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PLANNING REPORT

Project Title:	Substitute Consent Application for retention of renovated house and shed as constructed, retention of gabion walls and permission to decommission existing septic tank and percolation area and install new WWTS and polishing filter bed.
Site Address:	Derrigimlagh, Ballyconneely, Co. Galway
Applicant:	George Melville
OMC Project No:	1425
Document Issue Date:	October 2025
Prepared By:	Anne Mooney OMC Group

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1.0 Introduction

On behalf of our client, Mr. George Melville (the applicant), we are applying for substitute consent to An Coimisiún Pleanála for the retention of a development at Derrigimlagh, Ballyconneely, Co. Galway (H71 TF86). The description of the proposed development as per the public notices is as follows;

"The development consists of permission to (i) retain renovated dwelling house and shed as constructed (ii) retain gabion walls along driveway (iii) decommission existing septic tank and polishing filter bed and install a new wastewater treatment unit and polishing filter bed. 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. 320620-24), which was concluded on the 25th of July 2025 (attached to cover letter).

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 and on the recommendation of Galway County Council.

2.0 Site Location & Description

The applicant site has an area of 1.79 Ha is located at Derrigimlagh to the south of Clifden town on a local road (Ballinaboy/Maum road) off the R341. It is located by Mannin Bay to the west and is bounded to the south by the R341 with a main vehicular access and two other gated access points. There are no dwellings in the immediate vicinity of the site. There is a single-storey cottage and shed at the site with a hard landscaped driveway/parking area that is supported by gabion walls. Part of the applicant site is located across the local road to the east. The site itself is flat with some trees between the house and the local road (see photos of house and shed in Appendix A).

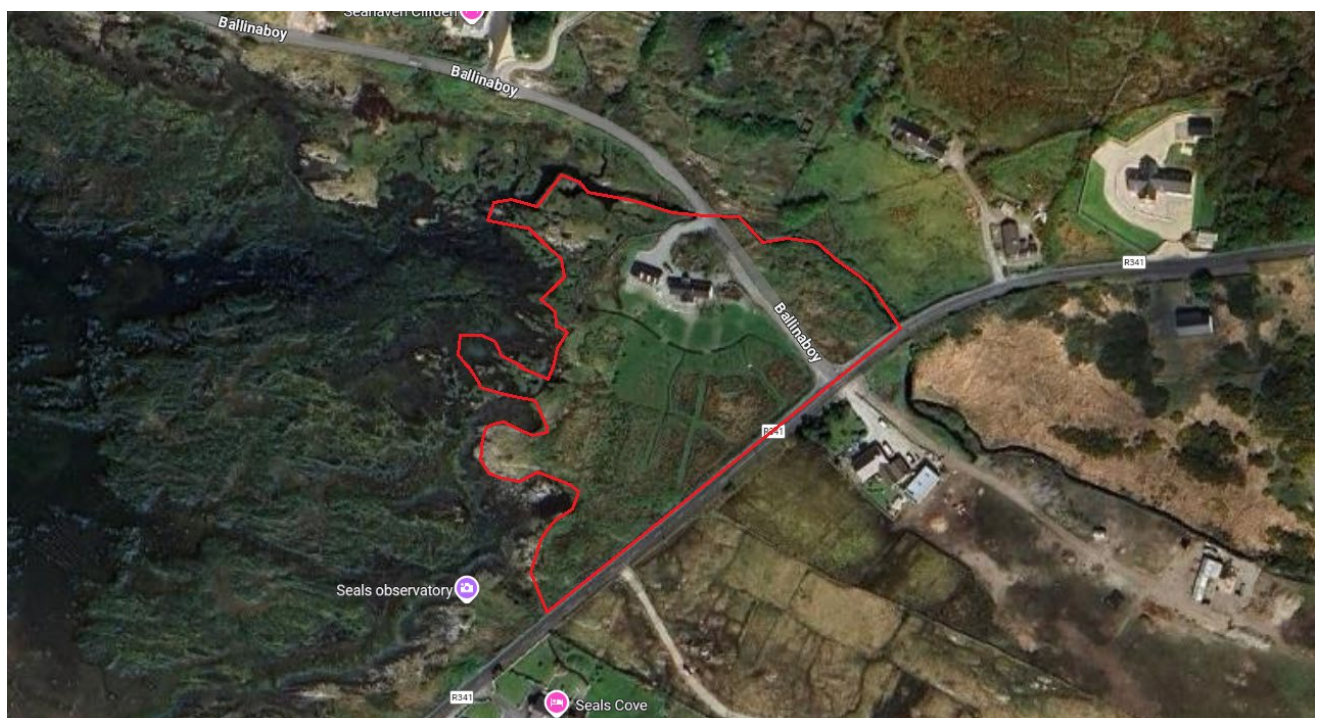


Figure 1: Site Location – approximate site boundary outlined in red (source Google Maps)

3.0 Description of Development

The following sections describe the original, existing and proposed developments at the site.

3.1 Original Dwelling

The proposed development includes the retention of the renovated dwelling house at the site and a shed. Historic mapping shows that there have been two structures at the site since the early 20th Century (see Figure 2). When the applicant purchased the property in 2018 there was a derelict house on it with outbuildings. Plans have been submitted of the original dwelling at the site which show that it consisted of a small three-bedroom single-storey cottage with a floor area of approximately 78 sqm, with a porch to the front and an extension to the rear and lean to flat-roof extension to the side. (see drawing of the original structure PP-03 submitted as part of Pl. Ref. 19/1491)

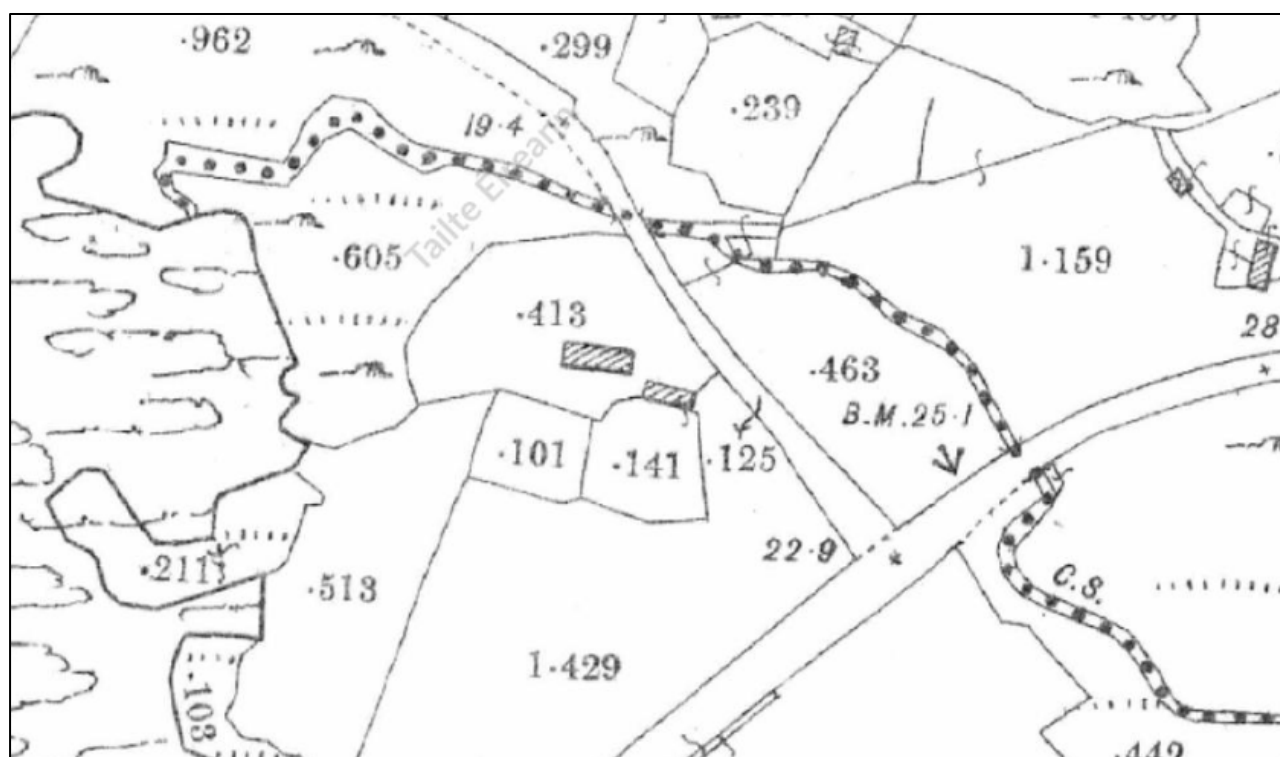


Figure 2: Extract from Historic 25 Inch Map from 1897-1913 showing a structure at the site (source HeritageMaps.ie)

3.2 Existing Development

The development for retention consists of a renovated dwelling and shed. These are largely in line with the original dwelling and outbuilding that were on the site when it was purchased. The dwelling for retention has a floor area of 82.75 sqm which is a slight increase on the original floor area of 78 sqm and the ridge height remains the same (c. 4.5m). It is apparent that the extension to the side was increased slightly in floor area during renovations as has the extension to the rear along with change of roof-type from flat to a pitched roof. It is submitted that the difference between the original and the renovated dwelling is minimal and that the works carried out respected the character and scale of the original dwelling at the site.

The house has been tastefully and sensitively renovated and sits well in the landscape, as can be seen from the photos of the dwelling in the context of the site (see Appendix A). The renovation has resulted in the reuse of an old derelict dwelling for modern living which otherwise would have continued to deteriorate in condition. The scale of the house is small and the design is rural

vernacular. The existing mature trees and stone walls allow it to integrate further in the rural landscape.

There is an existing historic vehicular entrance at the site along with two gated entrances to the south which are not used as vehicular entrances. Water supply is from the lake to the north of the site which supplies all the houses in the area.

3.3 Wastewater Treatment

When renovating the dwelling in c.2020, the applicant installed a septic tank and percolation area to the south of the dwelling as there was an inadequate system in place. This he thought, was an improvement on the existing situation at the site. During the Substitute Consent pre-application process, the applicant had an engineer assess the existing system at the site. The engineers report concluded that based on a visual inspection, the septic tank was found to be in good working order. As the percolation area is located underground it is not possible to assess it fully other than a visual inspection at ground level and there was no evidence of ponding on the day of the site inspection. However, the engineer could not conclude that the existing septic tank and percolation area are in accordance with the *EPA Code of Practice 2021 for Domestic Wastewater Treatment Systems* as the required separation distance between the existing septic tank and land drains has not been achieved. Negative impacts on the SAC cannot therefore be ruled out.

It is therefore proposed as part of this application to decommission the existing system and install a new wastewater treatment system to the east of the existing one and locate the associated polishing filter across the road to the east of the house and outside of the SAC (SSA and full details of the proposed system have been submitted). The installation of a wastewater treatment system will improve the quality of treated effluent going to the polishing filter. The new wastewater treatment system and polishing filter bed will comply fully with the EPA Code of Practice 2021 and will help minimise any impacts on the adjoining SAC.

4.0 Planning History

On the 26/09/2019, an application (Pl. Ref. 19/1491) was submitted by George Melville at the site for permission to;

“demolish existing rear and side elevations of existing house and construct new rear and side single storey extensions (2) demolish existing porch and replace with new porch (3) proposed external and internal alterations to existing house (4) construct new side elevation extension to existing domestic garage as well as external alterations to existing domestic garage (5) replace existing septic tank and percolation area with a effluent treatment system and polishing filter as well as all ancillary site works. ”

This application was accompanied by an NIS and CEMP by Aster Environmental Consultants. On the 03/03/2020, the application was refused by Galway County Council for two reasons as outlined in Appendix B, relating to flood risk and impact on the integrity of the Slyne Head Peninsula SAC. This application was accompanied by an NIS and CEMP by Aster Environmental Consultants.

At this stage Mr Melville went ahead and renovated the existing dwelling, not thinking that the works carried out needed planning permission.

Subsequent to the refusal of planning permission and the renovation of the dwelling, Galway County Council commenced enforcement proceedings. In response, and upon the advice of Galway County Council, Mr. Melville applied to Galway County Council for a Section 5 Declaration for the *“upgrade works to a septic tank and construction of gabion walls”* at the site as he genuinely thought that the renovations works that he carried out his property did not require planning permission. He received a decision from Galway County Council on the 10th December 2021 that the works were development and were not exempted development.

Mr. Melville was anxious to regularise the situation and applied to Galway County Council on the 03/02/2022, under Pl. Ref. 22/60055, for the following;

“planning permission to (1) retain minor external alterations and minor elevational changes to existing cottage as well as all site services (2) retain gabion wall along driveway (3) retain minor alterations to roof and door/window opens to existing stone shed.”

On the 30/03/2022, this was invalidated by Galway County Council for the following reason;

“A planning authority shall refuse 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 than one of 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.”*

Since then, the development has remained unauthorised in the eyes of Galway County Council and they have continued to issue enforcement notices requesting Mr Melville to remove all unauthorised development from the site. A letter dated the 13/02/2023 from Enforcement in Galway County Council stated that the application for retention could not be considered by the Planning Authority and that the only option open to Mr. Melville is to apply to An Bord Pleanála for substitute consent.

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 an area designated ‘Coastal Landscape.’ in Landscape Sensitivity Category 3 (Special). It is submitted that Policy Objective RH7 *Renovation of Existing Derelict Dwelling* would apply to the applicant in terms of Rural Housing, which is as follows;

“It is a policy objective of the Planning Authority that proposals to renovate, restore or modify existing derelict or semi-derelict dwellings in the County are generally dealt with on their merits on a case by case basis, having regard to the relevant policy objectives of this plan, the specific location and the condition of the structure and the scale of any works required to upgrade the structure to modern standards. The derelict/semi derelict dwelling must be structurally sound and have the capacity to be renovated or extended and have the majority of its original features in place. A structural report will be required to illustrate that the

structure can be brought back into habitable use, without compromising the original character of the dwelling. Where the total demolition of the existing dwelling is proposed an Enurement Clause for seven years duration will apply."

When the applicant purchased the property in 2018 there was a derelict house on it. The applicant renovated the structurally-sound dwelling in 2020 retaining the old original walls of the original structure, changing the roof design of the flat roof lean-to at the side of the house. A shed structure at the site was also renovated and re-roofed. It is submitted that the proposed development complies with Policy Objective RH7. A structural report was submitted as part of the planning application that was refused in 2020 (Pl. Ref. 19/1491).

It is submitted that the renovation of the derelict dwelling has been done in a sensitive manner and that it sits well in its rural surrounds. The character of the original structure has been respected with its original features, external and internally retained as much as possible. The applicant has been using the dwelling as his own permanent place of residence.

6.0 Appropriate Assessment

The applicant site is partially located within the Slyne Head Peninsula SAC 002074 (see Figure 3 below). The house and shed and driveway are located outside the SAC. The existing septic tank and percolation area are located within the SAC. The proposed wastewater treatment system is located within the SAC while the new proposed polishing filter bed is located outside the SAC.

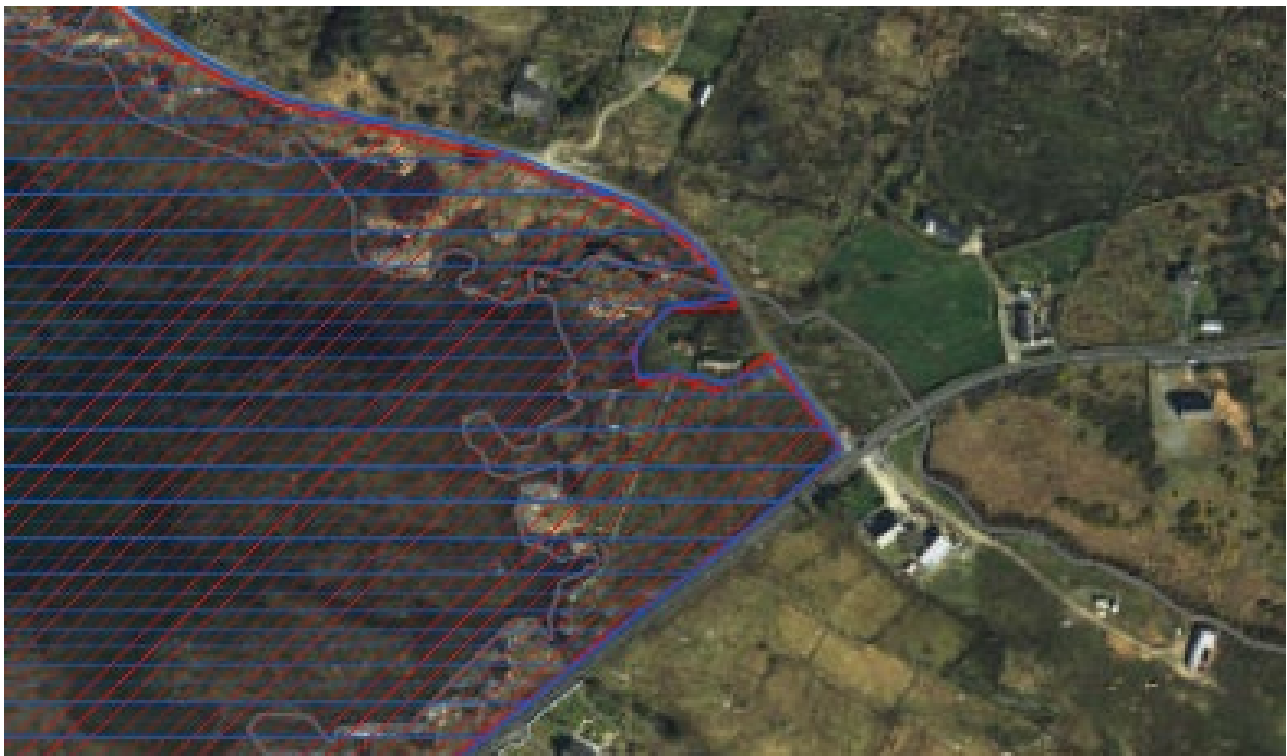


Figure 3: Location of Slyne Head Peninsula SAC 002074 (Source: NPWS Viewer)

6.1 Remedial Natura Impact Statement

A remedial Natura Impact Statement (rNIS) has been carried out for the proposed development by Aster Environmental Consultants Ltd. The main concern that arose in the report was the location of the existing septic tank and percolation area within the SAC, that it's no-compliance with the EPA Code of Practice as it does not achieve the required separation distances. The report also highlights that part of the SAC has been converted into a managed lawn and planted with tree species inappropriate to the habitat.

The rNIS includes clear and achievable mitigation measures which include;

- The relocation of the septic tank outside of the SAC and surface water drainage zone so that it is compliant with the EPA Code of Practice;
- The removal of the alder and birch trees from the SAC area;
- Continued control of invasive species such as the rhododendron.

The report concludes that;

"while some marginal impacts have occurred adjacent to sensitive habitats, they are considered reversible. With full implementation of the mitigation measures set out in this report, the project can be brought into compliance with Article 6(3) of the Habitats Directive. The competent authority can be satisfied that the development, alone or in combination with other plans or projects, will not adversely affect the integrity of the Slyne Head Peninsula SAC."

The gravel driveway and gabion walls are located principally outside the SAC boundary, with no direct impact on QI habitats and consist of clean materials, and present no risk of sedimentation or hydrological impact to the Natura 2000 site.

7.0 Flood Risk Assessment

Pl. Ref. 19/1491 was a refusal at the site (see Appendix B) for the renovation and extension of the old house which included a reason for refusal in relation to potential for coastal and fluvial flooding, notwithstanding the contents of the Flood Risk Assessment (FRA), prepared by HydroS Engineering Hydrology Consultants, submitted as part of the application. This report concluded that;

"the risk of pluvial flooding from the low lying area to the South, risk of fluvial flooding from the stream on the North boundary and tidal flooding from the sea are low and overall the proposed development has a low risk of pluvial, fluvial, tidal and sewer flooding."

As per the SFRA in the *Galway County Development Plan 2022-2028*, the site is not located in flood zone A or B. Furthermore, the FRA confirms that the site lies outside both fluvial and coastal flood zones, effectively refuting the basis for refusal relating to flood risk vulnerability.

The CFFRAM mapping shows that the site is in an area of low probability for coastal flooding. In addition, the applicant has confirmed the site has never flooded in his time living in the house.

The proposed new wastewater treatment system and polishing filter outside of the SAC, further away from land drains and the sea, will help eliminate any risk of flooding of the system and minimise potential impacts on the SAC.

8.0 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 was genuinely not aware that the renovation of the old dwelling required planning permission as there were minimal changes to the existing scale and footprint of the old dwelling. The applicant was also of the opinion that the installation of a septic tank and percolation area were an improvement on the existing situation and did not consider the potential impacts on a European site as he was not aware of the proximity of same at the time. They only realised the seriousness of the situation once enforcement proceedings commenced.

- (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 the European site 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 at the site 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 that the renovation of the house has been carried out in a sensitive manner and integrates well into the landscape. While the current situation with wastewater treatment at the site may not be fully satisfactory, the current application is an attempt to rectify this with a new wastewater treatment system with polishing filter bed located outside of SAC that complies with EPA Code of Practice 2021.

9.0 Conclusion

This report outlines the extent of the original, existing and proposed development at the site. The original dwelling and grounds have been sensitively renovated by the applicant. While the existing septic tank is in good working order, it does not comply with the separation distances in the EPA Code of Practice 2021 for Domestic Wastewater Treatment Systems for and therefore an alternative system is being proposed, with polishing filter bed located outside of the SAC and that attains the required separation distances. The rNIS concludes that there will be no impacts on European sites subject to mitigation measures which the applicant is happy to carry out. It is also submitted that the site has not flooded since he has purchased the site. We therefore respectfully request that the Coimisiún look upon the current application favourably and grant retention permission for the development.

APPENDIX A











APPENDIX B

R2

GALWAY COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACTS 2000-2010

DECISION under SECTION 34 of the ACT of 2000

Reference Number: 19/1491

Date of Receipt of Application: 26/09/2019

George Melville
c/o Enda O Malley
Bunowen
Ballyconneely,
Co Galway

I hereby give you NOTICE that the Galway County Council has by order dated _____ decided to REFUSE PERMISSION

to the above named, for development of land, in accordance with documents lodged, namely

to (1) demolish existing rear and side elevations of existing house and construct new rear and side single storey extensions (2) demolish existing porch and replace with new porch (3) proposed external and internal alterations to existing house (4) construct new side elevation extension to existing domestic garage as well as external alterations to existing domestic garage (5) replace existing septic tank and percolation area with a effluent treatment system and polishing filter as well as all ancillary site works. Gross floor space of proposed works: 52.00 sqm (House), 38.00 sqm (Shed). Gross floor space of work to be retained: 57.00 sqm (House), 16.00 sqm (Shed). Gross floor space of any demolition: 21.00 sqm (House), 8.00 sqm (Shed) **in the townland of Derrygimlagh**

for the reasons set out in the Schedule hereto.

In deciding this Planning Application Galway County Council has, in accordance with section 34(3) of the Act, had regard to any submissions or observations received.

Main reasons and considerations on which the decision is based:-

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 and objectives of Galway County Council as set out in the 2015 – 2021 County Development Plan. Based on this assessment it is considered that the proposed development would be contrary to the proper planning policies as set out in the County Development Plan.

Signed this 3 day of March 2020 on behalf of Galway County Council

pp COUNTY SECRETARY

SEE ATTACHED SCHEDULE

(REASON(S) 2)

Please see attached sheet for important Notice regarding Planning Appeals

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SCHEDULE REFERRED TO - PLANNING REFERENCE NO. 19/1491

1. The development site is within a coastal and fluvial flood risk area, the Planning Authority is of the opinion that the Flood Risk Assessment Report submitted does not eliminate beyond all reasonable doubt, any flood risk associated with the proposed development therefore to permit the proposed development in the absence of sufficient scientific data would be contrary to Objective FL1 of the County Development Plan 2015-2021, the DoEHLG Flood Guidelines 2009 entitled "The Planning System and Flood Risk Management", would set an undesirable precedent for similar future developments in the area, and would therefore be contrary to the proper planning and sustainable development in the area.
2. Having regard to the following:
 - The fact that a substantial part of the subject site and aspects of the proposed development works are located in Slyne Head Peninsula SAC,
 - The coastal flood risk vulnerability of the site,
 - The fluvial flood risk vulnerability of the site,

The Planning Authority is of the opinion that the development will adversely affect the integrity and conservation objectives of protected European sites. Therefore, if permitted as proposed the development would materially contravene Objectives, NHB1 of the Galway County Development Plan 2015-2021 and contrary to the proper planning and sustainable development of the area.

