



An  
Bord  
Pleanála

## Inspector's Report PL07.247158

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<b>Development</b>	Construct a dwelling house, waste water treatment unit, percolation area and domestic garage
<b>Location</b>	Kilbeacanty, Gort, Co. Galway
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	16/213
<b>Applicant(s)</b>	Conor Diviney
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Conor Diviney
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24 <sup>th</sup> of November 2016
<b>Inspector</b>	Angela Brereton

## 1.0 Site Location and Description

- 1.1.1. The proposed development is located off a Regional Road, R353, to the west of a 'T' junction (L85195) and Kilbeacanty Church and graveyard and c.3km north east of Gort. This appears as an area of ribbon development and sporadic rural housing. Kilbeacanty school is some distance to the west. There is a junction to a local road on the opposite side of the road to the north west (L85198). There is also a narrow local road to the rear of the agricultural land.
- 1.1.2. The site (area 0.243ha) is rectangular in shape and is to be taken off the larger field area. As such the only boundary is the northern field boundary with the R353. This is a low stone/hedgerow boundary. The site is undulating and generally slopes down from the road. I did not see any flooding on the site, or in the immediate area, on the day of the site visit which was during a relatively dry period. Lough Cutra is less than 2kms to the south.
- 1.1.3. This stretch of the R353 is narrow, without grass verges on either side. The site is just outside of the 50km/ph speed limit and is within the 80km/ph speed limit area. Visibility is restricted to the south east due to a crest on the brow of a hill. This appears as fast and busy stretch of road.
- 1.1.4. There is a mix of single/two storey housing types in the area. There is a large two storey house to the west and 2no. two storey houses on the opposite side of the road. All of these have access onto the R353. The applicant's parents house is an older two storey property and the farmyard has access to the local road to the east. There are views of the site as part of the wider field area from the junction of this local road with the R353.

## 2.0 Proposed Development

- 2.1.1. Permission is sought for the Construction of a Dwelling House, waste water treatment unit, percolation area and domestic garage.

The proposed floor area of the two storey dwelling is 223sq.m. A Site Location Plan, Site Layout Plan, Floor Plans and Elevations have been submitted.

The application form provides that the proposed site area is 0.243ha. A Map has been submitted showing the site taken out of a larger landholding. A letter of consent

has been submitted from the landowner Martin Diviney to allow his son Conor to apply for full planning permission on this site. Documentation has been submitted including land registry details in support of the applicant's local need.

It is proposed to connect to the Cloondine Water Scheme. A letter has been submitted confirming that the applicant is a member of the scheme.

A Site Characterisation form has been submitted. On site waste water treatment is to be provided by way of an Oakstown BAF 8PE system. Details of this system are provided.

The following reports have been submitted:

An Ecological Assessment & Appropriate Assessment Screening Report by McCarthy, Kenville, O'Sullivan.

A Site Flood Risk Assessment by Hydro Environmental Ltd.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On the 29<sup>th</sup> of July 2016 Galway County Council refused permission for the proposed development for 3no. reasons. These are summarised as followed:

1. The proposed development is located along the heavily trafficked, narrow Regional Road, the R353 where the maximum speed limit applies. The proposal would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise and would materially contravene DM Standard 20 of the 2015-2021 Galway CDP and would be contrary to the proper planning and sustainable development of the area.
2. The site is located outside of the speed limits for the adjacent small settlement of Kilbeacanty within GTPS area and the urban fringe of Gort, which is an area under strong urban influence, as identified in the Rural Housing Guidelines for Planning Authorities 2005 and would materially contravene Objective RHO1 (Rural Housing Zone 1) and Objective CS7 of the Galway CDP 2015-2021. To grant this proposal would be contrary to Ministerial

Guidelines and would materially contravene objectives contained in the CDP and would set an undesirable precedent for future such development.

3. Based on the information submitted the PA is not satisfied that the subject site can satisfactorily treat and dispose of domestic effluent, and if permitted it would materially contravene Objective WW5 of the GCDP 2015-2022, would be prejudicial to public health and pose an unacceptable risk to water quality, would adversely affect the integrity and conservation objectives of protected European sites and would be contrary to the proper planning and development of the area.

### 3.2. **Planning Authority Reports**

#### 3.2.1. Planner's Report

This has regard to the location context of the site, planning history and policy. The following is noted:

- The site is located in or adjacent to possible flood plain. They note that the flood risk assessment carried out concludes low risk of flooding on the site.
- It is located within 100m of a Restricted Regional Route. They note that in previous planning history the Roads and Transportation Unit had concerns regarding available visibility and required visibility from the site. The visibility splays required for this entrance area 120m in each direction.
- It is within the GTPS.
- The site is located within an area designated as (LI) Locally important, generally moderately productive in local zones. High vulnerability rating in a source protection area.
- The area is drained by the Kinvarra River.

They provide a list of a number (27) of Natura 2000 sites within 15kms of the site. They note that an AA Screening Report in accordance with Article 6(3) of the EU Habitats Directive has been included with the planning application which concludes no significant effects on European sites arising from the development. However they provide that having regard to concerns in relation to flood risk and satisfactory

disposal of wastewater in accordance with EPA standards the PA cannot screen out significant impacts on European sites at this time.

They are concerned that the proposal is contrary to the Galway CDP regarding policy and objectives regarding local need criteria. Also about Flood Risk and Sightlines. They consider that the proposed dwelling is suburban in nature. They recommended refusal of permission for 4no. reasons: 1)Wastewater, 2) Flood risk concerns, 3) Traffic Safety, 4)Housing Need.

### 3.2.2. Further information submitted

Unsolicited F.I. has been submitted on behalf of the applicant and provides that following consultation with the Roads and Transportation Unit they wish to submit a revised Site Layout. This has regard to sightlines.

They provide that it is proposed to install mechanical primary and secondary treatment units and sand polishing filter for wastewater treatment.

Mitchell Environmental have provided details relative to the Sewage Treatment Plant, Soil and Soil Polishing Fliter Proposal.

They include correspondence from their Solicitors regarding the family land holdings containing the proposed site and family dwellings and a map showing the extent of Gort Urban Fringe.

### 3.2.3. Planner's response

They had regard to the F.I submitted and recommended refusal for reasons of being contrary to the policies and objectives of the GCDP 2015-2021, Road safety issues, the EU Habitats Directive and prejudicial to public health. They were also concerned regarding local need issues noting that the site is in an are of strong urban influence, and that the proposed development is not in accordance with the proper planning and sustainable development of the area

## 4.0 **Planning History**

The Planner's Report provides details of applications in the vicinity. The following refers to the subject site:

Reg.Ref.15/788 – An application by Conor Diviney to construction a dwelling house, waste water treatment unit, percolation area and domestic garage was withdrawn.

## 5.0 Policy Context

### 5.1. Galway County Development Plan 2015-2021

Chapter 2 provides the Core Strategy for the County. This includes in Section 2.3 Development Strategy Objectives: Objective DS 6 – Natura 2000 Network and Habitats Directive Assessment.

Section 2.4 provides for the Core Strategy as an integral component of the Spatial Strategy and reference is also made to the Regional Planning Guidelines. S.2.4.8 refers to the Core Strategy and Settlement Hierarchy.

Section 2.6 refers to the Settlement Strategy i.e: a Settlement Strategy is a spatial expression of population distribution, settlement size, and settlement role and hierarchy. A Table is provided showing a six tier system. It is noted that Kilbeacanty is located in the lowest tier of the hierarchy i.e Other Settlements and the Countryside. Section 2.6.5 notes that Gort is a Key Town within the hierarchy.

S.2.6.7 refers to Small Settlements and the Countryside/Rural Areas. Objective CS7 provides the Core Strategy for the Countryside and Rural Areas.

Chapter 3 refers to Urban & Rural Housing.

Section 3.7 refers to Single Housing in the Countryside and has regard to the distinction between urban and rural generated housing and the requirement for sustainable rural housing. S.3.8 identifies Rural Area Types – Map RH01 refers – the subject site is located in a Rural Area under Strong Urban Pressure. Section 3.8.1 refers and provides the objectives for such areas. As per S.3.8.3 the site would fall into Rural Housing Zone 1 – Rural Area under Strong Urban Pressure – GTPS. Objective RH01 refers. Section 3.9 provides the Rural Housing Policies and Policy RH01 is concerned with management of new single houses in the countryside. RH02 is concerned with Adherence to the Statutory Guidelines and CDP. RH09 refers to regard to the Design Guidelines

It is an objective of the Council to facilitate the development of individual houses in the open countryside subject to compliance with rural links (local needs) policy and normal planning and environmental criteria and the Development Management Standards and Guidelines outlined in Chapter 13 and other applicable standards with the exception of those lands contained in Landscape Categories 3, 4 and 5 where objective RHO1 applies.

Chapter 5 refers to Roads and Transportation.

Objective TI 6 – Protection of National Routes and Strategically Important Regional Road Networks.

Chapter 9 refers to Heritage, Landscape and Environmental Management Section

Section 9.8 refers to Natural Heritage and Biodiversity and includes regard to Natura 2000 sites. S. 9.9 provides the Natural Heritage and Biodiversity Policies and Objectives. Designated Environmental Sites are provided in Map NHB1.

Landscape Sensitivity categories 1 (low) – 5 (unique), is referred to in S.9.10.2.3.

The site is within the low sensitivity area.

Chapter 13 provides the Development Management Standards and Guidelines. DM Standard 1 refers to Qualitative assessments for urban and rural area. This includes reference to the DoEHLG Sustainable Rural Housing Guidelines 2005. Section 13.4 provides the Rural Residential Considerations and includes DM Standard 5 relative to Rural Housing need and DM Standard 6: Assimilation of Development into Landscape and DM Standard 8 relative to Landscaping.

Section 13.8 provides Guidelines for Transportation, Roads, Parking, Loading and Storage DM Standard 18 refers to: Access to National and Other Restricted Roads for Residential Developments.

DM Standard 20: Sight Distances Required for Access onto National, Regional & Local Roads.

DM Standard 21: Building Lines –this requires a set-back of 25m from Regional Roads.

## 5.2. **The Sustainable Rural Housing Guidelines 2005**

This seeks to encourage and support appropriate development at the most suitable locations. Section 3.2.3 concerns Rural Generated Housing and gives an example of Persons who are an intrinsic part of the rural community and Persons working full-time or part-time in rural areas. Appendix 3 provides details of NSS Rural Area Types. Box 2 has regard to Stronger Rural Areas and Box 4 to Areas with clustered settlement patterns. Section 3.3 is concerned that the consideration of individual sites will be subject to normal siting and design considerations. These include the following:

- Any proposed vehicular access would not endanger public safety by giving rise to a traffic hazard.
- That housing in un-serviced areas and any on site wastewater disposal systems are designed, located and maintained in a way, which protects water quality.
- The siting of the new dwelling integrates appropriately into its physical surroundings.
- The proposed site otherwise accords with the objectives of the development plan in general.

Section 4.4 is concerned with Access and restriction of such on National Primary and Secondary Roads and Non National Roads including Regional Routes. Regard is also had to Roadside Boundaries

Section 4.5 is concerned with Protecting Water Quality and Site Suitability issues.

## 5.3. **Spatial Planning and National Roads Guidelines for Planning Authorities 2012**

The Minister for the Environment, Community and Local Government has issued these guidelines under section 28 of the Planning and Development Act 2000 (as amended). Planning authorities and An Bord Pleanála are required to have regard to the guidelines in the performance of their functions under the Planning Acts. The guidelines set out planning policy considerations relating to development affecting national roads (including motorways, national primary and national secondary roads) outside the 50/60 kmh speed limit zones for cities, towns and villages.



Section 1.5 provides that proper planning is central to ensuring road safety.

Section 1.6 refers specifically to Regional and Local Roads.

Chapter 3 relates to the Development Management of Roads and notes that this is the Key to Plan Implementation.

Chapter 4 concerns Implementation of these guidelines including by ABP.

#### **5.4. Code of Practice Wastewater Treatment Disposal Systems serving Single Houses**

This document (2009) by the EPA relevant to single houses (p.e <10) and replaces SR6:1991 and the EPA Manual 2000 for 'Treatment Systems for Single Houses'.

The objective is to protect the environment and water quality from pollution and it is concerned with site suitability assessment. It is concerned with making a recommendation for selecting an appropriate on site domestic wastewater treatment and disposal system if the site is deemed appropriate subject to the site assessment and characterisation report. The implementation of the Code is a key element to ensure that the planning system is positioned to address the issue of protecting water quality in assessing development proposals for new housing in rural areas and meeting its obligations under Council Directive (75/442/EEC).

#### **5.5. EU Water Framework Directive**

The purpose of the EU Water Framework Directive (WFD) 'is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater which:

(a) prevents further deterioration and protects and enhances the status of aquatic ecosystems and, with regard to their water needs, terrestrial ecosystems and wetlands directly depending on the aquatic ecosystems;

(b) promotes sustainable water use based on a long-term protection of available water resources;

(c) aims at enhanced protection and improvement of the aquatic environment, inter-alia, through specific measures for the progressive reduction of discharges,

emissions and losses of priority substances and the cessation or phasing-out of discharges, emissions and losses of the priority hazardous substances;

(d) ensures the progressive reduction of pollution of groundwater and prevents its further pollution, and

(e) contributes to mitigating the effects of floods and droughts’.

## **5.6. The Planning System and Flood Risk Management Guidelines 2009**

These have been adopted and are the DOEHLG Guidelines for Planning Authorities (November 2009). The key principles are:

- Avoid the risk, where possible –precautionary approach.
- Substitute less vulnerable uses, where avoidance is not possible, and
- Mitigate and manage the risk, where avoidance and substitution are not possible.

Flood Zone A has the highest probability of flooding, Zone B has a moderate risk of flooding and Zone C (which covers all remaining areas) has a low risk of flooding.

The sequential approach should aim to avoid development in areas at risk of flooding through the development management process.

An appropriate flood risk assessment and justification for development in and management of areas subject to flooding and adherence to SUDS is recommended.

This document sets out how to assess and manage flood risk potential and includes guidance on the preparation of flood risk assessments by developers. This has regard Screening Assessment, Scoping Assessment and Appropriate Risk Assessment. It provides that only developments which are consistent with the overall policy and technical approaches of these Guidelines should be permitted.

## **5.7. EU Habitat Directive**

The aim of the EU Habitat Directive is ‘to contribute towards ensuring bio-diversity through the conservation of natural habitats and of wild fauna and flora in the European territory of the Member States to which the Treaty applies’.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. McCarthy Keville O’Sullivan, Planning and Environmental Consultants have submitted a First Party appeal on behalf of the applicants. They provide that they have examined the reasons for refusal and are satisfied that the proposed development as presented is inaccordance with the proper planning and sustainable development of the area. They provide details of the Site Location and Application Process and have regard to Planning Policy. Their grounds of appeal refer to each of the Council’s reasons for refusal and include the following:

#### Reason no.1

- An assessment was carried out by Alan Lipscombe, Traffic and Transport Consultants and is included in Appendix 2 of this report. There are two main elements to the sightline assessment – horizontal alignment and vertical alignment. They provide details and an analysis of these. They note that the assessment concludes that the proposed access will be safe.

#### Reason no.2

- Having regard to local need the application is not located within a rural area but within the village envelope of Kilbeacanty, a settlement in its own right. This has a distinctive settlement pattern which is elongated and linear along the R353. They include Figures 4.1 and 4.2 to demonstrate this. The latter demonstrates that there have been applications for multiple houses in the area. It also shows the location of the applicant’s family home.
- They note that a letter from the applicant in Appendix 3 clearly demonstrates his longstanding and ongoing connection to the village of Kilbeacanty. They provide details of his Housing Need and refer to Appendix 4 of the Report. They also provide that the application site has been chosen because it is located on what is the least constrained part of family lands from a development standpoint. They provide details of the constraints on these parcels of land.

### Reason no.3

- They provide that in order to address the issue of wastewater treatment the applicant commissioned Mitchell Environmental to prepare a Sewage Treatment Plant Soil and Soil Polishing Filter proposal and this document is included in Appendix 5. This proposal allows for additional tertiary treatment and they provide details of this. They refer to the proposed treatment system being in accordance with the EPA Code of Practice, 2009 and consider that the system adequately addresses this reason for refusal.

### Conclusion

- They provide that the information submitted, including in their Appendices demonstrates that the proposed development is appropriate at this location taking due consideration of the GCDP 2015-2021 as well as other relevant plans and guidance. They consider that the reasons for refusal have been appropriately addressed.

## **6.2. Planning Authority Response**

Galway County Council has not responded to the grounds of appeal.

## **7.0 Assessment**

- 7.1.1. I have reviewed the proposal in the light of national planning guidelines, the CDP, and the submissions of the parties. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Compliance with Rural housing policy
- (ii) Design and Layout
- (iii) Access
- (iv) Drainage
- (v) Flooding
- (vi) Ecological and Appropriate Assessment

## **7.2. Compliance with Rural housing policy**

- 7.2.1. As set out in Section 2.5 of the Galway CDP 2015-2021 the Core Strategy Objectives include the provision of a settlement Hierarchy for the county. Section 2.6.1 provides the Settlement Hierarchy which has been developed to allocate future

population growth between the various towns, villages and the rural area of the County. As shown in the hierarchy table Kilbeacanty is listed in the bottom tier i.e Other Settlements and the Countryside.

- 7.2.2. The First Party provides that the site is located on family lands in the settlement of Kilbeacanty. They refer to Objective SS7 – Development of Small Settlements in this regard. Figure 4.1 of their Appeal Statement shows the linear form of the Settlement of Kilbeacanty in an indicative settlement boundary. They provide that given its small size Kilbeacanty has a distinctive settlement pattern which is elongated and linear along the R353. However there are no particular plans relative to this settlement. On the site visit I noted that the southern end of the settlement contained the Church and Kilbeacanty GAA grounds, the northern end Kilbeacanty National School. In between there is agricultural land and a variety of house types spread out in a linear form with access onto the R353 or the minor roads in this area. It does not appear as a more traditional village form and does not contain a village shop or other services. The application site is to be taken off the agricultural land and the larger field area and it appears more rural.
- 7.2.3. Reference is also made in Figure 4.2 of the Appeal to other applications for residential development in this area, including multiple housing applications. However it is noted that these were originally granted permission in the early 2000's prior to the current GCDP 2015-2021. While Reg.Ref.11/1115 (6no. houses) was granted a subsequent extension of duration by the Council, this expired in September 2016. Reg.Ref.12/382 (6no. houses) was also granted an extension of duration and this is due to expire in May 2017. These developments involved a number of dwellings using a common access. None of these developments has been constructed and the area remains relatively rural and undeveloped.
- 7.2.4. Having regard to Section 2.6.7 *Small Settlements and the Countryside/Rural Areas* it is considered that Sustainable Rural Housing policies would apply relative to single houses in the countryside. As shown on Map RHO1 the site is located to the east of the Key town of Gort in the area shown *Rural Areas under Strong Urban Pressure (GTPS)*. However as shown on the map submitted with the F.I it is located outside of the zoned land within the Gort urban area. Section 3.8.1 and 3.8.3 provide specific policies relative to such areas Rural Housing Zone 1 and Objective RHO1 refers. This policy includes those applicants with *Rural Links to the area through long*

*standing existing and immediate family ties seeking to develop their first home on existing family farm holdings.*

- 7.2.5. As provided by the documentation submitted both with the application and subsequently with the appeal, the applicant as the son of the landowner and living in the family home would appear to fit into this category. However while the applicant has ties – rural links to the Kilbeacanty area and the location of the family home is shown relative to the site, the documentation submitted provides that he is employed as an electrician and not on the family farm. He provides that he needs to live in the area to help keep the family farm running smoothly and in view of family health issues. It is not considered that the documentation submitted establishes his site specific need to reside on this particular site.
- 7.2.6. It is of note that the F.I submitted included maps showing the family landholdings at Kilbeacanty and Carragh. Section 4.3.2 of the First Party Appeal notes that the Council's reason for refusal refers to the availability of alternative family lands. Figure 4.3 shows 4no. parcels of land and provides that the current site has been chosen because it is located on what is the least constrained part of the family lands, from a development standpoint. They note that there is a variety of issues with the other parcels of land within the family holding and provide a discussion of these, including that some of the lands are more liable to flooding. They provide that alternative family lands were considered and subsequently discounted on the basis of the constraints involved. It is noted that the access to the family farm (some 200m to the south east) is not from the R353 but from the local road(L85195).

### **7.3. Design and Layout**

- 7.3.1. The site is to be taken out of the larger field area and is given as 0.243ha. The Site Layout Plan shows that the proposed dwelling is to be set back 25m from the regional road which is in line with DM Standard 21 of the GCDP for set back from a Regional Road. It also shows the location of the detached garage to be set back c.20m from the dwelling house. The site while somewhat undulating slopes down from the road. The proposed wastewater treatment system and percolation area is shown located towards the lower level rear (southern portion) of the site.

- 7.3.2. The proposed floor area of the two storey dwelling is given as 223sq.m. and it is shown 8.1m in height. The floor plans show that it is proposed to have 4no. bedrooms with one bedroom on ground floor level. A single storey kitchen element is proposed at the rear. Regard is had to Objective RH09 of the Galway CDP 2015-2021 which provides that it is an objective that new dwelling house design comply with the Council's Design Guidelines for the Single Rural House that respects the character, pattern and tradition of existing places, materials and built forms that fit appropriately into the landscape. This includes regard to energy efficiency and to appropriate landscaping. In this respect it is considered that the proposed design is relatively suburban, which is contrary to these guidelines. However it is noted that there are other two storey houses in the vicinity including the further set back dwelling to the west and on the opposite side of the road which also have a more suburban form and appearance. The issue in this case is whether this type of trend should be encouraged in the countryside. It is not considered that the proposed house type adds to the character of the rural area. It is considered that a more traditional one and a half storey type dwelling would be preferable. It is of note that there are windows in the first floor gable ends and it is recommended if the Board decides to permit that these be obscure glazed.
- 7.3.3. The proposed single storey garage is set back c.20m to the rear of the proposed dwellinghouse. It is provided that this is to be 60sq.m and 5m in height, so it is a sizeable structure, which includes a store and boiler and plant room section. In view of its proposed location towards the rear of the site which is at a lower level than the road it is considered that it will be seen in the context of the proposed dwellinghouse. It is recommended that if the Board decide to permit that a condition be included to ensure that it only be used for domestic purposes.
- 7.3.4. Some landscaping details are provided on the Site Layout Plan submitted. As the site is to be taken off the larger field area, boundary treatment appropriate to the rural area will need to be established. It is recommended that if the Board decide to permit that a landscaping condition be included.

#### 7.4. **Access**

- 7.4.1. Access is proposed from the regional road R353. DM Standard 20 of the GCDP 2015-2021 provides the sightlines for access onto National, Regional and Local

Roads. This includes that where a new entrance onto the public road is proposed the planning authority must consider traffic conditions and available sightlines so that drivers emerging from the access can enjoy good visibility of oncoming vehicles, cyclists and pedestrians. In this case the site is outside the 50km/ph speed limits relative to the small settlement of Kilbeacanty. The proposed access is within the 80km/ph speed limits. DM Standard 20 provides that the relevant sightlines are 120m in either direction.

7.4.2. The the unsolicited F.I submitted provides that because of the straight road section and a speed limit of 80km/hr, 110m sight lines are required. They include that from the access on the left, it is not envisaged to interfere with the neighbouring property in taking a sight line to the centre of the road. They note that on the right hand side of the proposed access it is proposed to set back the existing road boundary wall beyond the site frontage, which is in family ownership to achieve the sight distance required to the edge of the road. They include the sight lines and proposed set back on the Site Layout Plan submitted.

7.4.3. It is of note that the Council's first reason for refusal is concerned about endangerment of public safety at a point where maximum speed limits apply. They also have regard to the crest in the road to the south east of the site. During my site visit, I noted that this stretch of the R353 is a narrow busy road where maximum speed limits apply, visibility is restricted to the south east due to the crest in the road, which restricts visibility in the direction from Kilbeacanty. Also the road has no grass verges, so did not feel particularly safe for pedestrians or cyclists. In this respect DM Standard 21 provides: *In general where the capacity, width, surface condition or alignment of the road is deemed inadequate, development will not be favoured.*

7.4.4. The First Party grounds of appeal includes in Appendix 2 an Assessment carried out by Alan Lipscombe Traffic and Transport Consultants. In this case the two main elements of the sightline i.e. horizontal and vertical alignment are assessed. It provides that all boundary walls and hedgerows will be relocated to facilitate visibility splays in both directions. The Report concludes that the proposed access will provide a safe means entering and exiting the site proposed for a single dwelling house at Kilbeacanty.



7.4.5. As shown on the Site Layout Plan to achieve the sightlines particularly in a south easterly direction will involve the removal of a large section of the roadside boundary wall/hedge. It is of note that Natural Heritage and Biodiversity Objective NB11 of the GCDP seeks: *To retain natural boundaries including stone walls, hedgerows and tree boundaries, wherever possible and replace with a boundary type similar to the existing boundary where removal is unavoidable.* This is also the advice given in Section 4.4 relative to access and roadside boundaries in the Sustainable Rural Housing Guidelines. In this case I am not convinced that such removal is desirable or unavoidable, in that as shown in the documentation submitted there are other family lands that may be available to the applicant. In the interest of traffic safety it would be preferable to have a site with adequate sightlines with access off a minor road or off the R353 within the 50km/ph speed limit area of Kilbeacanty.

#### 7.5. Drainage issues

7.5.1. It is proposed to connect to the Cloondine Water Scheme and a letter has been submitted to say that the applicant is a member of this scheme.

7.5.2. The application form provides that it is proposed to provide a waste water treatment unit and percolation area on the subject site. Objective WW5 of the GCDP is concerned with waste water treatment associated with development in unserved areas. This includes: *Permit development in unserved areas only where it is demonstrated to the satisfaction of the Planning Authority, that the proposed waste water treatment system is in accordance with the Code of Practice Wastewater Treatment and Disposal Systems serving Single Houses EPA 2009/...and subject to complying with the provisions and objectives of the EU Water Framework Directive.* The Council's reason for refusal is concerned that the proposal would materially contravene this objective.

7.5.3. The Site Layout Plan shows the proposed location proximate to the southern site boundary. It is of note that the site slopes down towards the southern boundary. Appendix B of the information submitted with the application includes a Site Characterisation Form. This provides details of the soil type and notes that there is a locally important aquifer in the area. The vulnerability is high and the bedrock type is DPUL (Dinantian Pure Unbedded Limestone). The groundwater protection response is R2/3. The on site assessment provides that while a suitable site, groundwater is

the risk target. Details of percolation tests are included and free draining topsoil is confirmed. It is provided that the T-value is 7.30 and the P-value is 9.52 and the depth to bedrock is 1.5m. It is provided that a Packaged Mechanical Aeration System, distribution boxes and soil polishing filter is to be installed and details are given of this. It is included that all works, materials used etc are to comply with the EPA CoP Wastewater Treatment and Disposal Systems Serving Single Houses (pe<10) 2009. It is recommended that in the circumstances an Oakstown BAF 8PE Wastewater Treatment System is suitable and details are given of this.

- 7.5.4. In response to the Council's concerns, as part of the unsolicited F.I response it is proposed to install mechanical primary and secondary treatment units and a tertiary treatment soil/sand filter for wastewater treatment. A Report has been prepared by Mitchell Environmental and they provide details of this. They provide that their calculations are based on the attached site characterisation and in accordance with the EPA 2009 Code of Practice and USEPA. Regard is had to the document in Appendix 5 of the First Party Appeal in response to the Council's reason for refusal relative to concerns regarding wastewater treatment. They provide that the proposal allows for additional tertiary treatment for waste water prior to the discharge to ground and is an improvement on the system specified in the Additional Information submitted to the PA at the planning application stage. This includes that the proposed treatment will involve reducing all pathogens within the treated waste water to below acceptable levels in accordance with EPA, Code of Practice 2009, waste water treatment manual.
- 7.5.5. It is considered that the engineered solution proposed will ensure that any risk of microbial and bacteriological pollution of ground water is minimised. This revised proposal offers a better option in that it will reduce the risk to ground and surface waters further than that originally submitted. The issue is however, whether it is desirable to consider a greenfield site which requires this level of treatment when it has not been ruled out that there may be other more suitable sites available to the applicant. Also the cumulative impact having regard to other wastewater treatment systems in the area has not been adequately considered.

## 7.6. Flood Risk

- 7.6.1. A Site Flood Risk Assessment Screening Report has been submitted with this application. This was carried out due to the proximity of the site to a seasonal lake feature (a small turlough area) located adjacent to the site to the south east. The Report notes previous flooding instances in the area. In recent times the road (R353) flooded in 2009 but did not flood in 2015/2016 during a prolonged period of winter flooding. A drainage channel was dug in 2009 during the November flooding to relieve flooding of the road, allowing the road to connect to the turlough and they consider that this maybe the reason why there has been no recent flooding.
- 7.6.2. This notes that the site is undulating and levels are given relative to the R353 road in front of the site, the higher middle area of the site, then the site gently falls back to the rear of the site. It notes that the proposed finish floor level of the dwelling house is 99.4TBM which is 400mm above existing ground levels.
- 7.6.3. The Report has regard to site hydrology and hydrogeology. This notes that the groundwater flow direction is locally southwest towards the small Turlough feature and has regard to discharge from the Turlough. The local hydrological features on site are represented in Figure 2. A historical OSI map shows the turlough feature before any infilling of lands took place. This does not indicate that the site itself is liable to flood. Photographs are included, Plate no.4 shows minor pluvial ponding adjacent to the site.
- 7.6.4. Regard is had to the OPW Floodmaps.ie which refers to flooding instances in 1995 and 2009, but not to recent flooding in 2015/2016. They provide that pFRA mapping represented in Figure 4 shows the site not to be at risk from flooding with the mapping identifying pluvial flood risk areas adjacent to the site only. The conclusion reached is that the site has not flooded in the past and is currently not at risk of flooding in the future.
- 7.6.5. The only source of potential flood risk to the site is from the turlough area to the southwest of the site. This turlough has a relatively low range in water level between dry and flood conditions of typically 1m and its catchment area is relatively small. They conclude that the turlough has an overflow pathway and provide details – Fig.5 refers. Also the flood area drainage channels drain it southwards to outfall with the Beagh River downstream of Lough Cutra.

- 7.6.6. They provide that based on historical evidence and the performance to date of the nearby seasonal lake that the site is not in a flood risk zone. The residual flood risk assessment concludes that the site remains protected from such flooding by the presence of an overflow route to spill eastwards away from the site. They provide that the proposed development site is located in Flood Zone C (low flood risk zone) by virtue of it being relatively elevated and the presence of an overflow route for the turlough in the event that the groundwater outflow becomes impaired over time. The recommended FFL of the proposed dwelling is 0.4m above the existing ground level. A Map is included showing the Site Flood Risk Assessment Levels.
- 7.6.7. The Report provides that given the underlying Aquifer characteristics and the shallow depth to bedrock on the site it is recommended that the percolation area is a raised bed percolation system which will suitably protect the underlying aquifer from pollution and which ensures there is ample soil cover for treatment of the effluent waters even during extreme flood events. They provide that the proposed access from the R353 is not affected by flooding. The development of the site will not result in any loss of floodplain area, nor will the proposed development impact negatively on flood risk in the area or interfere with any flood/overflow pathway. They also provide that the proposed development is located in Flood Zone C and meets the requirements of the Flood Risk Management Planning Guidelines (Nov 2009) for small developments.

## **7.7. Ecological Assessment & Appropriate Assessment issues**

- 7.7.1. A Report has been submitted with the application relative to these issues. This provides a description of the proposed development and proposed best practice measures. The assessment is based on a desk study and a field visit by a suitably qualified ecologist. A Map is included in Fig.2.1 showing Natura 2000 sites within a 15km radius of the site. The closest of which is Slieve Aughty Mountains SPA which is 1.5km from the site, and Lough Cutra SPA which is 1.7m from the site. A list of these sites is given and in each case it is provided that no complete source-pathway-receptor chain could be identified between the proposed development and the Natura 2000 site. It is provided that the site synopsis and conservation objectives of these sites as per the NWPS website were considered at the time of the preparation of this report.

- 7.7.2. Details are given of the Field Survey in Section 2.2 of the Report. This notes that the site of the proposed development is managed for agricultural purposes and is used for grazing and best categorised as *Improved Agricultural Grassland*. It notes that the roadside boundary is demarcated by a stone wall categorised as *Stone Walls and other Stone Work*. It notes that there was evidence of small scale pluvial flooding which resulted from excessive rainfall outside and along the western boundary of the site (Plate 4 refers).
- 7.7.3. It is noted that Annex 1 of the Habitats Directive lists certain habitats that must be given protection, this includes turloughs. However as shown on Fig. 2 of the Flood Risk Assessment Report this is to the south east of the site. The Ecological Assessment provides that no habitats, flora or fauna of particular sensitivity or protected bird species were found on the site. Table 3.1 finds no significant negative potential impacts associated with the construction phase of the development. Table 3.2 finds no significant potential impacts associated with the operational phase of the development. This includes that there is no significant impact of discharge of surface and wastewater to ground based on the proper installation and maintenance of sewage treatment system according to EPA regulations.
- 7.7.4. Section 4 of the Report provides an Article 6(3) Screening Assessment. It is concluded that no significant impacts are likely as a result of the proposed development on the conservation objectives of any Natura 2000 site. The Report concludes that there will be no adverse effect as a result of the proposed development in view of best scientific knowledge and on the basis of objective information, either individually or in combination with other plans or projects on the conservation objectives or overall integrity of any Natura 2000 site.
- 7.7.5. I would comment that while this is what is concluded in the Report, the impact if any on the adjoining turlough habitat or the cumulative impact of this proposed wastewater treatment system in conjunction with other wwts, in the area, with poor drainage characteristics and also prone to flooding has not been specifically addressed. Based on the documentation submitted I would not consider that an impact on water resources in the area (Policy NHB4 refers) or on Natura 2000 sites has been ruled out.

## 8.0 Recommendation

- 8.1. In view of the assessment above it is recommended that planning permission be refused for the reasons and consideration below.

## 9.0 Reasons and Considerations

1. It is considered that the proposed development would endanger public safety by reason of traffic hazard due to the intensification of traffic movements on this narrow stretch of the R353, outside the speed limits of the settlement of Kilbeacanty at a point where the maximum speed limit applies and where visibility is currently restricted by vertical and horizontal alignment of the road and the crest in the road to the south east. Sightlines as specified under DM Standard 20 of the Galway County Development Plan 2015-2021 may only be achievable if a large area of front boundary wall/hedge were to be removed and this would be contrary to Natural Heritage and Biodiversity Objective NB11 of the said plan and Section 4.4 of the Sustainable Rural Housing Guidelines 2005. The proposal is therefore contrary to the proper planning and sustainable development of the area.
2. The site is located in a rural area outside of any identified settlement and within an area of strong urban influence as identified in the Galway County Development Plan, 2015-2021 and within an area where the provisions of Objective RHO 1 of the development plan regarding rural housing in areas under strong urban pressure – Galway Transportation Planning Study Area (GTPS) is applicable. Having regard to the information submitted with the application it is considered that while the applicant has links to the area, a site specific local need has not been established and that there may be more suitable alternative sites available for the proposed development on other family lands. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. Having regard to the pattern of development in the immediate vicinity and the location of the proposed site in a rural area under strong urban pressure, it is considered that the proposed development would exacerbate and consolidate a trend towards a pattern of haphazard larger suburban type housing in an

unzoned rural area and would lead to an erosion of the rural and landscape character of this area, which would be contrary to the *Design Guidelines for the Singel Rural House* referred to in Objective RHO 9 of the Galway County Development Plan 2015-2021. Furthermore, having regard to the nature of the proposed development it is considered that the proposed development would lead to increased demands for the uneconomic provision of public services and facilities where these are neither available nor proposed in the said development. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

4. It is considered that, having regard to the poor drainage characteristics of the site, the proximity of the site to a turlough and to areas susceptible to flooding that taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of development served by individual waste water treatment systems in the area. It also has not been ruled out that the proposed development would not cumulatively have an impact on groundwater in the area. Therefore the Board is not satisfied based on the documentation submitted that the proposed development would comply with Policy NHB4 of the Galway County Development Plan 2015-2021 and would not impact adversely on water resources in the area or Natura 2000 sites.

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Angela Brereton,  
Planning Inspector,

2<sup>nd</sup> of December 2016