

MULTIDISCIPLINARY BUILDING CONSULTANCY
BRINGING YOUR IDEAS AND INNOVATIONS TO LIFE SINCE 2009

PLANNING REPORT

Project Title:	Substitute Consent Application for retention of dwelling house as constructed (65.4 sqm). The application is accompanied by a remedial Natura Impact Statement (rNIS).
Site Address:	Derrynavglaun, Recess, Co. Galway
Applicant:	Ann Conroy
OMC Project No:	2501
Document Issue Date:	September 2026
Prepared By:	Anne Mooney OMC Group

Revision No.	**Status**	**Author(s)**	**Checked by**	**Approved by**	**Issue Date**
00	Approval	AM	-	EOM	Nov 2025
01	Approval	DOR	-	EOM	Sep 2026

Contents:

1.0	Introduction
2.0	Site Location and Description
3.0	Description of Development
4.0	Planning History
5.0	Planning Policy
6.0	Appropriate Assessment
7.0	Exceptional Circumstances under Section 177K(1J)
8.0	Conclusion
Appendix A	Photos of development for retention

1.0 Introduction

On behalf of our client, Ms Ann Conroy (the applicant), we are applying for substitute consent to An Coimisiún Pleanála for the retention of a development at Derrynavglaun, Recess Co. Galway. The description of the proposed development, as per the public notices is as follows;

> *"The development consists of permission to retain dwelling house as constructed (65.4 sqm). The application is accompanied by a remedial Natura Impact Statement (rNIS)."*

The applicant has undergone the pre-application consultation for the substitute consent application pursuant to Section 177e(1A) of the Planning and Development Act 2000, as amended (ABP Ref. No. 321050-24), which was concluded on the 24th February 2025.

The current application for substitute consent has been lodged on the basis of the advice given during the pre-application consultation phase with An Coimisiún Pleanála.

Please note that the site boundary has changed from the site boundary delineated in the pre-consultation phase as it is now proposed to install a new wastewater treatment system to the east of the house. This proposal is being addressed under an accompanying Section 37L application.

2.0 Site Location & Description

The applicant site has an area of 0.25 Ha and is located at Derrynavlagaun at Recess on a private cul-de-sac road that leads to farmland on the side of the Twelve Bens mountains. The site contains a dwelling and some farm buildings and the private laneway serves two other dwellings to the north and south. The house is a 2-bedroom single-storey cottage with mezzanine level and has a total floor area of 65.4sqm. The house is set back from the public road and is surrounded by mature trees (see photos of house in Appendix A).



Figure 1: Site Location – approximate site boundary outlined in red (source Google Maps)

3.0 Description of Development

The proposed development consists of two elements – A Substitute Consent application for the retention of the dwelling house as constructed and a Section 37L application for permission for to install a wastewater treatment system to serve the dwelling which is currently being serviced by a compost toilet. The dwelling for retention is a two-bedroom single-storey cottage with mezzanine level and rooflights and has a floor area of 65.4 sqm (ground floor area 45.3sq, mezzanine 20.1 sqm) with a ridge height of 5.8m over FFL. (see photos of dwelling in Appendix A). Access to the site is via an existing private laneway off a cul-de-sac local road that leads to the uplands. Water supply is via spring located nearby.

4.0 Planning History

There has been a number of planning applications at the site by Ann Conroy, as follows;

- Pl. Ref. 22/61281 was an application at the site to retain existing agricultural shed (42.66 sqm) lodged on the 21/12/22. The application was validated by GCC on 05/01/2023. A subsequent letter on the 22/02/2023 stated that Galway County Council (GCC) were invalidating the planning application as "*the information submitted was misleading and that substantial information has been omitted*." On site inspection GCC noted that "*significant works have been undertaken internally which are representative of that for intended habitable use",* without the benefit of planning.

- Pl. Ref. 23/60490 was an application at the site on 11/05/2023 for retention of existing dwelling house. This was subsequently invalidated by GCC on the 30/05/2023 as it was noted by GCC upon site inspection that the site notice was for the retention of an agricultural shed and dated the 12/12/2022 and therefore incorrect and inaccurate.

- Pl. Ref. 23/60678 was an application at the site on 21/06/2023 for retention of existing dwelling house. GCC invalidated this planning application on the 11/08/2023 as they refused to *"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 that one or more if the following was carried out: (a) an environmental impact assessment (b) a determination as to whether an environmental impact assessment is required or (C) an appropriate assessment."*

- Pl. Ref. 23/61395 was an application at the site on the 21/11/2023 for retention of existing dwelling house. This was validated by GCC on the 24/11/2023. The planning application was subsequently invalidated on the 23/01/2024 for the same reason as Pl. Ref. 23/60678 with the additional information that the subject site is "*located adjacent and partially within the Twelve Bens/Garraun Complex Special Area of Conservation (SAC Site Code 0000297) and is also potentially hydrologically connected (via local drainage systems, Glencoughan River and Ballynahinch Lake) to and consequently within the zone of potential influence of Connemara Bog Complex SAC (SAC site Code 002034),"* and that *"in the absence of satisfactory evidence to the contrary, the planning authority cannot be satisfied that the development to be retained, individually or in combination with other plans or projects would not be likely to have a significant effect on these or any other European sites."*

As can be seen from the above planning history, the applicant has tried on several occasions to rectify the unauthorised development at the site and the current application for substitute consent to An Coimisiún Pleanála is a result of the last two invalidations by Galway County Council.

5.0 Planning Policy

The proposed development is to be assessed under the policies and objectives of the *Galway County Development Plan 2022-2028*. The site is located in a Landscape Character Area -Uplands and Bog Landscape (Maumturk Mountains unit) in an Iconic landscape, value 4 and structurally weak area.

5.1 Rural Housing Need

Policy Objective RH4 (dwellings in landscape category 4) applies to the applicant in terms of Rural Housing, and in particular 1(c) which applies to;

> *"Those applicants who can satisfy to the Planning Authority that they are functionally dependent in relation to demonstrable economic need on the immediate rural areas in which they are seeking to develop a single house as their principal family Residence in the countryside. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis."*

Policy Objective RH18 also applies to the applicant. She owns the land since 2019 and previous to that it was in her father's ownership. Folio details showing that the landholding has been in family ownership since at least 1994 have been submitted. Policy Objective RH18 is as follows;

> *"Where applicants can supply land registry or folio details that demonstrate that the lands on which they are seeking to build their first home, as their permanent residence, in the area have been in family ownership for a period of 20 years or more, their eligibility will be considered. Where this has been established to the satisfaction of the Planning Authority, additional intrinsic links will not have to be demonstrated."*

The applicant has submitted the following documentation with the application to demonstrate rural housing need;

- A completed GCC rural housing form;
- A letter explaining her personal situation and why she needs a house at this location;
- Folio map details of the land owned by her since 2019 that she is farming (GY126856F);
- Folio map details demonstrating that the same landholding was owned by her father Thomas O Brien from 1994 to 2019 (GY38661);
- Evidence that she is involved in sheep farming (herd/flock number, sheep movement documents etc).

Both of these policies, RH4 and RH18, apply to the applicant. While the house is not her first home and her husband has a house approximately 27km away, it is submitted that her need to have a house here should be assessed as a specific case with exceptional circumstances. The applicant

grew up in this area which is known for sheep farming. She has been involved in sheep farming for several years, helping out her father when he was alive and becoming solely responsible for farming the landholding since his death. As a sheep farmer, she needs to spend long periods of time, often months on end, at the farm to look after the sheep night and day and in particular during lambing season. While she initially stayed in the old family home, this became impossible as it was left to another family member and she no longer has access to the house. As she states in her letter, she doesn't drive and it would be impossible for her to rely on her husband to drive her over and back from Ballyconneely every day as he has his own job. It is therefore submitted that she has a need to live here for most of the year and is economically and historically linked to the family landholding.

5.2 Visual Impact

DM Standard 8 states that a Visual Impact Assessment (VIA) may be required in landscape category 4 areas. As the house is existing, it is submitted that a VIA is therefore not required. The visual impact of the dwelling can be assessed by examining the photographs of the existing house and how it sits in the rural landscape (see Appendix A). As can be seen from the phots, due to the scale of the house and its siting behind a cluster of trees, close to an existing cluster of dwellings and farm buildings, the impact on the category 4 landscape is minimal.

5.3 Wastewater and water supply

The development is currently serviced by a compost toilet, however permission is sought under a section 37L application for a new wastewater treatment system and polishing filter to bring the development in compliance with the EPA Code of Practice 2021 and DM Standard 38. Full details of same have been submitted as part of the accompanying section 37L application.

The existing water supply is from a spring. This has been tested for water quality and a yield test has been carried out and results have been submitted. The water test results indicate that the pH is slightly outside the required parameters and the applicant is aware of this and is willing to treat the water accordingly. The proposal therefore complies with DM Standard 37 in relation to water supply from private wells.

6.0 Appropriate Assessment

The applicant site is located adjacent to the Twelve Bens Garraun Complex SAC (Site Code: 002031) (see Figure 2 below) and approximately 3.65 km from the Connemara Bog Complex SAC (Site Code: 002034).



Figure 2: Location of Twelve Bens Garraun Complex SAC 002031 – approximate site boundaries outlined in green (Source: NPWS Viewer)

6.1 Remedial Natura Impact Statement

A remedial Natura Impact Statement (rNIS) has been carried out for the proposed development by OMC Group.

The report concludes that;

> "*the development has not resulted in, and is not anticipated to result in, any significant adverse effects on the integrity of the Twelve Bens/Garraun Complex SAC, the Connemara Bog Complex SAC, or on the coherence of the wider Natura 2000 network. This conclusion is supported by the small scale and residential nature of the project, its physical separation from designated sites, and the effective implementation of remedial and operational safeguards outlined in this statement.*"

The rNIS recommends that;

> *"To ensure continued protection of nearby European sites and the long-term integrity of local surface and groundwater systems, the applicant will implement a biannual inspection and maintenance regime for the on-site wastewater treatment system."*

7.0 Exceptional Circumstances under Section 177K(1J)

The applicant has been asked by An Coimisiún Pleanála to clearly set out the exceptional circumstances for the substitute consent application under Section 177K (1J) of the Planning and Development Act 2000 as amended.

Exceptional circumstances are listed below with our response on behalf of the applicant;

(a) whether regularisation of the development concerned would circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive;

Having regard to the characteristics of the proposed development and of the area there is no real likelihood of significant effects on the environment arising from the proposed development, such as to require an environmental impact assessment (EIA). It is submitted that the carrying out the development did not, therefore, circumvent the purpose and objectives of the Environmental Impact Assessment Directive.

As regards whether regularisation of the development concerned would circumvent the purpose and objectives of the Habitats Directive, a rNIS has been submitted with the application. This has concluded that there have been and will be no adverse impacts on any European sites subject to mitigation measures. Therefore, it is submitted that the development does not circumvent the purpose and objectives of the Habitats Directive.

(b) whether the applicant had or could reasonably have had a belief that the development was not unauthorised;

The applicant built the small structure at the site as she urgently needed a place to stay in the area when looking after the sheep on her farm and when she realised she needed permission she did not think there would be an issue retaining it as she did not fully consider the implications of building near an SAC.

(c) whether the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment and to provide for public participation in such an assessment has been substantially impaired;

Given the nature of the works carried out at the site, it is difficult to conclude that the ability to carry out an Appropriate Assessment could have been impaired. The public will have full ability to participate in the planning process during the course of the current application.

(d) the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development;

There are no likely significant effects on the environment or the integrity of a European site as a result of the proposed development subject to the carrying out of the mitigation measures set out in the rNIS.

(e) the extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated;

The rNIS submitted concludes that there will be no significant effects on European sites subject to mitigation measures.

(f) whether the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development;

The applicant has never carried out other unauthorised development and there have been no permissions granted at the site to comply with. The purpose of the current application is to rectify the unauthorised development at the site.

(g) such other matters as the Board considers relevant.

We would like to point out the dwelling at the site is small in scale, built on family land and is required to house the applicant when she is looking after her sheep.

8.0 Conclusion

The proposed dwelling for retention is small in scale and is not visible from the public road due to its siting behind existing trees within an existing cluster of farm buildings and dwellings. The accompanying section 37L application for a proposed wastewater treatment system and polishing filter aims to bring the development in compliance with the EPA Code of Practice of single dwellings. The rNIS submitted concludes that there will be no impacts on European sites subject to the recommended mitigation measures which the applicant is happy to carry out.

It has been demonstrated that the applicant has a need to live at this location and is economically and historically linked to the farm landholding. The proposed development complies with the relevant policy objectives and development standards as set out in the *Galway County Development Plan 2022-2028*. We therefore respectfully request that the Coimisiún look upon the current application favourably and grant retention permission for the dwelling and permission for the proposed wastewater treatment system and polishing filter bed.

APPENDIX A

PHOTOS OF EXISTING DWELLING



PHOTO TAKEN OPPOSITE THE ENTRANCE ON THE PUBLIC ROAD TO SOUTH OF DWELLING



SAME LOCATION ZOOMED IN WITH HOUSE INDICATED BY ARROW



SAME PHOTO LOCATION ZOOMED IN FURTHER



PHOTO TAKEN FROM JUST EAST OF ENTRANCE ALONG PUBLIC ROAD



PHOTO TAKEN FROM WEST OF ENTRANCE ALONG PUBLIC ROAD



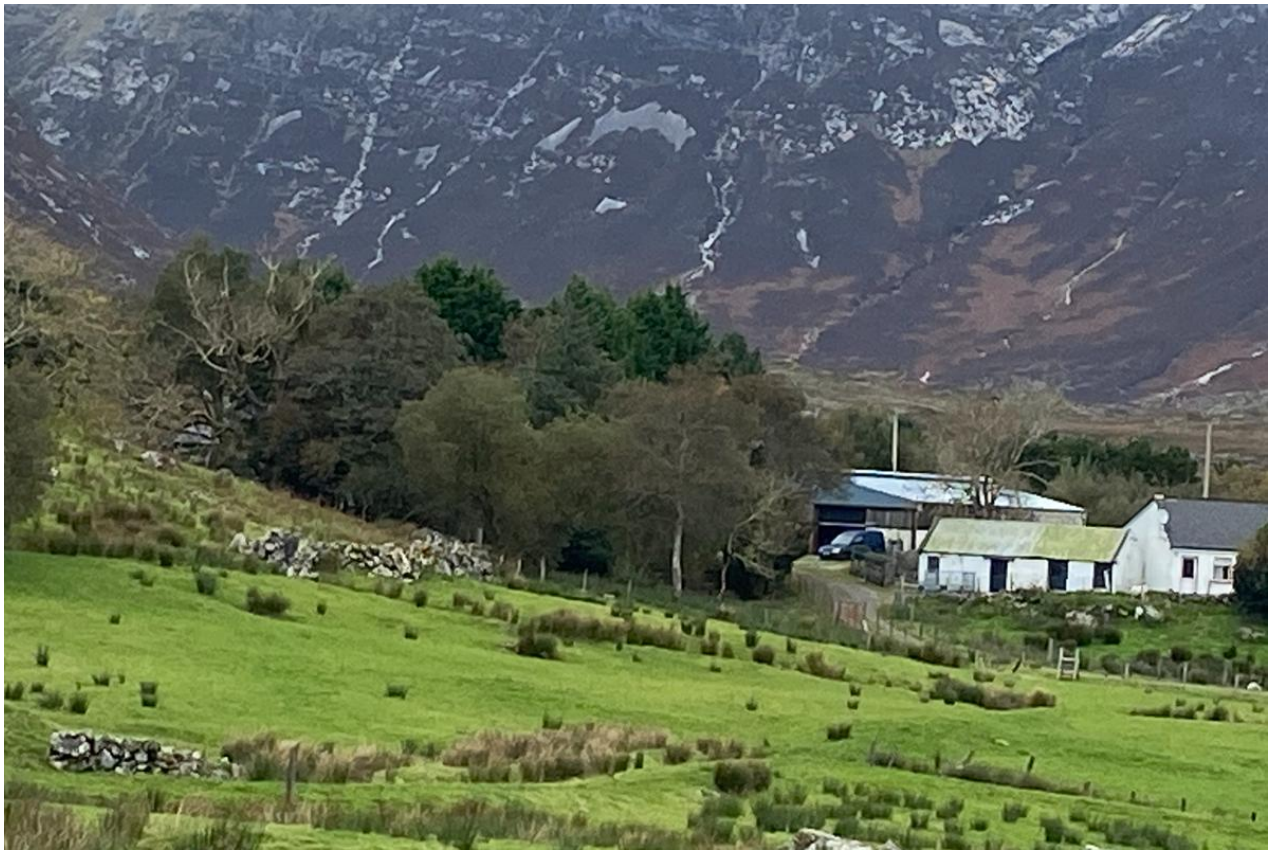
SAME PHOTO LOCATION ZOOMED IN



PHOTO TAKEN FROM PUBLIC ROAD FROM FURTHER WEST OF ENTRANCE INTO LANEWAY



SAME LOCATION ZOOMED IN



SAME LOCATION ZOOMED IN FURTHER



EXISTING DWELLING