ferriere.

Date of Site Inspection

27th February 2025

Inspector

Ciarán Daly

1.0 Site Location and Description

- 1.1. The subject site consists of an unfinished single storey pitched roof dwelling (73sqm) on a site area of 0.075ha. The boundaries consist partly of stone walls most of which have been removed from the front boundary and the remnants of mature trees inside the rear and side boundaries. The existing site entrance is from the adjacent laneway to the side which serves a residence to the rear. The site is positioned along the L-1323 local road which is a single carriageway with undulating surface.
- 1.2. The area in the vicinity of the site consists of small fields and there are many detached dwellings on large sites, an equestrian centre and agricultural sheds in the area. The site is located in a rural area north-west c.1.6km from the urban edge of Galway City.

2.0 Proposed Development

- 2.1. The proposed development, in summary, consists of the following:
 - Retention of a residential house and sewerage system,
 - Upgrade the sewerage system and complete all related work.

3.0 Planning Authority Decision

3.1. Decision

Galway County Council decided to refuse retention of the development for 7 no. reasons which related to the following:

1. Failure to meet the rural housing need criteria and material contravention of DM Standard 7 and Policy Objective RH 1.
2. Given the site size, the safe disposal of domestic waste on the site cannot be strictly guaranteed in accordance with the EPA Code of Practice.
3. Failure to demonstrate required sightlines can be achieved resulting in a traffic hazard from increased traffic movements.
4. An excessive concentration of development served by private wastewater treatment systems would result.

5. Failure to assimilate into the area and material contravention of Policy Objectives LCM2 and LCM3 and Policy Objective RH9 and DM Standard 8 and would set an undesirable precedent.
6. Visually intrusive feature in an area with a high landscape sensitivity at a prominent location on a busy road and the location to the front of an existing house is haphazard and disorderly development which compromises residential amenity and it out of character with the area. Material contravention of policy objective RH 9 and DM Standard 29d)
7. In the absence of water supply details, the proposal would pose a serious risk to public health and materially contravenes Policy Objective WS 4.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Council's Planner's Report noted a failure to substantiate a rural housing need, that there were active enforcement proceedings relating to the site with a court order to demolish the structure noted, technical failure to demonstrate safe wastewater disposal can be achieved, the designation of the site within an area of high landscape sensitivity and related concerns in relation to siting and failure to assimilate, the failure to have a 15m building line setback and the site configuration is noted to be haphazard in front of the site of an existing dwelling with a failure to integrate into the area.

3.2.2. Other Technical Reports

- Carraroe Area Council Office: No report received.
- Heritage Officer: No report received.
- Department of Housing, Local Government and Heritage: No report received.

3.3. Prescribed Bodies

- An Taisce: No report received.
- Department of Tourism, Culture, Arts, Gaeltacht: No report received.
- Fáilte Ireland: No report received.
- Irish Aviation Authority (IAA): No report received.

- The Heritage Council: No report received.
- Údarás na Gaeltachta: No report received.

3.4. Third Party Observations

4 no. third party submissions were received which can be summarised as follows:

- Concerns that the applicant is not local to the area and lack of housing need.
- There are ongoing enforcement proceedings in relation to the development.
- Concerns in relation to overlooking of dwelling to the north.
- Concerns over the failure to setback the dwelling by the minimum 15m required.
- Concerns in relation to the failure to demonstrate adequate sightlines.
- Concerns in relation to inability to widen the road in future.
- Concerns in relation to significant wastewater treatment issues with soil imported to the site.
- Car parking concerns with no on site provision.
- Concerns in relation to precedents.

4.0 Planning History

Subject Site

24/187: Permission refused by the P.A. for retention of a residential house and sewerage system and to upgrade the system as well as complete all works.

7 reasons for refusal similar to the above reasons for refusal.

22/1226: Permission refused by the P.A. and on appeal (ABP-316007-23) for retention of a dwelling house and effluent treatment system (Applicant Name: Tony Flaherty).

ABP 3 no. reasons for refusal related to traffic hazard from restricted sightlines and increased vehicular movements, failure to demonstrate a rural housing need and considered to be random rural development; and public health in relation to failure to demonstrate the existing wastewater treatment system can safely dispose of waste.

Sites to north

17/507: Permission granted by the P.A. at adjacent site to the north to alter and amend the previously approved development under reg. reference 14/77. Revisions include enlarging the proposed extension, provision of a part basement, amendment to site boundaries, and relocation of treatment plant, percolation area and all associated site works. (Gross floor space of proposed works: 261.53 sqm., (extension) 73.60 sqm. (basement)).

Site to south

20/1889: Permission granted by the P.A. at site opposite to the south for construction of a two storey 4 bedroom dwelling house, a domestic effluent treatment plant & percolation area and including access via an existing dwelling entrance.

Sites to east

13/307: Permission granted by the P.A. at adjacent site to east to construct a dormer style dwellinghouse, garage and proprietary treatment system.

5.0 Policy Context

5.1. Galway County Development Plan 2022-2028 (the CDP)

The subject site is located in a '*rural area under strong urban pressure*'.

Relevant CDP policies and objectives include:

Chapter 4 Rural Living and Development

- Section 4.5.2.3 Open Countryside

Policy Objective RC 2 Rural Housing in the Countryside - 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.

- Section 4.6.1 Rural Areas under Strong Urban Pressure –Metropolitan Area and GCTPS

The key objectives of the Council are:

- *To facilitate the genuine housing requirements of the local rural community (rural generated housing), subject to satisfactory site suitability and technical considerations;*
 - *To direct urban-generated development to areas for new housing development in the adjoining urban centres, towns identified in the metropolitan area and the towns and villages as identified in the Settlement Strategy;*
 - *To support rural housing in areas designated as structurally weak areas*
 - *To accommodate residential development proposals in accordance with Chapter 15 Development Management Standards.*
- RH 1 Rural Housing Zone 1 (Rural Metropolitan Area)

It is policy objective to facilitate rural housing in this Rural Metropolitan Area subject to the following criteria:

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 holdings or lands.*

OR

Applicants who have long standing demonstrable economic and/or social Rural Links or Need to the area, i.e., who have grown up in the area, schooled in the area or who have spent a substantial, continuous part of their lives in the area and/or have or have had, immediate family connections in the area e.g., son or daughter of longstanding residents of the area seeking to develop their first home within the Rural Metropolitan Area.*

Applicants will be requested to establish a substantiated Rural Housing Need and only this category of persons will be allowed to construct a dwelling on a greenfield site in these areas. 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.*

OR

Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis. An enurement condition shall apply for a period of 7 years, after the date that the house is first occupied by the person or persons to whom the enurement clause applies.

- RH 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.

Chapter 8 – Tourism and Landscape

- Policy Objective LCM 2 - Landscape Sensitivity Classification

The Planning Authority shall have regard to the landscape sensitivity classification of sites in the consideration of any significant development proposals and, where necessary, require a Landscape/Visual Impact Assessment to accompany such proposals. This shall be balanced against the need to develop key strategic infrastructure to meet the strategic aims of the plan.

- Policy Objective LCM 3 – Landscape Sensitivity Ratings

Consideration of landscape sensitivity ratings shall be an important factor in determining development uses in areas of the County. In areas of high

landscape sensitivity, the design and the choice of location of proposed development in the landscape will also be critical considerations.

Chapter 15 – Development Management Standards

- Section 15.3.1 Rural Housing

DM Standard 7 – Rural Housing

In order to substantiate a rural housing need the following documentation will be required:

- *Justification for location as proposed;*
- *Land registry maps and associated documentation;*
- *Proof of local connection to an area;*
- *Any other details that may be deemed necessary at time of application by the Planning Authority.*

DM Standard 8 – Site Selection and Design outlines guidance in assessing planning applications for rural housing.

- Section 15.5.2 Guidelines for Roads & Parking

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

...Where a new entrance is proposed, the Planning Authority must consider traffic conditions and available sight lines...

DM Standard 29 - Building Lines, Local Roads

A setback of buildings is required in the interests of residential amenity, rural amenity, public safety and to allow for any future road widening or realignment. In general, the following minimum building lines are necessary for the various routes:

...d) Local Roads

15 metres from the existing or proposed realigned carriageway surface edge.

- Section 15.6.1 Water and Wastewater

DM Standard 38 - Effluent Treatment Plants

The suitability of a site for the treatment of wastewater shall be determined, in accordance with the criteria set down in the EPA Wastewater Treatment Manuals (1999, 2009) or any revision or replacement of these manuals or any guidelines issued by the EPA concerning the content of these manuals.

- Section 15.7.2 Landscape Sensitivity

DM Standard 46 - Compliance with Landscape Sensitivity Designations

Class 2 – High Sensitivity

Restricted to essential residential needs of local households and various developments (subject to site suitability and appropriate scale and design), including those with substantiated cases for such a specific location and which are in compliance with settlement policies.

Appendix 5: Design guidelines for the Single Rural House

5.2. Natural Heritage Designations

5.2.1. In relation to designated sites, the subject site is located:

- c.0.09km north-west of Moycullen Bogs Natural Heritage Area (NHA) (site code 002364).
- c.1.85km south-west of Lough Corrib Special Area of Conservation (SAC) and PNHA (site code 000297).
- c.1.9km south-west of Lough Corrib Special Protection Area (SPA) (site code 004042).
- c.3.1km north of Galway Bay Complex SAC and PNHA (site code 000268).
- c.3.2km north of Inner Galway Bay SPA (site code 004031).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of the first party appeal, set out on behalf of the applicant can be summarised as follows:

- In relation to housing need, this is not relevant as this is an existing house and not a site with the house predating planning policy which it cannot contravene.

Relying on Policy Objective RH7 but has also submitted documentation in relation to Policy Objective RH1.

- In relation to design, the house shape or design has not changed and the dwelling was built directly on the footprint of the pre-existing house.
- In relation to sightlines, the house predates all other recent developments and the access is shared with a backland development from 2016 where the P.A. had no issues. DMURS is flexible with Table 4.63 applicable.
- In relation to water supply, the house has an existing water supply.
- In relation to wastewater treatment, the application updates the system for the existing house as agreed with the Council's Environmental Section.
- In relation to landscape impact, the application relates to an existing house and not a site.
- The dwelling does not negatively impact on residential amenity as it pre-dates the existing houses in the vicinity.
- In relation to roadside setback and form and character of development, the house has always adjoined the local road and setback distances apply to new development only. The existing house predates the CDP by 160 years.
- In relation to surface water drainage, there has never been an issue over 160 years.
- In relation to landscaping, the existing house has mature screening.
- In relation to asserted haphazard and disorderly development, the application relates to a 160 year old house and not a site. CDP policies apply to new developments and not this house which created the rural setting.

The appeal also includes appendices which relate to the history of planning approvals and applications in the area, an OS map extract purporting to show a dwelling on the site sometime between 1863 and 1924, a letter from the applicant outlining her rural housing need including supporting documents, citing of precedent and planning history, copies of land registry documents, vehicular entrance details, wastewater details, water supply documents, electricity bills and neighbour letter of support.

6.2. Planning Authority Response

- 6.2.1. The P.A. response, in summary, reiterates its refusal reasons and highlights the housing need policy relates to greenfield lands and not retrospective permission. It also noted an active enforcement case on file which has not been complied with and which was reaffirmed in a Circuit Court Order in November 2024.

6.3. Observations

4 no. third party observations were received from Kieran Carr, Nicola Barrett, Martin and Ethna Murtagh; and Romain Ferriere. These observations can be summarised as follows:

- There are limited sightlines on a busy road.
- The development is ongoing for several years and has been built without permission. No house ever existed on the property.
- There was a shed, small stone structure with galvanised roof, on the property used by a local man for bicycle repairs. A mobile home was put on the property before the current owner took possession of the property. The developer knocked the shed in 2015/2016 and built the first phase of the present structure on a much larger footprint and the western part was added more recently.
- No evidence of a previous dwelling on the site exists because there was no previous dwelling and no ownership details have been presented on previous applications.
- The site layout map suggests that the site is larger than it is and which is too small to cater for sanitation and wastewater treatment.
- There is no scope to remove the roadside boundary.
- There is no parking provision and concerns about parking in front of neighbouring dwelling.
- The development is the subject of court orders arising from enforcement failures and has been through planning three times under different applicants and was refused.
- The new applicant has no links to the area whatsoever.

- There is a plan to upgrade local roads in the area.
- The house is not set back by the required 15m distance.
- The area is of high landscape sensitivity with strict building controls and it compromises residential amenities of the area.
- The development is disorderly with major issues relating to wastewater treatment, health and safety; and contravenes the development plan.
- The site ownership details submitted by the applicant are disputed including in relation to the current residence of the applicant and a land registry folio is submitted.
- A landscape plan has been submitted showing tree planting on the adjoining site to the north outside the applicant's ownership.
- Significant loads of soil were imported to the property.
- The site contained a mobile home previously and was granted an electricity connection and associated Eircode.
- Policy Objective RH7 is not applicable to this new dwelling.
- There are three toilets and showers in the property with waste pipes in place on the eastern gable.
- The site boundary trees are dangerous due to their scale and height and there is nowhere to plant new trees.
- The quality of the build is not in line with building regulations.
- Ground levels have been raised.
- Concerns in relation to the location close to the northern boundary with windows facing it and the impact on adjacent residential amenities.
- There is a lack of documentation to support the assertions made in the application.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle.
- Public Health.
- Access.
- Landscape.
- Residential Amenity.
- Other Matters.

7.2. Principle

7.2.1. The subject site is located within the MASP area and within the Galway County Transport and Planning Study (GCTPS) area. The subject site is located in a 'rural area under strong urban pressure' as per the CDP. Policy Objective RH 1 refers to Rural Housing Zone 1 (Rural Metropolitan Area) which applies to new rural housing. The applicant has set out her rural housing needs case in the appeal and planning application. The appeal also asserts that the dwelling was built directly on the footprint of an existing pre-existing dwelling which was in place for 160 years on the site.

7.2.2. If the dwelling for retention then is considered to fall under Policy Objective RH 7 (Renovation of Existing Derelict Dwelling), this policy notes that while such applications will be considered on their merits, that "*The derelict/semi derelict dwelling must be structurally sound and have the capacity to be renovated or extended and have the majority of its original features in place. A structural report will be required to illustrate that the structure can be brought back into habitable use, without compromising the original character of the dwelling*". It appears that the current dwelling constitutes partially an extension of the previous shed structure on

the site. I note the previous Inspector's Report (ABP-316007-23) accepted the possibility that there may have been previously a habitable dwelling on the site.

- 7.2.3. I note that the application and appeal has not demonstrated that the previous structure on site was structurally sound, habitable or otherwise and I note no structural report on file. I also note that the drawings submitted do not detail any part of the original structure/dwelling as having been retained as part of the proposed development. Based on the information before me, including the precedent cited under reg. ref. 21/1872 and my site visit, I consider there to be a lack of information to conclude other than that the subject structure is a new dwelling and in this context Policy Objective RH 7 (Renovation of Existing Derelict Dwelling) is not relevant. I also note that Policy Objective RH 6 (Replacement Dwelling) is not relevant as this relates to the refurbishment of existing habitable dwellings.
- 7.2.4. Therefore, I will assess this as a new rural dwelling whereby Policy Objective RH1 must be complied with by the applicant in relation to the principle of residential development on the subject site. I note the site is not owned by the applicant but is owned by her uncle. I also note the information submitted to substantiate rural links to the area including having resided and being schooled in the rural area of Barna as a child, having close family residences in the area and having lived/rented for a substantial period as an adult at a separate family address in the area, albeit within the urban area of Barna.
- 7.2.5. The documentation submitted, supported by the local school records, including a land registry folio for the applicant's parents at a rural address in Aille up to May 2008 from December 2002 (prior to that in applicant's mother's parents' ownership since 1971) suggests that the required social links to the rural area within the required 8km radius and in relation to the continuous 7 year residence requirement to be deemed a longstanding resident, have **not** been demonstrated.
- 7.2.6. Accordingly, I do not consider that the applicant satisfies the first part of the requirement on the basis of her childhood residence to meet the "*rural links*" criteria and through existing and immediate family ties. I also note the failure to satisfy the criteria as someone "*seeking to develop their first home on the existing family holdings or lands*". I note the name listed as the subject site owner in the land registry folio documentation submitted but there is no proof submitted that he is a

close family relative or that the ownership has changed to that of a close family member.

- 7.2.7. I note the application documentation states that he is deceased and that a close family relative now owns and occupies the subject site. However, no legal documentation has been submitted to prove this and without this I cannot state unequivocally that the applicant is someone “*seeking to develop their first home on the existing family holdings or lands*”. I also note the reference made to reg. ref. 06/1779 in relation to another family member being granted permission for a dwelling on the basis of rural housing need which is not of relevance to this test.
- 7.2.8. On the basis of the failure to substantiate a rural housing need per Policy Objective RH 1, I recommend that permission be refused. I note that refusal reason no. 1 of the P.A. referred to a material contravention of DM Standard 7 (Rural Housing) and Policy Objective RH 1 (Rural Housing Zone 1 (Rural Metropolitan Area)). I agree that the failure to meet the rural housing policy justification test at this type of rural location is a material contravention of these policies of the CDP. Should the Board disagree and wish to grant permission it will need to adhere to the criteria under Section 37(2)(b) of the 2000 Act (as amended).

7.3. Public Health

- 7.3.1. The P.A.’s second reason for refusal related to the site size being deficient to allow for the safe disposal of domestic effluent on site per EPA requirements. This was considered to materially contravene Policy Objective WW6 of the CDP. I note the third party concerns in relation to this matter. I note that reference is made in the appeal to the pre-existing dwelling on site which was served by an existing septic tank which system remains operational and up to standard and which would merely be updated in this application. While this may be the case, the application is to retain a dwelling, which I consider to be a new dwelling for the reasons outlined in Section 7.2 above.
- 7.3.2. Reference is made to Section 1.3 of the EPA Code of Practice for existing systems which may not meet the performance requirements set out. This section, in my view, relates solely to upgrade of existing systems for existing developments and this is effectively an application for the retention of a new dwelling. Therefore, new dwellings are required to have adequate wastewater treatment systems that meet

the 2021 EPA Code of Practice per CDP policy. I note the dwelling size is relatively small at 73sqm with two bedrooms and a single toilet and the site size is 0.075ha. I note the appeal documents suggest that required separation distances cannot be achieved.

- 7.3.3. The application included a Site Characterisation Form. The aquifer category is noted as PI with an “extreme” vulnerability noted. The form noted that the soil type is topsoil and subsoil of sandy loam. The bedrock type is granite. The trial hole depth is 1.6m with no reason given for this and no depth to bedrock or the water table is identified. Three no. subsurface percolation tests were carried out. The average subsurface percolation value noted was 9.58 and the average surface percolation value was 10.69. The conclusions noted a septic tank system and secondary treatment system to be unsuitable and a tertiary treatment system and infiltration treatment area was considered a suitable option.
- 7.3.4. A Site Layout Map was submitted showing the location of the proposed treatment plant to the north-west of the septic tank and dwelling with the sand polishing filter adjacent to the front corner of the site. This map shows a separation distance of 7m between the dwelling and the treatment plant, 7m between the proposed sand polishing filter and the dwelling and just over 24m to the rear dwelling and 3m from the nearest site boundary with the polishing filter. A groundwater protection response of R2(2) is noted.
- 7.3.5. I note that the minimum separation distances required under Table 6.2 of the EPA Code of Practice cannot be achieved. I note an absence of detail in relation to whether the 20sqm size of the percolation area can be accommodated with no detailed plan drawing submitted in this regard. Accordingly, I am satisfied that the safe disposal of domestic effluent on site for the new dwelling cannot be strictly guaranteed in accordance with the EPA Code of Practice as required and that this is contrary to Policy Objective WW6 of the CDP and I recommend that permission be refused.
- 7.3.6. I note that refusal reason no. 4 related to an excessive concentration of development that would be served by individual private effluent treatment systems in the area where wastewater from the proposed development cannot be satisfactorily treated and disposed of on the site. The appeal notes that the dwelling predates the

surrounding development and that such newer development is the issue in this regard. I have previously effectively rejected this line of argument in that I consider the proposal to be for the retention of a new dwelling which requires its own wastewater treatment system in line with current standards. In this regard, I note the inability to provide adequate wastewater treatment on site is a concern for public health and is contrary to DM Standard 38 of the CDP.

- 7.3.7. In relation to water supply, I note the documentation submitted suggests that on the balance of probabilities a water connection was made as demand for payment was received in the early 1990s. While I note the concerns of the P.A. in this regard, particularly in relation to the failure to submit a pre-connection agreement from Uisce Eireann, I am satisfied that a connection to the public water supply is available and that there is no risk to public health. In this regard, I do not consider that there would be a material contravention of Policy Objective WS 4 (Requirement to Liaise with Irish Water – Water Supply) of the CDP. However, per P.A. refusal reason no. 7, such a material contravention has been cited.

7.4. Access

- 7.4.1. The P.A. refused permission in relation to concerns over absent sight line distances (70m) and a traffic hazard that would result from increased vehicular movements and made reference to DM Standard 28. The Planner's Report noted that it could not be satisfied the sightlines could be achieved with lands outside the applicant's ownership required. I note the concerns from third parties in relation to traffic hazard and absence of parking provision.
- 7.4.2. I note the appeal submission which refers to DMURS. It refers to transition zones as the site is located within 200m of a 50kph speed limit zone while being located in an 80kph zone. Reference is made to Table 4.2 of the SSD standards where it is highlighted that a stopping distance of 14m is required for 20km/h speed zones. The appeal notes that the road width, at 3.25m satisfies the alternative visibility splay in Table 4.63 of DMURS "*as there is a constraint on overtaking*". The submission also refers to the UK Manual for Streets (2007) which is referenced in DMURS and states that "*for a road width of 3.25m & 50m forward visibility, from Figure 7.16 above, we can predict an average speed of c10mph & an 85% speed of c15mph. Table 7.1 below indicates Stopping Sight Distance of 17m including adjustment for length of*

bonnet. Photographs show distance of 70m, which is far in excess of this 17m requirement”.

- 7.4.3. I note that DMURS is applicable to urban development and not rural development and is not applicable in this case with the site located c1.6km from the urban fringe to the south-east. DM Standard 28 of the CDP is relevant with a 2.4m setback from the roadside required and in relation to local roads it states “*in general, where the capacity, width, surface condition or alignment of the road is deemed inadequate, development will not be favoured*”.
- 7.4.4. I note the appeal references the permission for the equestrian centre diagonally across the road under reg. ref. 22/61189 and I note that the P.A. was satisfied that 70m sightlines could be achieved in this case. In relation to the adjacent accessway for the house to the north, I note that permission was granted for the dwelling to the north using this accessway under reg. ref. 14/77. I note the appeal submission that there would be no significant intensification of use with an increase of 0.63% noted.
- 7.4.5. However, I also note that the site plans do not clearly show the access arrangements in relation to the site layout for the dwelling. While the Site Layout Map shows 70m sightlines in both directions from the adjacent entrance to the site, I note that to the south-east that this relies on the maintenance of the roadside setback of the adjacent dwelling for which no agreement has been submitted. The sightline to the north-west would require the removal of roadside trees and alteration of the front site boundary which given the site size would be significant and I consider this to be unacceptable. I also note the absence of dedicated parking provision on the plans and the limited site size. The provision of amenity space is also limited and this lack of provision and/or conflict for the use of the limited site size could lead to parking immediately outside the site leading to a traffic hazard. From my site visit, there was an access point on to the site from the south-east side boundary from the adjacent access laneway which serves the dwelling to the rear.
- 7.4.6. The red line area suggests that the access to the public road from the adjacent laneway is within the control of the applicant but not the road setbacks to the south-east outside the red line area. I note that while the public road is single carriageway, it undulates to a significant extent and there are a significant number of vehicular access points in the vicinity of the site. From my observations on site, I note the

road type with 60kph speed limit, limited forward visibility and significant level changes over short distances. Noting this, and the lack of parking provision on the site and the absence of a demonstrated detailed site layout in relation to access and parking, I have significant concerns in relation to the potential for a traffic hazard to arise. Accordingly, I recommend that permission be refused given that the development constitutes a traffic hazard.

7.5. Landscape

- 7.5.1. I note third party concerns in relation to the site layout and lack of setback from the public road. In relation to the design of the dwelling, the appeal has asserted that it is built on the same footprint as the original dwelling and is of the same design. I note that, in fact, the footprint has significantly expanded by reference to the original structure on the site. In relation to the design and layout concerns of the P.A., the appeal asserts that this is an existing dwelling that is nevertheless well screened by mature trees and that the house created the rural setting. As outlined above in this assessment, I consider this to be a new dwelling on the site and I note that the mature trees have been substantially cut back with lower trunk elements remaining.
- 7.5.2. I note the site location within an area classified in the CDP with a high landscape sensitivity. This is noted to be an upland type landscape although views of same are obscured from in and around the site. I note DM Standard 29 (d) *generally* requires a 15m setback from local roads and that most of the dwellings in the vicinity of the site are well setback by at least 15m from the public road. The CDP states that this is required “*in the interests of residential amenity, rural amenity, public safety and to allow for any future road widening or realignment*”. I note the site layout with the dwelling located in close proximity to the road. As this is a general requirement, I note no material contravention of the CDP arises.
- 7.5.3. I note that the scale of the dwelling is small and is partially screened by the remains of the mature trees from the north and partly screened from the road, such that, despite the proximity to the road, it would not result in an excessive urban type presence on the road and would not unduly interfere with the local landscape, views of which are limited in the vicinity of the site. I note that the modest scale and form of development, while not ideal by reference to site size and building line position, is

such that I am satisfied that it broadly adheres to the rural house design guidelines of the CDP.

- 7.5.4. In this regard, I note that refusal reason no. 5 of the P.A. decision cited a material contravention of Policy Objective LCM 2 (Landscape Sensitivity Classification), LCM 3 (Landscape Sensitivity Ratings) and DM Standard 46 (Compliance with Landscape Sensitivity Designations) and refusal reason no. 6 cited a material contravention of Policy Objective RH 9 (Design Guidelines) and DM Standard 29d) (Building Lines, Local Roads). I note that DM Standard 29d is a general requirement rather than a mandatory one. Based on the above assessment, I do not agree that material contraventions of these policies arises.

7.6. Residential Amenity

- 7.6.1. I note the third party concerns in relation to impacts on residential amenity, particularly in relation to the adjacent dwelling to the north. I note the mature tree screening has been partially removed between the adjacent site to the north and the subject site and that the separation distance to the closest dwelling to the rear is c.25m and with good separation distances to the side. I also have no concerns to the south given the distances, size of development and single storey design. Given the modest scale of development and substantial separation distances from dwellings in the vicinity, I am satisfied that there would be no undue overlooking, overbearing or overshadowing impacts on adjacent residential amenities.

7.7. Other Matters

- 7.7.1. I note the case put forward in the appeal that the site has been more or less continuously occupied with supporting documentation submitted in this regard. However, as outlined above I consider this to be a new dwelling given that it is on an expanded footprint, that there is a lack of information to demonstrate definitively otherwise and I have assessed the application on this basis. I do not consider that there is any reasonable basis to do otherwise given the information before me.

8.0 EIA Screening

- 8.1. See Forms 1 and 2 appended to this report. The proposed development is located within a rural area on un-serviced land. Having regard to the nature and scale of the

proposed development, to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended) and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded.

9.0 AA Screening

- 9.1. I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended. The subject site is located c.1.85km south-west of Lough Corrib Special Area of Conservation (SAC) (site code 000297), c.1.9km south-west of Lough Corrib Special Protection Area (SPA) (site code 004042), c.3.1km north of Galway Bay Complex SAC (site code 000268) and c.3.2km north of Inner Galway Bay SPA (site code 004031).
- 9.2. The proposed development comprises a single storey dwelling and wastewater treatment system. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:
- The relatively small scale and domestic nature of the development.
 - The distance from European sites and absence of direct pathway to same.
 - Taking into account the screening determination carried out by the Planning Authority.
- 9.3. I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

10.0 Recommendation

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

11.0 Reasons and Considerations

1. The proposed development would endanger public safety by reason of a traffic hazard as a result of the site layout where it has not been demonstrated that adequate sightlines can be maintained and provided without significant impacts on the roadside boundaries, where adequate parking provision has not been demonstrated and it has not been demonstrated that sufficient provision has been made for access to the site and to the public road where the alignment is inadequate and this is contrary to DM Standard 28 of the Galway County Development Plan 2022-2028. The proposed development, would therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the planning history on the lands and the nature of the previous structures thereon, the requirements of Policy Objective RH 7 (Renovation of Existing Derelict Dwelling) have not been satisfied. Having regard to the site location in a rural area under strong urban pressure as defined in the Galway County Development Plan 2022-2028 where Policy Objective RH 1 (Rural Housing Zone 1 – Rural Metropolitan Area) is applicable, where new housing is restricted to persons who can demonstrate a rural housing need, it is considered that the applicant is not someone seeking to develop their first home on the existing family holdings or lands and has not substantiated the required social links to the rural area. On this basis, in the absence of a demonstrated local based need for the house, the development would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. In this regard, the development would constitute a material contravention of DM Standard 7 (Rural Housing) and Policy Objective RH 1 (Rural Housing Zone 1 – Rural Metropolitan Area) The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. Having regard to the restricted area of the site and to the information on the file, the applicant has not demonstrated that the existing effluent treatment system with upgrades can adequately and safely dispose of domestic effluent from the new dwelling. The development would, therefore, be prejudicial to public health. It is also considered that, taken in conjunction with the existing development in the vicinity, the development proposed for retention would result in an excessive concentration of development served by septic tanks in 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.

Ciarán Daly

Planning Inspector

2nd May 2025

Appendix 1 – Form 1

EIA Pre-Screening

An Bord Pleanála	ABP-321642-25		
Case Reference			
Proposed Development Summary	Retention of a residential house and sewerage system, upgrade of sewerage system.		
Development Address	Tóin na Brocaí, Gaillimh.		
1. Does the proposed development come within the definition of a ‘project’ for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Part 2, Class 10(b)(i)	
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Threshold: Construction of more than 500 dwelling units. Proposal is significantly below the above threshold being for one no. unit and wastewater treatment system.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ Date: _____

Appendix 2 – Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-321642-25
Proposed Development Summary	Retention of a residential house and sewerage system, upgrade of sewerage system.
Development Address	Tóin na Brocaí, Gaillimh.
<p>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.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</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>Single storey dwelling and wastewater treatment system within an urban area.</p> <p>The proposed development will not give rise to the production of significant waste, emissions or pollutants.</p>
<p>Location of development</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 rural location is located at a remove from sensitive environmental receptors with no direct pathways to same noted.</p>

Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).		Impacts will be contained within the site boundaries with any water based run-off to the local waste water treatment network. The site is not suitable for wintering birds.
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)