



An
Coimisiún
Pleanála

Inspector's Addendum Report

PL-500574A-GY-26

Development

1) Refurbishment and extension to existing house 2) Conversion of existing barn into living space 3) Construct a domestic garage and all associated works

Location

Lurgan, Loughrea, Co. Galway

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

2461738

Applicant(s)

Jason Collins

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Miriam Derham

Observer(s)

None

Date of Site Inspection

30th March 2026

Inspector

Emma Gosnell

1.0 Introduction

1.1 This report has been prepared pursuant to An Coimisiún's Direction (reference number CD-000458) dated 23rd April 2026. It is an Addendum Report to the Inspector's Report in respect of PL-500574-GY-26, dated 1st April, 2026.

1.2 Following a meeting of the An Coimisiún held on 23rd April 2026, they wished, under Section 137 of the Planning and Development Act 2000, (as amended), to take the following matter into consideration in determining the appeal:

As the submitted Bat Survey dated 11/11/2025, confirms that bats are roosting on the proposed development site and that a derogation license is required for the proposed works, the Commission will consider whether a derogation license should have been submitted by the Applicants in support of their planning application, in relation to the disturbance of a known bat roost at the site, having regard to Annex IV of the EU Habitats Directive, European Communities (Birds and Natural Habitats) Regulations 2011 (as amended), and to the Judgment of the Court of Justice of the European Union in relation to Case C-166/22, and in particular paragraph 36 which states that "... in the specific case where, first, the execution of a project that is subject to the dual requirement for assessment and development consent laid down in Article 2(1) of Directive 2011/92 involves the developer applying for and obtaining a derogation from the plant and animal species protection measures prescribed in the provisions of national law transposing Articles 12 and 13 of Directive 92/43 and where, second, a Member State confers power to grant such a derogation on an authority other than the one on which it confers power to give development consent for the project, that potential derogation must necessarily be adopted before development consent is given. If it were otherwise, that development consent would be given on an incomplete basis and would not, therefore, meet the applicable requirements." On this basis the applicant is requested to submit evidence that a bat derogation license has been obtained in accordance with the above requirements.

1.3 As this was considered by An Coimisiún to constitute a new matter in the context of the appeal, An Coimisiún decided to issue a Section 137 notice to all parties inviting submissions from all parties regarding the issue. Further public notification was not required.

1.4 This report considers the submissions made on foot of the issuing of this notice.

2.0 Response of Relevant Parties to An Coimisiún's Decision to Request Further Information

First Party Response (received 22/05/2026)

- A copy of a derogation license (DER-BAT-2026-226) from the NPWS issued to the applicant, Jason Collins, in respect to the Soprano Pipistrelle Bat species on the 22nd May 2026 is provided together with a derogation assessment and a copy of the derogation application made by the applicant.

Response from Third Party Appellant (received 12/06/2026)

- The public interest rationale given for the derogation is not tenable.
- Procedural issues raised in respect to the PA's decision to grant permission when no derogation was in place.
- Sets out information relating to applicant's purchase and subdivision of the lands.
- The subject structure has not been inhabited since the 1950s and is not in a salvageable condition.
- The existing barn is a shed of simple construction (c.1970s) and was previously in use for the housing of animals.

An undated photograph of the subject structure and barn is provided with the response.

3.0 Assessment

Having examined the application details and all other documentation on file, in particular the response of the appellant and applicant to the Commission's Section 137 notice to the parties, 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 for this addendum report to be as follows:

- Bat Derogation License

3.1 Bat Derogation License

- 3.1.1 The matters raised as a consequence of An Coimisiún's decision relate to their consideration of whether a derogation licence should have been submitted by the applicant in support of their application, in relation to the disturbance of a known bat roost at the site having regard to Annex IV of the EU Habitats Directive, European Communities (Birds and Natural Habitats) Regulations 2011 (as amended). An Coimisiún further referenced the judgement of the Court of Justice of the European Union in relation to Case C-166/22, in particular paragraph 36 which states that *"in the specific case where, first, the execution of a project that is subject to the dual requirement for assessment and development consent laid down in Article 2(1) of Directive 2011/92 involves the developer applying for and obtaining a derogation from the plant and animal species protection measures prescribed in the provisions of national law transposing Articles 12 and 13 of Directive 92/43 and where, second, a Member State confers power to grant such a derogation on an authority other than the one on which it confers power to give development consent for the project, that potential derogation must necessarily be adopted before development consent is given. If it were otherwise, that development consent would be given on an incomplete basis and would not, therefore, meet the applicable requirements"*.
- 3.1.2 All bat species found in Ireland are listed under Annex IV of the EU Habitats Directive, European Communities (Birds and Natural Habitats) Regulations 2011 (as amended). Works which would capture or kill bats, damage or destroy their roosts or disturb them at important parts of their lifecycle cannot take place without first obtaining a Regulation 54 Derogation (previously known as a derogation licence) and strict criteria must be met before such a derogation can be approved.
- 3.1.3 I refer the Coimisiún to NPWS publication 'Applications for Regulation 54 Derogations for Annex IV species: Guidance for Applicants' (June 2026). Section 5 of this document notes that in July 2023, the Court of Justice of the European Union High Court issued a judgment relating to the relationship between the systems of development consent and the provision of derogations regarding the strict protection of species under the EU Habitats Directive (Case C-166/22). On the basis of this judgment, it is the Department's opinion that where a proposed activity requires consent from another statutory authority, and it appears that such an activity, if permitted, by that appropriate public authority, will also require a derogation from the Minister, then it is necessary that the derogation should be granted before the approval

of the consent to the proposed activity. The NPWS (2026) are therefore currently advising that when considering applications for development consent, public authorities should ensure that such applications include copies of the derogation(s) that the applicant has considered it is necessary to acquire. They further state that the responsibility of avoiding disturbance or damage to Annex IV species, or of obtaining an appropriate derogation, rests with the applicant. The submitted Bat Survey confirms that a derogation licence will be required. No such derogation was submitted as part of the appeal documentation.

3.1.4 I refer An Coimisiún to section 10.4 of the Inspector's Report dated 1st April, 2026. It notes that a Bat Survey was submitted to the planning authority, as part of the Further Information response. Results contained therein revealed that bats are present on the site (within the extant structure subject of the appeal) and that there is a minor satellite roost of Soprano Pipistrelle Bats present (located within the slates and timber boards of the structure's roof), with this also being the most frequently detected species on the site. In assessing the class of the population size of roosting Soprano Pipistrelle Bats that are present on the site, the report states that such small numbers of common species would lie towards the lower end of conservation significance. The survey also notes that some (non-emergent) Common Pipistrelle Bat, Leisler's Bat, unidentified Myotis Bat, Brown Long-Eared Bat and Natterers Bat flight activity was recorded across the site. It is acknowledged in the Bat Survey report that the proposed development, which provides for demolition works to part of the building and the total replacement of its roof, will result in disturbance to and displacement of bats that are roosting on the proposed development site and may result in injury to or to the mortality of a small number of non-breeding Soprano Pipistrelle Bats on account of the destruction of the existing roost. Mitigation measures are outlined including the movement of any bats found during the works to a pre-erected temporary bat box and the subsequent provision of artificial roosts in the form of 2 no. integrated bat wall system bat boxes which are proposed to be fitted to the garage wall (at a minimum height of 3.5m above ground level and with a south/ south easterly aspect). A bat derogation license from the NPWS for the destruction of the roost was proposed as part of the Bat Survey report.

3.1.5 My previous report noted my assessment of the planning issues related to the Bat Survey report and the option to request further information on this issue including

confirmation that a bat derogation for the proposed works has been applied for and granted.

- 3.1.6 The submission received from the applicant, Jason Collins, in relation to the Section 137 notice provides a copy of the Bat Derogation granted by the NPWS on the 22nd May 2026 under Ref. DER-BAT-2026-226 in respect to the Soprano Pipistrelle Bat species on the appeal site at Lurgan, Loughrea, Co. Galway. I note that the derogation specifically authorises the following: 1. Roost disturbance, 2. Actions authorised within the derogation, with the authorised actions required to be completed between 1st September 2026 – 31st December 2026 (inclusive) and supervised by a bat ecologist.
- 3.1.7 The submission received from the appellant (Miriam Derham) in response to the Section 137 notice raises a procedural concern with regard to the PA's decision to grant permission in the absence of a derogation license from the NPWS. I am satisfied that this matter has now been addressed by the appeals process and by the issuing of the aforementioned derogation license.
- 3.1.8 The appellant is also of the view that the public interest rationale given for the derogation is not tenable. The derogation states that it was issued "*A. In the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment. B. As there is no satisfactory alternative, and the action authorised by this derogation will not be detrimental to the maintenance of the population of **bats** referred to below at a favourable conservation status in their natural range*".
- 3.1.9 The NPWS publication 'Applications for Regulation 54 Derogations for Annex IV species: Guidance for Applicants' (June 2026) provides advice regarding identifying the reasoning behind carrying out the activity requiring derogation (Section 3: Applying for a Derogation). This states that "*When considering if Reason c) is appropriate, if the applicant has indicated that the reason involved public health or public safety, it is not necessary to have to further consider "other imperative reasons of overriding public interest" ("IROPI")*". I note from the derogation application form provided by the applicant that the reasoning given for applying for the derogation was public health and safety only (I refer the Commission to Part D, Question 2(c) of that form) whereby it is stated that "*The proposed development is necessary to allow for long term housing*

need for a family and, thus, is of public interest of a social and economic nature". The NPWS in their subsequent assessment of the derogation application, noted that it relied on Regulation 54(2)(c) of the European Communities (Birds and Natural Habitats) Regulations 2011 and were satisfied with the supporting information provided as to the poor condition of the structures proposed to be converted into a family dwelling. The NPWS also noted in their assessment that "*The provision of housing in Ireland is at a critical juncture and the public interest of same can be balanced against the conservation aims of the Directive*" and were satisfied that the applicant had provided sufficient evidence as to the nature and scale of the public interest for the proposed works and activity necessary to achieve these overall objectives. Therefore, in light of same and having regard to the totality of the evidence on file, I am satisfied that the public interest rationale for the derogation has been satisfactorily substantiated.

3.1.10 Furthermore, based on the measures outlined and the granting of the bat derogation by NPWS, I am satisfied that provided the terms and conditions of the derogation are adhered to that the proposal would be consistent with Annex IV of the EU Habitats Directive, European Communities (Birds and Natural Habitats) Regulations 2011 (as amended). I consider therefore that it has been demonstrated that the bat species on the site would be protected in accordance with European law and with development plan Policy Objective NHB 9 (Protection of Bats and Bats Habitats).

3.1.11 The further matters raised by the appellant regarding the age, nature and condition of the structures on the appeal site have already been dealt with under Sections 1.0 and 10.0 of the Inspector's report dated 1st April 2026. I am also satisfied that the points raised by the appellant in respect to the purchase and subdivision of the lands are not considerations which are relevant to this appeal.

6.0 Recommendation

Referring to my previous Inspector's Report, dated 1st April, 2026, and the above assessment, I recommend that permission be GRANTED subject to the following conditions.

7.0 Reasons and Considerations

Having regard to the planning policies, objectives and development standards of the Galway County Development Plan 2022 - 2028, and specifically to Policy Objective RH 7 (Renovation of Existing Derelict Dwelling), Development Management Standard 4 (House Extensions (Urban and Rural)), to Policy Objective NHB 9 (Protection of Bats and Bats Habitats) and to the presence of a bat roost and bats on the site and the issuing of a derogation in relation to same, it is considered that subject to compliance with the conditions set out below, the proposed development is an acceptable form of development at this location, would not seriously injure local ecology or the amenities of adjoining properties, and would also be acceptable in terms of servicing and traffic safety, and would therefore, be in accordance with the proper planning and sustainable development of the area.

8.0 Reasons

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 11th November 2025, 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 commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. Reason: In the interest of clarity.
2.	The measures contained in the bat derogation application dated 28th November 2025 for the Bat Derogation issued by the National Parks and Wildlife Service dated 22nd May 2026 shall be carried out in full and in accordance with the terms and conditions of said licence in the timeframe required, i.e. between 1st September 2026 and 31st December 2026 inclusive. Reason: To protect the integrity of Annex IV bat species on the site.

3.	A pre-works Barn Owl survey shall be undertaken by a licensed surveyor prior to the removal of the roof of the existing structure with appropriate mitigation to be agreed with the National Parks and Wildlife Service where relevant. Reason: To protect the integrity of a species protected under the Wildlife Acts.
4.	Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Reason: In the interest of the visual amenities of the area.
5.	Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Reason: In the interest of public health and surface water management.
6.	(a) The wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with the application and shall be in accordance with the standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021. (b) Treated effluent from the wastewater treatment system shall be discharged to a polishing filter which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021. (c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/ wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

	Reason: In the interest of public health and to prevent water pollution.
7.	All public services to the permitted development, including electrical, telephone cables and associated equipment shall be located underground throughout the entire site. Reason: In the interest of amenity.
8.	Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority. Reason: To safeguard the amenity of property in the vicinity.
9.	The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme. Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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.

Emma Gosnell

Planning Inspector

6th July 2026