



An
Coimisiún
Pleanála

Inspector's Report

ACP-323127-25

Development	Retention and completion of the changes to the previously granted domestic garage (21/1793) which includes changes to the façade and window fenestration along with change of use to the floor space to office use and a study room for the enjoyment of the existing dwelling house.
Location	36 Gilmartin Road, Townparks (2 nd Division), Tuam, Co. Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	25/60630
Applicant	Alan Mulry
Type of Application	Retention permission
Planning Authority Decision	To grant retention permission with conditions
Type of Appeal	Third Party
Appellant	Agnes Curley
Observers	None
Date of Site Inspection	19 th September 2025
Inspector	Trevor Rue

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1.0 Site Location and Description

- 1.1. The application site is located in a residential street about 700 metres to the south west of the town centre of Tuam. With a stated area of 0.034 hectares, it comprises the curtilage of a semi-detached two-storey dwelling. The curtilage is about 42 metres long and 7.5 metres wide. There is a driveway to the north-western side of the dwelling, served by a vehicular access. A large extension to the rear of the dwelling is under construction.
- 1.2. There is a free-standing building to the rear of the site. Its front elevation, facing towards the back of the dwelling, is 5.5 metres in width. It is 11.04 metres in length and has a ridge height of 4.775 metres. There is a large rectangular opening in the front elevation. There are a door and two windows in the south-eastern side elevation, as well as a skylight. There are two windows and a skylight in the north-western side elevation. The rear elevation is blank. External construction work is largely complete. Internal spaces have been laid out but interior works are still under way.
- 1.3. The building is situated 940 millimetres from the boundary of 37 Gilmartin Road to the north west and 1.055 metres from the boundary with No. 35 to the south east. The latter boundary is marked by a block wall and vegetation.

2.0 Proposed Development

- 2.1. Planning permission is sought for the retention of the building to the rear of the site. It is proposed to use the large space at the front of the building as a garage/gym with an office and a study to the rear and an enclosed filing space in a central position on the north-western side.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 10th July 2025, Galway County Council decided to grant retention permission, subject to eight conditions. Condition 1 required adherence to the submitted plans and particulars. Condition 3 specified how surface water was to be disposed of.

Condition 4 required finishes to harmonise with those of the dwelling. Conditions 6 to 8 were to do with the construction process.

3.1.2. Condition 2 of the permission was as follows:

(i) Prior to the commencement of any other development, the applicant shall submit augmented boundary details indicating for an internal 1.8m screen to be erected along the western and eastern side boundaries parallel to and spanning the entirety of the office/gym & study building footprint hereby permitted for the written approval of the Planning Authority.

(ii) The ancillary building hereby approved shall not be utilised until such time as the boundary treatment has been implemented in full.

(iii) Upon completion of the agreed boundary treatment works photographic evidence of the augmented arrangement shall be submitted to the Planning Authority for compliance purposes and shall be maintained appropriately in perpetuity thereafter.

Reason: *In the interest of residential amenity and orderly development.*

3.1.3. Condition 5 said this:

(a) The home office, gym and study hereby permitted shall be restricted to a secondary use directly associated with the use of the existing main residential dwelling on the site. It shall be ancillary to the dwelling house on site, and it shall not be open to visiting members of the public.

(b) The proposed domestic home office, gym and study shall not be used for habitable or commercial purposes or any other purpose other than those incidental to the enjoyment of the dwelling house.

Reason: *In the interests of clarity and of orderly development.*

3.2. Planning Authority Reports

3.2.1. A planner's report dated 9th July 2025 provided the reasoning for the authority's decision. The main points were as follows:

- The proposal accords with the proper planning and sustainable development of the area, subject to adherence with a condition whereby the unit shall not be used by visiting members of the public. This condition would ensure that there would be no adverse implications from a traffic and transport perspective.

- The unit is 4.775 metres in height. Permission was previously granted for a unit 4.7 metres in height. The floor area has remained constant at 50 square metres [measured internally]. The floor plans indicate no sanitary services within the unit. The unit is circa a metre from both side boundaries. The development would not adversely impact on the visual/residential amenity of the area, subject to appropriate conditions.

3.3. Prescribed Bodies

- 3.3.1. Transport Infrastructure Ireland requested the planning authority to have regard to the provisions of official policy for development proposals.

3.4. Third Party Submissions

- 3.4.1. The Council received a submission from the appellant, which was attached to her appeal statement and is included in the summary at Section 7.1.1 below.

- 3.4.2. The Council also received a submission from another resident of Gilmartin Road, who made the following points:

- A much larger structure than had been approved was erected at the rear of the application site in the summer of 2024. It is without doubt a dwelling house. Its windows are very close to the perimeter wall of No. 35 directly overlooking that property and within line of sight of the objector's own property. When the builder was asked not to continue, the applicant directed him to put a roof on the building. He cut away a large section of a cherry tree in the garden of No. 35 without permission so as to complete the roof. The building works and disregard for planning rules have had a great impact on the owner of No.35 and this is becoming a very unfair situation for her.
- Population density and pressure on existing sewerage works are of concern. It is obvious that the applicant is trying to gain financially and it is believed that it is a commercial development. The objector's own property will be devalued as his privacy is also infringed.

4.0 Planning History

4.1. **21/1793:** On 10th January 2022, permission was granted to the present applicant to demolish an existing single-storey extension and construct a new extension to the rear of the dwelling and a storage shed / fuel store to the rear of the site. The Council attached the following condition:

6. The garage shall be used as ancillary to the existing dwelling house on site and shall not be used for habitable purposes or commercial purposes, or any other purpose other than that incidental to the enjoyment of the existing dwelling house on site.

Reason: *In the interest of proper planning and sustainable development of the area.*

4.2. **WL/EN25/025:** On 18th March 2025, the Council sent a warning letter to the applicant stating that unauthorised development may have been carried out at the application site as the shed to the rear of the garden did not match the drawings submitted.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Tuam Local Area Plan 2023-2029 Land Use Zoning Map shows the application site in Zone R – Residential Existing. The policy objective for this zone, set out in Section 1.6 of the Plan, is to protect and improve the residential amenities of existing residential areas. Under the heading “Description”, this objective is elaborated as follows: to provide for house improvements, alterations, extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenities.

5.2. Natural Heritage Designations

5.2.1. The application site is not in any Natura 2000 site of European nature conservation importance. The nearest Natura 2000 sites are:

- Lough Corrib Special Area of Conservation (SAC), about 2.7 kilometres to the south west, designated for water bodies, semi-natural dry grasslands, meadows, raised bogs, depressions on peat substrates, fens, petrifying springs, limestone pavements, oak woods, bog woodland, freshwater pearl

mussel, white-clawed crayfish, lamprey, salmon, lesser horseshoe bat, otter, slender naiad and slender green feather moss; and

- Levally Lough SAC, about 9.4 kilometres to the east, designated for turloughs.

5.2.2. Derynagran Bog and Esker Natural Heritage Area (NHA) is located about 14.5 kilometres to the east of the application site, while Killaclogher Bog NHA is located about 15 kilometres to the south east of the site. Both NHAs are designated for peatlands. There are also several proposed NHAs within 15 kilometres of the site.

6.0 Environmental Impact Assessment Screening

6.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. The grounds of appeal may be summarised as follows:

- While a fuel shed was approved, it has been built as a significantly larger living unit which is incompatible with the surrounding area. Despite receiving notifications from the Council to halt construction, the developer persisted and almost completed the structure and then applied for retention permission. The appellant is concerned about what further changes he may make without respect for the many objectors in the area.
- Photographs of the exterior and interior of the structure were submitted. The roof now contains two skylights, one on either side. The north-western wall now contains two new windows, one of them frosted. The front elevation shows a roller door, but a double door has already been installed. The building is one metre longer at 11.04 metres and the structure is now an imposing 60.72 square metres in size [measured externally].

- The structure is built to an unusually high specification, far beyond the original purpose. The internal layout is completely different to what was approved. The room with the frosted window (marked “Filing” on the floor plan) is adequate in size for a compact bathroom with shower, sink and toilet. There is adequate floor depth for the pipes, ducting, insulation and floorboards that have yet to be installed. This is a standalone building designed for habitation.
- Two windows and a glass door have been added at most one metre from the boundary wall with No. 35 and higher than it. They directly overlook the appellant’s whole garden and back kitchen. They have caused severe disruption to her privacy and enjoyment of her home and made the structure an intrusive presence in her daily life. This is unnerving and is causing immense stress and worry. Photographs of the structure taken from the appellant’s garden were submitted.
- There is also tremendous loss of light. Much of the appellant’s garden will be in shade in the afternoon and evening from the approved two-storey house extension 7.1 metres in length and now from the structure to which this application relates. It is just too much development for the site. The appellant’s property will be considerably devalued for those who come after her.

7.2. Applicant’s Response

7.2.1. None

7.3. Planning Authority Response

7.3.1. None

8.0 Assessment

8.1. Issues

- 8.1.1. Having inspected the site and considered in detail the documentation on file for this Third Party appeal, it seems to me that the main planning issues are:
- the acceptability in principle of the proposed building;

- its effect on the residential amenity of other properties on Gilmartin Road; and
- its effect on sewerage capacity.

8.2. Acceptability in Principle

- 8.2.1. The Tuam Local Area Plan 2023-2029 confirms that the application site is in an existing residential area. The policy objective for this zone is to protect and improve residential amenities; house improvements are specifically mentioned. A storage shed and fuel store were approved in 2022. The acceptability in principle of an ancillary outbuilding to the rear of the site has therefore been established.
- 8.2.2. This is an application for permission for retention and completion of an outbuilding which is differently configured to that which was approved. It is to be expected that the works completed thus far will correspond to the drawings submitted with the application. During my site inspection, I found that this is largely so. The siting and elevations of the building are as shown and the finishes are satisfactory. Internally the spaces are laid out as indicated. The building was not being used for any purpose and was not ready for any use.
- 8.2.3. The front space is marked “Garage/Gym” on the submitted floor plan. It is hard to imagine this space being used as a garage. The rear extension to the dwelling, which is under construction, has blocked off the route from the driveway to the outbuilding. A concrete step at the front of the outbuilding would impede access by a vehicle. Joint use of the space by a garage and an equipped gym would present practical difficulties. Photographs attached to the appellant’s evidence show that at one time double doors were fitted in the front elevation of the building instead of a roller-shutter door as the submitted drawing seems to indicate. For some reason, the double doors were no longer in place at the time of my site inspection.
- 8.2.4. I confirmed during my inspection that the space marked “Filing” has a frosted window. This seems to me to be a strange choice, as unfiltered light would be an advantage when searching for a file.
- 8.2.5. The third-party concerns as to the applicant’s intentions is understandable. However, none of the works carried out to date would prevent the development being completed to accommodate secondary uses associated with the enjoyment of the existing dwelling house. The Council’s Condition 5 restricted the building to uses ancillary to

the dwelling and prohibited habitable or commercial uses. Should the Commission decide to grant permission, it could impose a condition to the same effect. Should that condition be breached, the Council would be in a position to take enforcement action in order to have the matter rectified. I conclude that, subject to such a condition, the building as described in the application is acceptable in principle.

8.3. Residential Amenity

- 8.3.1. There is an extant planning permission for a building to the rear of the application site, which will not expire until January 2027. The approved building was to be 10.05 metres long and 5.9 metres wide and its ridge height was to be 4.7 metres. It was to be sited 1.445 metres from the boundary with the appellant's property, 35 Gilmartin Road. The approved elevations showed a window at the front and a door, a window and a larger opening facing the back garden of No. 35.
- 8.3.2. Compared to the approved building, the building for which retention permission is sought is about 1 metre longer, 0.4 metres narrower and just 0.075 metres higher. It is closer by 0.39 metres to the boundary with No.35. There are two windows and a door in the elevation facing No. 35, plus a skylight over the front space. In my judgement, the impact of the proposed building on the amenity of that property is only slightly more adverse than that which the approved building would have caused.
- 8.3.3. Views of the appellant's property are shielded to some extent by a wall and by deciduous vegetation, which will be less effective in winter. However, I noted that even in early autumn views over much of the back garden were available. The Council's Condition 2, which required a 1.8-metre screen to be erected along the side boundaries of the site parallel to the building, would significantly reduce the opportunity for overlooking and help protect the appellant's privacy. Should the Commission decide to grant permission, it could impose a condition to the same effect. Mindful of the planning history, I consider that with such a condition in place the net impact of the building on the residential amenity of 35 Gilmartin Road would not be so great as to warrant the withholding of planning permission.
- 8.3.4. The third-party objector who made representations at application stage lives further away from the site than the appellant. I do not believe that, with screening in place, he would suffer any significant loss of privacy or property value due to the substitution of the building under construction for that which was previously approved.

8.4. Sewerage Capacity

- 8.4.1. The submitted floor plan does not make provision for a toilet or washing facilities within the outbuilding. Even if the development were to lead to greater use of sanitary services on the site, for example by enabling home working, there is no reason to suppose that the existing public sewerage system would be unable to cope with a relatively minor increase in the volume of effluent.

9.0 Appropriate Assessment Screening

- 9.1. Having considered the nature, location and small scale of the proposed development, the nature of the receiving environment as a built-up urban area, the nature of the foreseeable emissions therefrom, the availability of public piped services to accommodate the foul effluent arising therefrom, the distance from the nearest European site and the absence of any known hydrological link between the application site and any European site, I am content on the basis of objective information that the development is not likely to have a significant effect on any European site, either alone or in combination with other plans or projects. I therefore conclude that the carrying out of an appropriate assessment under Section 177V of the Planning and Development Act 2000 is not required.

10.0 Water Framework Directive

- 10.1. The application site is located about 450 metres from the River Nanny and about 2.9 kilometres from the River Clare. The proposed development comprises the retention of a domestic outbuilding and its use as an office and study room. No water deterioration concerns were raised in the planning appeal.
- 10.2. I have assessed the development and have considered the objectives as set out in Article 4 of the Water Framework Directive (WFD) which seek to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

10.3. The reasons for this conclusion are the nature and small scale of the works, the distance of the application site from the nearest water bodies and the absence of any known hydrological connections.

10.4. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

11.0 Recommendation

11.1. I recommend to the Commission that planning permission be granted, subject to the conditions set out below.

12.0 Reasons and Considerations

12.1. Having regard to the Tuam Local Area Plan 2023-2029 and to the planning history of the application site, it is considered that, subject to adherence to the conditions set out below, the retention of the building at the rear of the site for purposes ancillary to the enjoyment of the dwelling at the front of the site would not seriously injure the amenities of the area and of adjoining property. The development would therefore be in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

1.	The development shall be completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the institution of any use within the building and the development shall be carried out and completed in accordance with the agreed particulars. Reason: In the interest of clarity.
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2.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works. All surface water generated by the development shall be disposed of within the site and shall not be discharged on to the public road or adjoining properties. Prior to the commencement of development, the developer shall submit proposals for the disposal of surface water from the site for the written agreement of the planning authority.</p> <p>Reason: To prevent flooding and in the interest of sustainable drainage.</p>
3.	<p>No further works shall be carried out until the developer has submitted to, and agreed in writing with the planning authority, a Construction Management Plan, which shall be adhered to thereafter. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction and demolition waste.</p> <p>Reason: In the interest of public safety and amenity.</p>
4.	<p>The building hereby permitted shall be used solely for purposes associated with and ancillary to the enjoyment of the existing residential dwelling on the site. In particular, it shall not be used as bedroom accommodation or for any commercial purpose and shall not be open to visiting members of the public.</p> <p>Reason: In the interests of clarity and orderly development.</p>
5.	<p>The building shall not brought into use for any purpose until:</p> <p>(a) the applicant has submitted to, and agreed in writing with, the planning authority proposals for boundary screens of at least 1.8 metres in height to be erected within the site along the north-western and south-eastern side boundaries parallel to and spanning the entirety of the building hereby approved; and</p> <p>(b) the planning authority has certified, following receipt of photographic evidence from the applicant, that the screens have been provided to its satisfaction.</p> <p>The screens shall be maintained in perpetuity thereafter.</p> <p>Reason: In the interest of residential amenity.</p>

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.



TREVOR A RUE

Planning Inspector

29th September 2025

Appendix A: Form 1 – EIA Pre-Screening

Case Reference	ACP-323127
Proposed Development Summary	<i>Retention of a domestic outbuilding and its use as an office and study room</i>
Development Address	<i>36 Gilmartin Road, Tuam</i>
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> <i>Yes, it is a 'Project'. Proceed to Q2.</i>
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input checked="" type="checkbox"/> <i>No, it is not a Class specified in Part 1. Proceed to Q3</i>	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input checked="" type="checkbox"/> <i>No, the development is not of a Class specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.</i>	No Screening required.

Inspector: *Trevor A Rue*

Date: 29th September 2025

TREVOR A RUE