



An
Coimisiún
Pleanála

Inspector's Report

PL-501446-GC-26

Development

Retention permission and permission for works to dwellinghouse 1) Increase in total floor area of dwellinghouse from 268sqm (under Plg Ref. No. 17338) to 346sqm. 2) First floor dormer window constructed on the North elevation 3) 3 no windows constructed on the North elevation 4) First floor box frame window constructed on the East elevation plus an additional window 5) 2 no first floor box windows constructed on West elevation 6) First floor window to South elevation 7) Revised location of garage 8) Revised ground levels 9) Retaining wall to Eastern boundary 10) Septic Tank Permission for associated additional works as follows: 11) Associated site works including planted buffer zone with mature screening to prevent overlooking. 12) Works also to include the provision of a new four-stage waste water treatment system.

Location

46 Dalysfort Road, Townland of Cappanaveagh, Salthill, Galway City H91YH2W.

Planning Authority	Galway City Council.
Planning Authority Reg. Ref.	2660086
Applicant(s)	L & J Muldoon.
Type of Application	Permission for Retention and Permission.
Planning Authority Decision	Refuse Permission for Retention and Permission.
Type of Appeal	First Party.
Appellant(s)	L & J Muldoon.
Observer(s)	None on file.
Date of Site Inspection	31 st July, 2026.
Inspector	Aiden O'Neill.

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1.0 Site Location and Description

- 1.1. The proposed development site is c. 0.180ha and is located to the east of the established mature residential area of Dalysfort Road, accessed from Dr Mannix Road in Salthill, c. 458m to the north of Upper Salthill Strand, to the south-west of Galway City.
- 1.2. There is a two-storey detached dwelling to the north, and a large two-storey detached dwelling to the south. To the east at a lower level are two-storey detached dwellings (Rockhill Avenue).
- 1.3. The general area is characterised by large detached or semi-detached two-storey dwellings, some of contemporary design, with an established building line set back from Dalysfort Road.
- 1.4. The proposed development site comprises a large contemporary detached two-storey dwelling located close to the northern boundary, finished in white render, with black slated roof and black windows and black soffit, fascia and downpipes. The dwelling is c. 8.145m in height. There is a single-storey shed/garage structure located to the rear of the dwelling. The total floor area, including shed/garage structure, is stated to be 359m².
- 1.5. There are 3no. accesses to the site, 1no. access to the north-west with piers and a gate, 1no. open access to the south-west; and 1no. pedestrian access with piers and a gate to the west, with steps down to the site. The site has a gravelled driveway to the front and a large garden to the rear. The site is very open, with a low wall with railings and pedestrian to the western boundary, a 1-1.5m high wall and northern wall of the adjacent dwelling (including vents, guttering and downpipes) to the southern boundary, a shared concrete block boundary wall with the adjacent property to the northern boundary, and a low hedge and retaining wall to the eastern boundary. The rear garden slopes towards the eastern boundary.

2.0 Proposed Development

- 2.1. The proposed development consists of retention permission and permission for works to dwellinghouse, with retention permission to include 1) Increase in total floor area of dwellinghouse from 268sqm (under Plg Ref. No. 17338) to 346sqm. 2) First floor

dormer window constructed on the North elevation 3) 3 no. windows constructed on the North elevation 4) First floor box frame window constructed on the East elevation plus an additional window 5) 2 no first floor box windows constructed on West elevation 6) First floor window to South elevation 7) Revised location of garage 8) Revised ground levels 9) Retaining wall to Eastern boundary 10) Septic Tank. Permission for associated additional works as follows: 11) Associated site works including planted buffer zone with mature screening to prevent overlooking. 12) Works also to include the provision of a new four-stage waste water treatment system.

- 2.2. The overall dwelling has increased in area (by 78m²) from that permitted, and in height (by c. 0.855m) from that permitted.
- 2.3. The rear garden area had been raised in level by between c. 1.26m-c.1.5m from that permitted. The retaining wall to the eastern boundary to be retained is set inside the existing 1.8m boundary wall, with the latter at a lower level. It is proposed to reduce the existing level of fill by c. 0.22m-c.0.8m over a stretch of c.11m and to provide a 2.3m high hedge and multi-stem trees, as well as a further low retaining wall along the eastern boundary.
- 2.4. A letter dated 19th August, 2025 from the applicant's solicitor is included with the application which states that the applicant is the registered owner of Folio GY121699F, and has full right of way over the former laneway and is the sole person holding such rights. In addition, it is also stated that a contract has been entered to complete the acquisition of the area.
- 2.5. A Site Suitability Assessment prepared by OMC and dated 5th December, 2025 recommends a Tertiary Treatment System and Infiltration /treatment area, to discharge to groundwater via a stone dispersal pad.

3.0 Planning Authority Decision

3.1. Decision

Galway City Council refused planning permission on 5th May, 2026 for 2no. reasons as follows:

1. It has not been demonstrated that the retention of a septic tank and percolation area and works to include the provision of a new four stage waste water

treatment system, would be in compliance with the EPA Code of Practice for Wastewater Treatment and Disposal Systems serving Single Houses, or would be the optimal solution of the disposal of effluent from a dwelling located in a built up urban environment, and, if permitted, the retention of the septic tank and percolation area, waste water treatment system and the associated dwelling, which are intrinsically linked, would be prejudicial to public health.

2. The retention of the increase in site levels, notwithstanding the proposal to marginally reduce the height, would allow for raised views over adjacent rear gardens and to the rear of dwellings, and would if permitted, give rise to undue overlooking of adjoining properties and thus detract from the privacy and residential amenity of the adjacent properties. For this reason, the proposed development would be contrary to the proper planning and sustainable development of the area.

3.1.1. Conditions

N/A.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Executive Planner's report dated 28th April, 2026 notes the following:

- The applicant has been refused permission for identical proposals in the recent past, the most recent refusal related to Pl. Ref. No. 25/60271.
- Regarding the increase in the floor area of the dwelling, this is a large site and the increase in the floor area would easily meet the requirements of the CDP.
- In relation to the first floor dormer window on the north elevation, it is considered that the window could be permanently obscured to a height of 1.80 metres from the internal floor.
- The 3no. windows constructed at ground floor level on the North elevation are acceptable.
- The first floor box frame window for the front bedroom and the second window is for the rear master bedroom faces directly east and is positioned more than 8 and 11 metres to the opposing boundary, while and is again facing east and

positioned more than 8 and 11 metres from the boundary it faces. In this case both windows meet the CDP and relevant guidelines requirements to prevent overlooking and this alteration is acceptable.

- To conclude other than the applicant now providing adequate details to conduct a screening exercises, which does screen out the proposed development, the remainder of the development and reasons for refusal attached to previous decision have not altered, the application is identical in what is sought for retention and the opinion of the Planning Authority remains consistent in this regard and the previous reasons for refusal remain valid, other than the screening issue.

The Executive Planner's report is the basis for the Planning Authority's decision to refuse planning permission.

3.2.2. Other Technical Reports

The Report of the Assistant Engineer, Transport Department, dated 8th April, 2026, states no objection subject to conditions.

The Report of the Executive Engineer, Environment Department, dated 15th April, 2026, states that due to the absence of the information detailed below, it was not possible to determine if the design proposal is in line with the EPA Code of Practice for Wastewater Treatment and Disposal Systems serving Single Houses (P.E. ≤ 10) [EPA COP]. The following details are required:

- Site layout showing measurements to the location of all relevant features is required e.g. trees and slope break/cuts, as per Table 6.2 EPA COP.
- A Site section is included in the application; however, it does not show full detail of the proposed system in relation to the site in the contexts of the site gradients, slopes and features. The assessor is to provide a fully detailed site-specific and location-specific cross section through the site (prepared to an appropriate scale), clearly indicating all the existing and proposed relevant site levels, finished floor levels, pumping station, treatment plant and polishing pipe invert levels, discharge pipe invert levels, etc. as required in the correct location proposed. All levels shall be related to Malin Head Ordnance Datum. Assessor to confirm that the required minimum separation distances, including to the

proposed trees and slope break/cuts, depths of unsaturated soil and/or subsoil in the cross section comply with the EPA COP by way of providing evidence and direct reference to the EPA COP.

- On clarification of the above the assessor must clarify the depth of subsurface percolation test holes in relation to the proposed basal gravel layer.

The Report goes on to state that it is imperative that any such installations are monitored by a suitably qualified person and that the final installation is fully certified by a suitably qualified person confirming that the installation complies fully with the EPA Code of Practice for Wastewater Treatment and Disposal Systems serving Single Houses (P.E. ≤ 10) on the site.

There should also be annual maintenance, adequate sampling chambers, maintenance contract and full certification from the supplier etc. A copy of the qualifications of the suitably qualified person and their insurance certificate is to be provided prior to commencement.

3.3. Prescribed Bodies

None on file.

3.4. Third Party Observations

3no. observations are on file, raising the following points:

- The laneway is not clearly delineated while no letter of consent from the owners of the laneway have been submitted with this application.
- The blocking of the laneway or its inclusion as part of the site is not included in the description of development, and states that the lane should be left open for access.
- The use of a wastewater treatment system is unsuitable for this area, and the site size would not meet the standards of the Plan.
- There are overhanging gutters from the property to the south, and there are concerns about how they will be serviced. Proposed landscaping may impact the gutters.
- The infilling of the site and the use of retaining walls are of concern.
- The provision of three entrances to the site is of concern.

- Concern regarding windows positioned less than 11 metres from opposing boundaries.
- Concern regarding the height of the garden wall which would be considered excessive.
- Overlooking of gardens and dwellings from the raised rear garden.
- Concern regarding the gap between the retaining wall and the boundary wall of adjacent rear gardens and the stability of the existing wall.
- Concern relating to lack of guttering on the garage as water now flows onto the adjacent site to the north.

4.0 Planning History

4.1 The following planning history applies:

PA Ref. No. 25/60271: Permission for retention of development which consists of: retention permission for works to dwellinghouse, treatment plant and associated site works was refused on 23rd October, 2025 for 3no. reasons as follows:

The proposed development has been assessed, within the restrictions imposed by the principles of proper planning and sustainable development and having regard to the policies, objectives and the development management standards and guidelines of Galway City Council, as set out in the Galway City Development Plan 2023-2029. Based on this assessment, it is considered that the proposed development is not in accordance with the proper planning and sustainable development of the area and with the provisions of the Development Plan.

1. The submitted Remedial Natura Impact Statement, which was not sought by the competent authority, Galway City Council, refers to the incorrect Planning Authority and is therefore not project specific, in addition, it does not follow the sequence of assessment set out in the Section 177 U(10)) of the Planning and Development Act 2000 (as amended) and within the 'Appropriate Assessment of Plans and Projects in Ireland Guidance for Planning Authorities', where Stage 1 screening for Appropriate Assessment has not been demonstrated, and is therefore procedurally incorrect – noting Section 34 (12) of the Planning and Development Act 2000 (as amended)

which states that “a Planning Authority shall not consider an application to retain unauthorised development of land where the authority decides that if an application for permission had been made in respect of the development concerned before it was commenced the application would have required — ‘an appropriate assessment’”. The proposed development would be contrary to Policy 5.3 Protected Spaces: Sites of European, National and Local Ecological Importance and Section 11.33 Appropriate Assessment of the City Development Plan 2023-2029 which states it is the policy of the Council to ensure that plans or projects within the Plan area will only be authorised and /or supported after the competent authority has ascertained based on scientific evidence, screening for appropriate assessment and /or a Habitats Directive Assessment that the plan or project will not give rise to an adverse direct, indirect or secondary effect on the integrity of any European site (either individually or in combination with other plans or projects). The proposed development would therefore be contrary to the proper planning and sustainable development of the site.

2. It has not been demonstrated that the retention of the septic tank and percolation area and works to include the provision of a new four stage waste water treatment system, would be in compliance with the EPA Code of Practice for Wastewater Treatment and Disposal Systems serving Single Houses, or, would be the optimal solution of the disposal of effluent from a dwelling located in a built up urban environment, and if permitted, the retention of the septic tank and percolation area, waste water treatment system and the associated dwelling, which are intrinsically linked, would be prejudicial to public health.

3. The retention of the increase in site levels, notwithstanding the proposal to marginally reduce the height, would allow for raised views over adjacent rear gardens and to the rear of dwellings, and would if permitted, give rise to undue overlooking of adjoining properties and thus detract from the privacy and residential amenity of the adjacent properties. For this reason, the proposed development would be contrary to the proper planning and sustainable development of the area.

The refusal of permission was not appealed.

PA Ref. No. 25/60041: Permission was refused on 1st April, 2025 for development which consists of; Retention of elements as follows: 1) Increase in total floor area of dwellinghouse from 268sqm (under Plg Rer. No. 17338) to 346sqm. 2) First floor

dormer window constructed on the North elevation 3) 3 no windows constructed on the North elevation 4) First floor box frame window constructed on the East elevation plus an additional window 5) 2 no first floor box windows constructed on West elevation 6) First floor window to South elevation 7) Revised location of garage 8) Revised ground levels 9) Retaining wall to Eastern boundary 10) Removal of existing septic tank and percolation area and the insertion of a new septic tank and percolation area. 11) Associated works.

Permission was refused for 4no. reasons as follows:

1. It has not been demonstrated that the retention of the septic tank and percolation area would be in compliance with the EPA Code of Practice for Wastewater Treatment and Disposal Systems serving Single Houses, or, would be the optimal solution of the disposal of effluent from a dwelling located in a built up urban environment, and if permitted, the retention of the septic tank and percolation area and the associated dwelling, which are intrinsically linked, would be prejudicial to public health.
2. It has not been demonstrated that the proposed development would not give rise to an adverse direct, indirect or secondary effect on the integrity of adjacent designated European site Galway Bay Complex SAC (Site Code 000268) or the Galway Bay Complex pNHA (Site Code 000268). The proposed development would be contrary to Policy 5.3 Protected Spaces: Sites of European, National and Local Ecological Importance and Section 11.33 Appropriate Assessment of the City Development Plan 2023-2029 which states it is the policy of the Council to ensure that plans or projects within the Plan area will only be authorised and /or supported after the competent authority has ascertained based on scientific evidence, screening for appropriate assessment and /or a Habitats Directive Assessment that the plan or project will not give rise to an adverse direct, indirect or secondary effect on the integrity of any European site (either individually or in combination with other plans or projects). The proposed development would therefore be contrary to the proper planning and sustainable development of the site.
3. The applicant has failed to provide sufficient legal interest, consent or permission for the removal of the southern boundary wall abutting the laneway, the incorporation of this area within the site and the erection of the eastern retaining wall abutting the

laneway, and any consideration of this application would facilitate the unauthorised development on lands not indicated or demonstrated to be under your control.

4. The retention of the increase in site levels, which now allows for raised views over adjacent rear gardens and to the rear of dwellings, would if permitted, give rise to undue overlooking of adjoining properties and thus detract from the privacy and residential amenity of the adjacent properties. For this reason, the proposed development would be contrary to the proper planning and sustainable development of the area.

The refusal of permission was not appealed.

21/90: Permission for the development of 2 new dwellings, one with partial basement to include connections to existing on site services & treatment systems & all associated siteworks. Application withdrawn.

17/338: Permission for development which will consist of the demolition of existing one storey 3 bedroomed house and attached garage to construct a new two storey 4 bedroom house with detached garage was granted conditional permission on 14th November, 2018. The stated area of the proposed dwelling was 281m².

UD 20/034: Enforcement Notice dated 8th March, 2024 in relation to multiple aspects of alleged unauthorised development.

5.0 Policy Context

5.1. Development Plan

The provisions of the Galway City Development Plan 2023-2029 refer.

The proposed development site is zoned R – Residential, the purpose of which is to provide for residential development and for associated support development, which will ensure the protection of existing residential amenity and will contribute to sustainable residential development.

The proposed development site is located in the Established Suburbs by reference to Figure 11.32 ‘Neighbourhood Areas’.

Section 3.6 of the Plan in relation to Sustainable Neighbourhoods: Established Suburbs states that where replacement dwellings are proposed, the sustainable benefits must be

clearly demonstrated and any such development must make a positive contribution to the area's urban fabric and amenity and character

Policy 3.5 Sustainable Neighbourhoods: Established Suburbs, seeks to:

1. Facilitate consolidation of existing residential development and densification where appropriate, ensuring new development responds positively to the character of the area and has regard to existing favourable local pattern, form and density, and protects the amenity of existing and future residents.

Section 11.3 in relation to residential development states that in considering residential development proposals the Council shall have regard to a broad range of issues, including the following:

1. Design quality (urban design, architecture, landscape, biodiversity, DMURS, SUDS)
2. Site features and context
3. Residential Density
4. Building height
5. Residential mix (dwelling type, size, tenure, and specialist housing)
6. Existing neighbourhood facilities and the need for additional facilities
7. Integration with the surrounding environment in terms of built form and the provision of walking / cycling permeability
8. Infrastructural requirements with respect to water will require evidence to be provided by the developer of consultation with Irish Water prior to applying for planning permission to ensure that adequate water services will be available to service the development and that existing water services will not be negatively impacted.

Section 11.3.2 sets out the guidelines applicable to residential development in the Established Suburbs. These generally reflect the guidelines applicable to the Outer Suburbs, and include:

11.3.2 (d) Overlooking

- Residential units shall generally not directly overlook private open space or land with development potential from above ground floor level by less than 11 metres minimum.
- With regard to domestic extensions, architectural resolutions to prevent overlooking may be considered, where the linear 11m standard is marginally less, and the overlooking impact is reduced through design.

11.3.2 (e) Daylight

All buildings should receive adequate daylight and sunlight.

11.3.2 (f) Distance between Dwellings for New Residential Development

- The distance between side gables and side boundaries of dwellings shall generally be a minimum of 1.5 metres.
- Within all other residential developments, including apartment buildings and large dwellings, (greater than 200m²), the distance between buildings shall generally be greater unless deemed acceptable under specific site performance based criteria, this is to provide a good layout and context for the development.

11.3.2 (l) Residential Extensions

The design and layout of extensions to houses should complement the character and form of the existing building, having regard to its context and adjacent residential amenities.

Policy Objective 9.3 (7) supports the decommissioning of existing individual effluent treatment systems where there is a feasible option to connect to the public sewer network. Galway City Council will collaborate with Irish Water in this regard.

Section 11.23 of the Plan states that all new developments shall connect to the public wastewater infrastructure, where available, and existing developments that are in close proximity to a public sewer are encouraged to connect to that sewer. These are subject to a connection agreement with Irish Water.

5.2. Relevant National or Regional Policy / Ministerial Guidelines

National Planning Objective (NPO 9) of the National Planning Framework First Revision 2025 (NPF) requires that at least 30% of all new homes targeted for settlements

(excluding the five major cities and their suburbs) must be delivered within their existing built-up footprints and ensure compact and sequential patterns of growth.

The Sustainable Residential Development and Compact Settlements Guidelines 2024 set out policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements.

5.3. Natural Heritage Designations

The proposed development site is c. 0.474km to the north of the Inner Galway Bay SPA (004031), the Galway Bay Complex SAC (000268), and the Galway Bay Complex pNHA (000268).

6.0 EIA 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. 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

The First Party appeal sets out the following grounds:

- It is stated that the existing dwelling on site was demolished in June 2020, and construction commenced in June, 2022, with the dwelling completed in March, 2024.
- The existing dwelling was connected to a septic tank system. The proposed dwelling was to connect to this existing system as there were no public wastewater services available. This was accepted by the Planning Authority.
- During construction, it became clear that the septic tank was not fit for purpose, and it was decided to replace it with a new septic tank system. No planning permission was required for the replacement of the septic tank. The new house

was connected to the new septic tank prior to occupation. The Planning Authority requested the exempted status of the replacement to be determined by a Section 5. The applicants instead chose to apply for retention of the septic tank.

- The Enforcement Notice stated that any application must include confirmation that the septic tank is compliant with the EPA Code of Practice. A Site Suitability Report was prepared. This report concludes that the site is not suitable for a traditional septic tank, however this was based on treating the site as not being served by any wastewater treatment system.
- In relation to the refusal reason on the retention of the septic tank, the Site Suitability Assessment, prepared in accordance with the EPA Guidelines , determined that the site is suitable for secondary or tertiary treatment. The proposed four stage treatment system is in compliance with the EPA Code of Practice.
- The deficiencies cited in the Environment Report are addressed in the appeal. A report prepared by O'Halloran Engineering is enclosed setting out the required technical details (Site Section A-A, drawing no. 24013.ACP.002 and Site Section B-B, drawing no. 24013.ACP.003). The report notes that no sand polishing filter bed is proposed. This report concludes that the proposed system not only meets the requirements of the EPA Code of Practice but far exceeds them.
- In relation to the point about the optimal solution, it is accepted that a stand alone system is not optimal, however, permission was granted for a dwelling which included a septic tank and percolation area. A sewer is not available in the public road, and would require construction of a new connection through private or publicly owned lands at significant cost.
- The applicant is of the opinion that the current septic tank is acceptable, however the applicant is amenable to a condition requiring the construction of the four stage wastewater treatment system.
- In relation to refusal reason no. 2, the raising of the ground has been done primarily to achieve a required level of fill for the proposed four stage treatment system, requiring a 0.3m depth gravel distribution layer. It is also required to create a more level rear garden amenity area.

- The refusal is based on the potential overlooking of adjoining properties to the east. Revised section drawings are enclosed which include the following measures:
 - Reduce the ground level contour from 13.68m to 13.46m.
 - Increase the height of the retaining wall by attaching a 0.637m timber fence for the full width of the application site.
 - Provide a planted buffer landscape screen up to 4m in height.
- As the combined height of the retaining wall plus timber fencing will be 2m as measured from the side of the site, this will prevent any overlooking.
- The distance between the side wall of the dwelling and the rear wall of the houses on Rockhill Avenue is in excess of 30m.
- The first floor windows of the dwelling are at least 17m from the rear boundary.
- The line of sight of a person standing on the higher level of the garden would be blocked by the increased height of the timber fencing, augmented by the proposed landscaping.
- No reference is made in the decision to other elements of the proposed development. The planner's report note that these aspects are acceptable, however having regard to the de novo principle, the following is noted:
 - Floor area: the site is of sufficient size to accommodate the dwelling as built.
 - First floor dormer window: the bedroom window provides an oblique view of the rear garden of the adjoining property. This is normal, however the applicant is willing to accept a condition requiring the obscuring the bottom part of the window. A drawing is enclosed showing the proposed change.
 - 3no. windows on the ground floor north elevation: these windows have been accepted by the Planning Authority, and the Commission is requested to grant permission for their retention.

- First floor box frame window on the east elevation and additional window: these windows have been accepted by the Planning Authority, and the Commission is requested to grant permission for their retention.
- 2no. first floor box windows on the west elevation: these windows have been accepted by the Planning Authority, and the Commission is requested to grant permission for their retention.
- First floor window to south elevation: this window has been accepted by the Planning Authority, and the Commission is requested to grant permission for their retention.
- Revised garage location: the garage has been accepted by the Planning Authority, and the Commission is requested to grant permission for their retention
- The Commission is requested to overturn the refusal of permission and grant permission for the development.

7.2. Applicant Response in the case of a 3rd Party Appeal

- N/A.

7.3. Planning Authority Response

- None on file.

7.4. Observations

- There are 3no. observations on the file, as follows:
 - Declan McDonagh & Others (to the immediate east)
 - No drainage details of the existing septic tank are shown on any of the drawings in the original application, PA Ref. No. 17/338 or in any documentation included in the response to the RFI.
 - It is clear that the Planning Authority understood that the foul drainage was connected to the public sewer in the original application.
 - To state that the new house could be served by the existing septic tank is not the case.

- The applicants would have been advised long before the construction of the dwelling that the existing septic tank is not fit for purpose.
 - Planning permission would have been required for the replacement system.
 - It is evident that the best and only acceptable solution is to connect to the existing foul sewer on Dalysfort Road.
 - The provision of a septic tank is not acceptable to the Planning Authority at the third attempt to seek permission for it.
 - There is no indication that the applicant has made any effort to come to an agreement with neighbouring property owners or the Council to facilitate a connection to the public system.
 - The raising of the ground levels was also to provide amenity. The Site Suitability Assessment relates only to imported fill to be retained, and there is no indication of either a trial hole or percolation tests on the original ground levels. The Site Suitability Assessment is null and void. Neither bedrock nor water table were encountered on site. No certification is provided.
- Johnathan & Aoife Markland (to the immediate north):
 - The application drawings contain misinformation in relation to garden levels (previously and existing), adjoining site levels and boundary wall heights.
 - The boundary wall to their property (to the north of the proposed development site) is 3.3m and not 2m as shown. The height of the retaining wall is shown lower than it is in reality.
 - The boundary wall between the proposed development site and no. 48 is not adequately addressed.
 - With the raised levels, and even with the c. 3m height, there is considerable ability to overlook the rear garden of their dwelling to the north, which is currently happening.

- A new fence is proposed on top of the retaining wall but it will increase the height of a very tall wall, to c. 4m in height, further overshadowing the garden to the north.
- It is suggested that the ground level be reduced to 1.8m below the height of the top of the original boundary wall, along part of the northern boundary.
- There is a c. 500mm gap between the original eastern boundary wall and the new concrete wall, which raises a number of concerns, including safety, future use of the gap, and potential structural damage. There is water seeping through the boundary wall and offensive smells during the summer. Either the retaining wall or the original boundary wall should be removed, or a management plan is put in place.
- With the new retaining wall, it is not possible for the owners of the proposed development site to maintain the original boundary wall.
- There is concern regarding the structural integrity of the original boundary wall.
- All first floor windows on the northern elevation should be permanently frosted.
- The FFL for the revised garage location may affect the boundary wall. It is believed that the gutter discharges to the rear of the shed.
- Refusal of permission is recommended.
- Dr. Dominic and Mrs Geraldine Fannon (to the immediate south)
 - The application incorporates the laneway that separates their dwelling from the original site.
 - The completed development impedes access to their home and interferes with their amenity; the proposed development has the potential to undermine the structural integrity of their house and will permanently block access to the side and rear of their property.

- A septic tank is not appropriate for the disposal of waste water. It is close to their home and would be prejudicial to their public health and amenity.
- The increased site levels directly impacts their home and shared laneway, and the proposed screening is obtrusive and out of character.
- The incorporation of the laneway cuts off their side access and the applicant has failed to demonstrate a legal interest for the incorporation of this area.
- The enlarged house has an overbearing and dominant impact on the street exacerbated by the upper floor window on the south elevation.
- Planning applications have been unsuccessful in 7no. separate occasions (includes 2no. invalidated applications).
- The long established shared laneway between no. 46 and no. 42 is excluded from the red line boundary.
- The area of the site in the current application on appeal is stated to be 1,800m², whereas in the original application it was stated to be 1,415m². The key difference is the laneway. This laneway was identified as a Right of Way in previous applications. The increase in the size of the site is not referenced in the notices. Permission cannot be granted for the inclusion of the laneway. The laneway is the subject to legal proceedings. There is no evidence of a letter of consent for the inclusion of the laneway.
- Retention permission appears to be sought for the incorporation of the laneway.
- The gutters, soffits and fascia of no. 42 overhang the laneway as well as downpipes and vents. No details are provided on how the drainage of these downpipes will be addressed.
- The lane is also used to access the oil tank to the rear of the dwelling to the south.

- There are concerns that the proposed landscaping will block vents and undermine the foundations of the dwelling.
- The retention of the septic tank is unsuitable for a home in a residential area. All other houses are served by public sewers.
- Irish Water previously advised that the septic tank should be decommissioned (PA Ref. No. 21/90).
- The provision of a replacement wastewater treatment system is not exempt.
- There are concerns regarding non-compliance with the EPA Code of Practice.
- The ground level has been raised in excess of 2m at its eastern end. It is too high, causes overlooking and is overbearing on the properties to the east.
- There are limited details on the nature of the fill
- Hedging/trees are proposed along the southern boundary with no details provided.
- Limited details are provided on surface water disposal.
- The original wall along the Right of Way should be reinstated.
- Drawings do not provide all the required details.

7.5. Further Responses

- N/A

8.0 Assessment

8.1. Having examined all the application and appeal documentation on file, and having regard to relevant policy, I consider that main issues which require consideration in this appeal are those raised in the grounds of appeal.

8.2. The main appeal issues are, therefore, as follows:

- Wastewater treatment

- Development to be retained
- Laneway

8.3. Wastewater treatment

- 8.3.1 The Planning Authority's first reason for refusal is that it has not been demonstrated that the retention of a septic tank and percolation area and works to include the provision of a new four stage waste water treatment system, would be in compliance with the EPA Code of Practice; would be the optimal solution of the disposal of effluent from a dwelling located in a built up urban environment; and, if permitted, would be prejudicial to public health.
- 8.3.2 The applicant makes the case that the replacement of the former septic tank with a new septic tank is exempted development. However, such a consideration is outside the scope of the appeal. In any event, the retention of the septic tank and the proposed wastewater treatment system are included in the application.
- 8.3.3 The proposed development includes the provision of a new four-stage waste water treatment system. The Site Suitability Assessment accompanying the application recommends a tertiary treatment system, with effluent polished and treated to a very high degree, prior to discharge to ground via a stone dispersal pad. The appeal documentation refers to a Tricel Novo treatment system. The further details provided in the appeal also seek to address the concerns around the lack of information raised in the Report of the Executive Engineer, Environment Department, dated 15th April, 202, and seek to confirm compliance with the EPA Code of Practice.
- 8.3.4 As a point of principle, however, and having regard to section 11.23 of the Plan, and to the reference in the observations to existing connections to the public sewer on Dalysfort Road, as well as the location of the proposed development site in the established suburbs area of Galway City, the proposal to treat wastewater by way of an individual treatment system on the site is not supported.
- 8.3.5 It is clear from the planning history to the site, and to the report of the Environment Department, there is a justifiable concern about treating wastewater from the dwelling in this way.

- 8.3.6 The applicant also acknowledges that a stand alone system is not optimal, and justifies the proposed on site system on the basis that permission was previously granted for a dwelling which included a septic tank and percolation area.
- 8.3.7 The applicant also states that the current septic tank is acceptable, notwithstanding the conclusions of the Site Suitability Assessment that a traditional septic tank system is not suitable.
- 8.3.8 The applicant further states that a sewer is not available in the public road, and would require construction of a new connection through private or publicly owned lands at significant cost. Conversely, the observers state that there is a public sewer on Dalysfort Road.
- 8.3.9 In this context, and noting Section 11.23 of the Galway City Development Plan 2023-2029 which states that all new developments shall connect to the public wastewater infrastructure, where available, and existing developments that are in close proximity to a public sewer are encouraged to connect to that sewer, the proposal to retain an existing septic tank and permission to construct an individual wastewater treatment unit in this established urban location is not appropriate as a matter of principle.
- 8.3.10 Based on the information available, it is not possible to establish that a connection to the existing Uisce Eireann wastewater network, which is the optimal solution to treat wastewater in this established urban location, is unviable. In the absence of this information, and in the interests of the proper planning and sustainable development of the area, refusal of permission to retain the existing septic tank and permission for the proposed wastewater treatment system is recommended.
- 8.4. Development to be retained
- 8.4.1 The application seeks the retention of:
- 1) An increase in total floor area of dwellinghouse from 268sqm (under Plg Ref. No. 17338) to 346sqm.
 - 2) First floor dormer window constructed on the North elevation
 - 3) 3 no. windows constructed on the North elevation
 - 4) First floor box frame window constructed on the East elevation plus an additional window

- 5) 2 no first floor box windows constructed on West elevation
- 6) First floor window to South elevation
- 7) Revised location of garage
- 8) Revised ground levels
- 9) Retaining wall to Eastern boundary
- 10) Septic Tank.

- 8.4.2 In relation to these amendments to the permitted dwelling, the increase in the total floor area is considered to be acceptable, given the size site and position of the dwelling on the site. The permitted dwelling is large in size. An increase in size of 78m² is not considered to be significant in the context of the permitted dwelling. I note the comment in one of the observations that the increase in size of the site is not specifically identified in the notices, however, the plans and particulars lodged with the application are clear in this respect.
- 8.4.3 Having regard to section 11.3.2 (l) of the Plan in relation to Residential Extensions, there are a number of modern interventions in the vicinity of the site, such that the proposed dwelling can be considered to complement the character and form in its context.
- 8.4.4 In relation to the additional windows on all elevations, the only one that gives rise to any concerns is the first floor dormer window on the northern elevation, which gives rise to the potential for overlooking, as it is less than 11m from the northern boundary, and is therefore not compliant with section 11.3.2(d) of the Galway City Development Plan with respect to Established Suburbs.
- 8.4.5 While it is noted that Section 11.3.2(d) of the Plan also offers an opportunity to prevent overlooking through design, it is considered that the proposal by the Planning Authority to permanently obscure the first floor dormer window to a height of 1.80 metres from the internal floor, to prevent indirect overlooking of adjacent properties and would allow light to enter the room is not ideal for a habitable room. In this context, and in the event that the Commission is minded to grant permission, a condition could be attached to require revised drawings indicating the removal of the first floor dormer window to avoid overlooking of the property to the north.

- 8.4.6 Other than the first floor dormer window on the northern elevation, for which a condition requiring its removal is recommended, all other windows to be retained are acceptable and would not give rise to amenity concerns.
- 8.4.7 In relation to the repositioned garage, the concerns of the adjoining neighbour are noted. In this respect, and in the event that the Commission is minded to grant planning permission, a condition requiring drainage details for the garage structure, that all run-off shall be managed within the site and no part shall overhang the boundary, to be agreed with the Planning Authority is recommended.
- 8.4.8 In relation to the revised ground levels and the additional retaining wall to the eastern boundary, there are significant concerns. The revised ground levels, resulting in the rear garden being almost level with the ground floor of the dwelling, give rise to overlooking of the private amenity spaces of dwellings to the east and north, and the dwelling to the south.
- 8.4.9 The rear garden area had been raised in level by between c. 1.26m-c.1.5m from that permitted. The retaining wall to the eastern boundary to be retained is set inside the existing 1.8m boundary wall, with the latter at a lower level. In the application, it is proposed to reduce the existing level of fill by c. 0.22m-c.0.8m over a stretch of c.11m and to provide a 2.3m high hedge and multi-stem trees, as well as a further low retaining wall along the eastern boundary.
- 8.4.10 The new retaining wall has also been constructed inside of, and set back c. 0.5m from, the existing eastern boundary wall, creating a 'no mans land' which has given rise to dumping and odours, negatively impacting adjoining amenities. Hedging has been planted to the front of the retaining wall.
- 8.4.11 The Planning Authority considered that the proposed reduction in the height of the unauthorised fill in the rear garden is minimal and that it remains a significant height increase, requiring a retaining wall, while the additional fill/soil facilitates the unauthorised septic tank and percolation area.
- 8.4.12 In the appeal, it is explained that the raising of the ground has been done primarily to achieve a required level of fill for the proposed wastewater treatment system, and to create a more level rear garden amenity area.

8.4.13 Noting that part of the reasoning for the increase in levels is to facilitate the proposed wastewater treatment system, a matter addressed in the previous section of this report, there does not appear to be any reasonable basis for the proposed increase in levels, particularly given their negative consequences for adjoining amenities.

8.4.14 Revised section drawings are enclosed with the appeal which include the following measures:

- A further reduction to the ground level contour from 13.68m to 13.46m
- An increase the height of the retaining wall by attaching a 0.637m timber fence for the full width of the application site.
- A planted buffer landscape screen up to 4m in height.

8.4.15 However, it is considered that this revised information is a material change to the development that is beyond what would be admissible at appeal stage. This is particularly the case when there is a doubt as to the need for the raising of the levels in the first place, given the concerns raised about the provision of an on site wastewater treatment plant. The proposed changes, including the additional fence and planting, give rise to further amenity concerns for adjoining property owners as set out in the observations to the appeal.

8.4.16 The fact that the applicant is offering these further changes at appeal stage is an acknowledgement that there are unresolved residential amenity issues.

8.4.17 In this context, it is considered that the Planning Authority's second reason for refusal should be upheld. The raised levels of the rear garden has adverse impacts on the rear gardens and dwellings to the east, north and south. The issues raised by the observer to the north in relation to misinformation on garden levels (previously and existing), adjoining site levels and boundary wall heights, as well as the c. 500mm gap between the original eastern boundary wall and the new concrete wall, are also of note. The existing boundary wall of the dwelling to the south including the exposed gutters, soffits, downpipes and vents is particularly compromised, and is not addressed in the application or appeal.

8.5 Laneway

- 8.5.1 There was a former laneway to the south of the site, separated from it by a boundary wall. This former laneway has been incorporated into the site boundary of the development, but the works associated with removing this former laneway have not been included in the application or the notices. There is also a section of retaining wall along the eastern end of the laneway which is not included in the application, nor has the raising of the former laneway lands. The removal of the laneway has exposed the northern wall of the adjacent dwelling (including vents, guttering and downpipes) to the southern boundary, which negatively impacts the residential and visual amenities of the area.
- 8.5.2 It is noted from the observations that this former laneway was a right of way between the dwelling to be retained and the dwelling to the south. It is also noted that the laneway is subject to legal proceedings. The letter included in the application from the applicant's solicitor is further noted. Section 34(13) of the Planning and Development Act, 2000, as amended, in relation to matters of a legal nature, is noted in this respect.
- 8.5.3 This assessment is also restricted to the matters which are the subject of the application and appeal. In this regard, the application and appeal do not include the works associated with the removal of the former laneway, and are therefore outside the scope of the appeal.
- 8.6 I recommend that the Commission upheld the decision of the Planning Authority to refuse permission.

9 AA Screening

- 9.4 I have considered the development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 9.5 The proposed development site is c. 0.474km to the north of the Inner Galway Bay SPA (004031) and the Galway Bay Complex SAC (000268).
- 9.3 The proposed development consists of retention permission and permission for works to dwellinghouse 1) Increase in total floor area of dwellinghouse from 268sqm (under Plg Ref. No. 17338) to 346sqm. 2) First floor dormer window constructed on the North elevation 3) 3 no windows constructed on the North elevation 4) First floor box frame

window constructed on the East elevation plus an additional window 5) 2 no first floor box windows constructed on West elevation 6) First floor window to South elevation 7) Revised location of garage 8) Revised ground levels 9) Retaining wall to Eastern boundary 10) Septic Tank Permission for associated additional works as follows: 11) Associated site works including planted buffer zone with mature screening to prevent overlooking. 12) Works also to include the provision of a new four-stage waste water treatment system on a site at 46 Dalysfort Road, Townland of Cappanaveagh, Salthill, Galway City H91YH2W.

9.4 No nature conservation concerns were raised in the planning appeal. It is noted that the application was accompanied by an AA Screening Report.

9.5 In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the Inner Galway Bay SPA (004031) and the Galway Bay Complex SAC (000268) in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The modest scale of the works and the nature of the development
- Location - distance from nearest European site and lack of connections.
- The screening conclusion of the planning authority.

9.6 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 effect on a European Site.

9.7 I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

9.8 Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

10 Water Framework Directive

- 10.1 The proposed development site is located in the established suburban area of Salthill, Galway City. The nearest relevant water body is the Knocknacarragh_010, code IE_WE_31K160960, c. 1.638km to the north-west, the status of which is 'Review'.
- 10.2 The proposed development consists of retention permission and permission for works to dwellinghouse 1) Increase in total floor area of dwellinghouse from 268sqm (under Plg Ref. No. 17338) to 346sqm. 2) First floor dormer window constructed on the North elevation 3) 3 no windows constructed on the North elevation 4) First floor box frame window constructed on the East elevation plus an additional window 5) 2 no first floor box windows constructed on West elevation 6) First floor window to South elevation 7) Revised location of garage 8) Revised ground levels 9) Retaining wall to Eastern boundary 10) Septic Tank Permission for associated additional works as follows: 11) Associated site works including planted buffer zone with mature screening to prevent overlooking. 12) Works also to include the provision of a new four-stage waste water treatment system on a site at 46 Dalysfort Road, Townland of Cappanaveagh, Salthill, Galway City H91YH2W.
- 10.3 No water deterioration concerns were raised in the planning appeal. I have assessed the proposed development of the retention permission and permission for works to dwellinghouse 1) Increase in total floor area of dwellinghouse from 268sqm (under Plg Ref. No. 17338) to 346sqm. 2) First floor dormer window constructed on the North elevation 3) 3 no windows constructed on the North elevation 4) First floor box frame window constructed on the East elevation plus an additional window 5) 2 no first floor box windows constructed on West elevation 6) First floor window to South elevation 7) Revised location of garage 8) Revised ground levels 9) Retaining wall to Eastern boundary 10) Septic Tank Permission for associated additional works as follows: 11) Associated site works including planted buffer zone with mature screening to prevent overlooking. 12) Works also to include the provision of a new four-stage waste water treatment system on a site at 46 Dalysfort Road, Townland of Cappanaveagh, Salthill, Galway City H91YH2W, and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & 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.

10.4 The reason for this conclusion is as follows:

- The nature and scale of the development proposed.
- Distance from the nearest relevant water body, and the lack of hydrological connections.

10.5 Conclusion

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 Recommendation

11.4 I recommend that permission for the proposed development is refused for the following reasons and considerations.

12 Reasons and Considerations

1. Section 11.23 of the Galway City Development Plan 2023-2029 states that all new developments shall connect to the public wastewater infrastructure, where available, and existing developments that are in close proximity to a public sewer are encouraged to connect to that sewer. In addition, based on the information available, it is not possible to establish that a connection to the existing Uisce Eireann wastewater network, which is the optimal solution to treat wastewater in this established urban location, is unviable. In the absence of this information, the proposal to retain an existing septic tank and permission to construct an individual wastewater treatment unit in this established urban location is contrary to the provisions of Section 11.23 of the Galway City Development Plan 2023-2029, and is not in the interests of the proper planning and sustainable development of the area.

2. The retention of the increase in site levels, notwithstanding the proposal to marginally reduce the height, would allow for raised views over adjacent rear gardens and to the rear of dwellings, and would if permitted, give rise to undue overlooking of adjoining properties and thus detract from the privacy and residential amenity of the adjacent properties. For this reason, the proposed development would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Aiden O'Neill
Planning Inspector

28th August, 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	PL-501446-GC-26
Proposed Development Summary	Retention permission and permission for works to dwellinghouse 1) Increase in total floor area of dwellinghouse from 268sqm (under Plg Ref. No. 17338) to 346sqm. 2) First floor dormer window constructed on the North elevation 3) 3 no windows constructed on the North elevation 4) First floor box frame window constructed on the East elevation plus an additional window 5) 2 no first floor box windows constructed on West elevation 6) First floor window to South elevation 7) Revised location of garage 8) Revised ground levels 9) Retaining wall to Eastern boundary 10) Septic Tank Permission for associated additional works as follows: 11) Associated site works including planted buffer zone with mature screening to prevent overlooking. 12) Works also to include the provision of a new four-stage waste water treatment system
Development Address	46 Dalysfort Road, Townland of Cappanaveagh, Salthill, Galway City H91YH2W
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?	☒ Yes, it is a 'Project'. Proceed to Q.2.
	☐ No, No further action required.
(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)	
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
☒ No, it is not a Class specified in Part 1. Proceed to Q3	
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?	
☒ 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. No Screening required.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
☐ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR	

If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☐	
No ☒	

Inspector: _____

Date: 28th August, 2026