



An  
Bord  
Pleanála

## Inspector's Report ABP.300066-17

### Development

For the provision of a proprietor's family two storey residential house to be incorporated into the proposed Yoga Centre development previously granted planning permissions reference numbers 16/396 and 17/158 to include all associated site works. Gross floor space of proposed works: 206sqm.

### Location

Normangrove, Co. Galway

### Planning Authority

Galway County Council

### Planning Authority Reg. Ref.

17/717

### Applicant(s)

Dave Brocklebank

### Type of Application

Permission

### Planning Authority Decision

Refuse

### Type of Appeal

First

### Appellant(s)

Dave Brocklebank

### Observer(s)

None

**Date of Site Inspection**

15<sup>th</sup> January 2018

**Inspector**

Rónán O'Connor

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located to the south of a local road, in the townland of Normangrove, circa 6km to the south of Kinvara. There is an existing yoga centre on the site in addition to other structures including a single storey bungalow structure and two mobile homes, one of which is occupied by the applicant and his family. There is car parking on site associated with the yoga centre use. Excavation works have taken place to the adjacent to the bungalow structure.
- 1.2. The surroundings are rural in character. The aspect to the west of the site is dominated by the higher ground to the west of the L4507 local road.
- 1.3. The boundary with County Clare runs to the south of the site.

## **2.0 Proposed Development**

- 2.1. For the provision of a proprietor's family two storey residential house to be incorporated into the proposed Yoga Centre development previously granted planning permissions reference numbers 16/396 and 17/158 to include all associated site works. Gross floor space of proposed works: 206sqm.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Refuse permission for two reasons relating to (i) non-compliance with rural housing objectives in the Galway County Development Plan, in particular Objectives RHO 1 & RHO 3 (ii) landscape impacts and overdevelopment of site, impact on amenities and devalue values of property in the vicinity, and undesirable precedent, by reason of its design, excessive height, mass, materials and bulk, in conjunction with other development on site.

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

Planning Reports

3.2.1. The report of the planning officer reflects the decision of the planning authority.

Points of note are as follows:

Planners Report July 2017

- Notes that the flood risk assessment submitted with the application should be updated to take account of the complete development
- Proposals for surface water disposal are unclear
- Noted proximity of closest European Site – East Burren Complex SAC, located approximately 315m west of the application site. Also notes that the site is located within the Kinvarra-Coastal River Catchment of the Kinvarra Water Management Unit, which drains into Galway Bay, a designated SAC and SPA.
- Submitted AA screening report relates to previous development (i.e. yoga centre) and does not consider the new dwelling house proposed.
- Cannot rule out impacts on European Sites.
- Considered that the proposal, reason of its design, excessive height, mass, materials and bulk, in conjunction with other development on site, would result in adverse landscape impacts and result in overdevelopment of the site, would impact on amenities and devalue values of property in the vicinity, and set an undesirable precedent for similar development.
- Notes submissions relating to demonstration of housing need and notes relatively extensive planning history relating to the site. In relation to housing need, the planning officer concludes that, given the applicant has already built a first home on the site, and has chosen to convert same to a yoga centre, the applicant therefore does not comply with the rural housing objectives as set out in the County Development Plan.
- Notes that the decisions of the planning authority to date have been consistent in terms of not permitting a stand-alone dwelling house and yoga centre on the site.
- Notes that the description of development is questionable – proposal is for a stand-alone dwelling house which is not incorporated into the yoga centre, save for utilising the same entrance and wastewater treatment system.

- Initial recommendation to refuse for four reasons relating to housing need, visual impact, flood risk and AA.

#### Final Planners Report Oct 2017

- Considers unsolicited further information received 25<sup>th</sup> September 2017
- Notes that Flooding, Surface Water and Waste Water Proposals now satisfactory
- Having regard to updated AA report, and after and AA screening exercise, states that the proposed development would not likely have a significant effect on any European Sites.
- Considered that the first two reasons for refusal remain valid i.e. housing need and visual impact.
- Recommends refusal.

#### 3.2.2. Other Technical Reports

Environment Section

### 3.3. **Prescribed Bodies**

3.3.1. None

### 3.4. **Third Party Observations**

3.4.1. None

## 4.0 **Planning History**

4.1. 17/158 - Grant - for (a) an alternative design of proposed works and extension of existing yoga centre to include front porch extension, two storey rear extension, provision of roof mounted solar panels and changes to all facades (b) alterations of site boundaries to include all relevant associate works, all previously granted planning permission 16/396 (Gross floor space of proposed works: 423sqm).

Conditions of note include:

Condition 2(c): Permission does not relate to the structure identified as existing dwelling on submitted drawings.

Condition 5: Development shall be managed as one unit and shall not be operated or leased independently by any individual owners.

- 4.2. 16/396 – Grant - for (i) retention of change of use from domestic dwelling to yoga & meditation centre (ii) planning permission for the construction of an extension to the existing yoga & meditation centre over two levels, consisting of yoga room, relaxation room, 8 no. bedrooms & a therapy room (iii) the demolition of an existing dwelling & the construction of a replacement dwelling (iv) expansion of existing waste water treatment system & all associated site works (gross floor space yoga centre 401sqm; dwelling 259sqm).

Conditions of note include:

Condition 2: Permission relates solely to the retention of change of use from a domestic dwelling to a yoga & mediation centre/extension to yoga centre and does not permit the demolition of an existing building & the construction of a replacement dwelling.

Condition 5: Development shall be managed as one unit and shall not be operated or leased independently by any individual owners.

Condition 11: The single storey structure on site permitted for the overflow accommodation for the yoga centre under planning reference 09-1339 shall be used solely for that purpose.

- 4.3. 14/972 – Grant - Extension of Duration – for Planning Ref 09/1339 until 30<sup>th</sup> October 2019.
- 4.4. 09/1339 – Grant - for the construction of a new Yoga and Meditation Centre over two levels, consisting of 11 no. bedrooms, yoga room, reception rooms, kitchen and service areas, including expansion of existing waste water treatment system and all associated site works and retention of existing bungalow dwelling (gross floor space 560.6sqm)

Conditions of note include:

Condition 4: The eco-tourism development (Yoga and Meditation Centre and bungalow house sought here for retention) shall be managed as one unit and not be operated or leased independently by any individual owners).

Condition 5: The use of the existing structure permitted under PL Ref 97-3430 as a private domestic dwellinghouse currently being used as a yoga centre shall revert back to a domestic dwelling house and the mobile homes fully removed from the site prior to the operation of the new yoga and meditation centre building hereby permitted under this grant of permission.

4.5. 97/3430 – Grant - for dwellinghouse and septic tank with puraflo treatment system.

4.6. 96/1336 – Grant Outline Permission - to build a dwellinghouse and septic tank with puraflo treatment system.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The relevant Development Plan is the Galway County Development Plan 2015-2021.

- Objective DS 6 – Natura 2000 Network and Habitats Directive Assessment / Objective DS 10 – Impacts of Developments on Protected Sites
- Objective NHB1/2/3/4/12

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 (GTPS). Section 3.8.1 refers and provides the objectives for such areas. This includes:

- To facilitate the genuine housing requirements of the local rural community (rural generated housing), subject to satisfactory site suitability and technical considerations;
- To direct urban generated development to areas for new housing development in the adjoining urban centres, town and villages as identified in the County Settlement/Core Strategies;
- To accommodate residential development proposals in accordance with Chapter 13 (Development Management Standards and Guidelines).



Map RHO2 shows that the appeal site is located in Zone 3 Landscape Category 3-5. As per Section 3.8.3 the Site is within Rural Housing Zone 1. Rural Area Under Strong Urban Pressure-GTPS.

Objective RHO 1 refers i.e. – it is an objective of the Council to facilitate Rural Housing in the open countryside subject to the specified criteria relating to rural links, functional dependency, family ownership, returning emigrants and health.

Objective RHO 3 also refers i.e: Those applicants seeking to construct individual houses in the open countryside in areas located in Landscape Categories 3, 4 and 5 are required to demonstrate their Rural Links to the area and are required to submit a Substantiated Rural Housing Need.

Objective RHO 9 – Design Guidelines - have regard to GCC's Design Guidelines for the Single Rural House /Objective RHO 12 – Waste Water Treatment Associated with Development in Un-Serviced Areas

Chapter 5 refers to Roads and Transportation.

Chapter 6 includes regard to Wastewater Treatment Systems. Objective WW 5 refers to WWT associated with development in un-serviced areas.

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. Objectives NHB1/2/3/4/12 are of note. Designated Environmental Sites are provided in Map NHB1.

Objectives LCM1/2 are of note. Map LCM 1 sets out Landscape Value Ratings. MAP LCM 2 sets out Landscape Sensitivity and Character Areas.

The site lies within the Lower Burren (Co. Galway Portion Landscape Character Area).

Objective FL 4 – Flood Risk Assessment for Planning Applications and CFRAMS

Objective EDT 20 – Rural Business

## 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. 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.

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

This document (2009) by the EPA relevant to single houses (p.e <10). 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).

### **5.4. 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.

### **5.5. 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’.

## 5.6. Natural Heritage Designations

None

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The grounds of the First Party Appeal are as follows:

#### Housing Policy/Housing Need

- Appeal does not concern a ‘standard’ single house
- Proposal is an integral part of an expanding rural business
- Refusal has jeopardised expansion
- Rural housing policy to be revised as a result of European Court of Justice decision – Circular letter PL 2/2017 states that revised guidance is expected to be issued in second half of 2017 /will be informed by the National Planning Framework/Objective 18B of NPF states housing in the countryside will be facilitated on the basis of demonstrable economic need/economic need for this proposal is irrefutable.
- Business runs on a year round basis and is the only business of this type in East Burren/ employs full time and part time staff
- Essential for the applicant to live on site for health and safety reasons and to ensure a high quality of service
- New centre will be a significant boost to the local economy – enable an up to 50% increase in course participants – from 12 to 18
- Will create two additional full-time jobs

- Applicant qualifies for favourable consideration under the current policy of the council
- Has lived in the area for 20 years and complies with criteria RH01
- Functionally dependant on the immediate rural area

### Landscape

- Landscape Character Assessment should be treated with great caution or ignored altogether
- Heritage Council commissioned independent assessment of county landscape character assessment in 2005/concludes that Galway LCA mapping is difficult to interpret and vague
- Landscape setting of this site is different to that as described in the LCA/Maps, photographs and video submitted to support this/Provides a more realistic version of the landscape setting
- Landscape has only a moderate sensitivity to new development/site lies at a bottom of a depression from which the land rises to the east, west and south/surrounding area is dense scrub and farmland with mature hedgerows/proposed development would hardly be visible from any public vantage point/only clear views are from 1km away
- Clare LCA provides a more appropriate and realistic set of guidance for this landscape type
- Second reason for refusal based on a flawed landscape assessment

### Planning History

- Planning history is set out
- Council has supported development of the site as a yoga centre
- Council excluded house proposed in previous application by way of condition rather than refuse permission
- Extant permission for a yoga centre and a house, this permission is not viable because of flood risk issues/other extant permission do not include an on-site house

- Decision to refuse a house is neither rational nor consistent

## 6.2. Planning Authority Response

6.2.1. None

## 6.3. Observations

6.3.1. None

## 6.4. Further Responses

6.4.1. None

## 7.0 Assessment

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of Development/Rural Housing Policy
- Design and Visual Amenity/Impact on Landscape
- Water Supply/Waste Water/Drainage
- Flooding
- Other Issues
- Appropriate Assessment

## 7.2. Principle of Development/Rural Housing Policy

7.2.1. The appeal site is located within Rural Area Under Strong Urban Pressure as identified under Section 3.8 of the Development Plan. The council policy for rural housing in this high pressure area is set out in Objective RHO 1 'Rural Housing Zone 1 – Rural Area Under Strong Urban Pressure'. Objective RHO 3 'Rural Housing Zone 3 (Landscape Category 3,4 and 5) also applies.

- 7.2.2. I note the planning officer states that the applicant has already built their first home in the rural area and have chosen to convert it to a yoga centre - the applicant is therefore not considered to comply with Objectives RHO1 & 3.
- 7.2.3. It is the applicant's/appellant's view that the proposed dwelling house is integral to the operation of the business, the applicant has strong rural links and is functionally dependant on the rural area. It is also argued that the principle of a house has already been established on the site.
- 7.2.4. In terms of housing need details of the yoga business, school attendance details and links to the neighbourhood have been submitted with the planning application.
- 7.2.5. Objectives RHO 1 and Objectives RHO 3 are key considerations in this instance. In relation to Objective RHO 1, this set out criteria relating to rural links, functional dependency, family ownership, returning emigrants and health. Criteria 1a, b, d are not relevant in this instance as the house is not applicant's first home in the area, the first home having being converted to a yoga studio. The only criteria by which the applicant could potentially qualify for this dwelling house is criteria 1c , where applicants can demonstrate that they are functionally dependent on the immediate rural area in which they are seeking to develop a single family house as their principle family residence in the countryside. I do concur that the applicant is functionally dependant on the immediate rural area, given the yoga business on the site, the residential nature of same and the need to be in close proximity to same, in order to provide the level of service that appears to be required to successfully run this type of business.
- 7.2.6. The application however, in my view, fails on Objective RHO 3, which applies to those applicants seeking to construct houses located in Landscape Categories 3-5. and 5. Map RHO2 shows that the appeal site is located in Zone 3 Landscape Category 3-5. In such cases, applicants are required to demonstrate their 'Rural Links' to the area and are required to submit a 'Substantiated Rural Housing Need'. Both terms are given specific definitions in the Development Plan. 'Rural Links' is defined as follows:

*For the purpose of the above is defined as a person who has strong links to the rural area and wishes to build a dwelling generally within an 8km radius of where the applicant has lived for a substantial continuous part of their life.*

7.2.7. I concur that the applicant does have strong rural links with the area, with the documentary evidence on file showing he has lived in the area for the past 20 years, is running a business in the area and has children attending school in the area also.

7.2.8. 'Substantiated Rural Housing Need' is defined as follows:

*Is defined as supportive evidence for a person to live in this particular area and who does not or has not ever owned a house/received planning permission for a single rural house or built a house (except in exceptional circumstances) in the area concerned and has a need for a dwelling for their own permanent occupation. In addition the applicants will also have to demonstrate their rural links as outlined above.*

7.2.9. As noted above, the applicant has already received planning permission for a dwelling house which has been built (PL Ref .97/343. A further bungalow structure was also built, although this appears to have only been used as overflow accommodation for the yoga centre.

7.2.10. I do not see how exceptional circumstances can be used to justify a further dwelling on this site, given the applicant has permission for a standalone yoga centre with the opportunity to revert back to residing in the main dwelling house (Ref 09/1339). This permission has been extended until 30<sup>th</sup> October 2019 (Ref 14/972). While the applicant has stated that this permission is not implementable due to flooding issues, I do not consider that the approach now taken is suitable for the site i.e. that of constructing a further dwelling on site in order to continue running the business from the existing two dwellings.

7.2.11. I note the provisions of Objective EDT 20 – Rural Business which state that *bone fide* applicants who are not considered eligible under the Rural Housing Categories in Chapter 3 may be considered as qualifying to build a permanent home in the rural areas, which are not subject to strong urban influence, subject to being able to satisfy the Planning Authority that they operate an existing established full time business which they now propose to operate from their proposed home in a rural area, as part of their planning application, in order, for example, to discourage commuting to towns or cities.

- 7.2.12. The area is identified as being a Rural Area under Strong Urban Pressure, as noted above, and as such I do not consider that the provisions of Objective EDT 20 apply in this instance.
- 7.2.13. In relation to the previous permissions for a change of use of the existing dwelling to a yoga centre (PL Refs 16/396 & 17/158), in allowing this change of use it has now led to a further need for a dwelling house on the site. However I do not consider this of itself is sufficient justification for an additional structure on this site.
- 7.2.14. In conclusion it is my view that the applicant does not comply with Objective RH0 3 of the County Development Plan, and a further dwelling on site is not acceptable in principle.

### **7.3. Design and Visual Amenity/Impact on Landscape**

- 7.3.1. The second reason for refusal refers to the adverse impact on the landscape, impact on amenities and overdevelopment of the site, as a result of the design, excessive height, mass, materials and bulk, taken in conjunction with the permitted large scale yoga centre on site and other existing structures on site.
- 7.3.2. The appellant argues that this reason for refusal is based on a flawed Landscape Character Assessment which does not reflect the reality of the surrounding landscape of the appeal site, and further argues that the topography of the site, the screening surrounding the site, and the lack of visibility of the site, allows for a dwelling with little resultant visual impact. The applicant has also submitted a video file which shows the surrounding landscape and I have had regard to same.
- 7.3.3. In relation to the Landscape Character Assessment (LCA), which is an appendix to the current County Development Plan, I do note that there is conflicting information between the written text in the LCA and the mapping data included in the Development Plan. In describing the Lower Burren Landscape Character Area, the LCA notes that the western section of this area is designated Landscape Sensitivity Class 4 'Special'. However, referring to Map LCM 2 of the Development Plan, the Lower Burren area is made up of areas of Landscape Sensitivity 5 'Unique' to the west, with the eastern half mostly comprising of Class 3 areas 'Medium' with a small area comprising Class 4 'Special' to the east.
- 7.3.4. Furthermore, it is unclear from Map LCM 1 in the Development Plan, if the site does in fact, lie within the area designated as Landscape Value 'Outstanding', as stated



within the report of the planning officer, and it potentially lies within an area of Landscape Value 'Medium'.

- 7.3.5. In any case, notwithstanding the above, the appeal site does lie either in, or in close proximity to, a landscape that is designated 'Outstanding', and from my site visit, the appeal site can be viewed within the setting of such landscape. As such I consider it reasonable to consider the proposal in the context of a sensitive, high value landscape.
- 7.3.6. From my observations on site I note that, while the site benefits from some screening as a result of the topography and planting bordering the site, there will be visibility towards the new dwelling from the public road, albeit from a limited stretch of road. However, I note that the existing structures on site are visible from this viewpoint and the large two storey structure proposed, which will be the largest structure on the site, will in my view result in an adverse visual impact, especially having regard to the sensitivity of the landscape. I note that there are extant permissions on the site also which will allow for further structures on the site, should the applicant proceed with these permissions. I concur with the planning authority's view that the proposed structure, in conjunction with the other extant permissions on site, would constitute overdevelopment of a rural site that lies within a sensitive landscape.

#### **7.4. Water Supply/Waste Water**

- 7.4.1. In relation to water supply, I note that the water supply is stated as an existing connection to a bored well. Test results for this have been included with the planning application details.
- 7.4.2. In relation to waste water, the applicant proposes to utilise the permitted wastewater treatment system proposed under Refs 16/396 and 17/158. No objections were raised by the Council's Environment Section in relation to same.
- 7.4.3. Details of the proposed waste water treatment as submitted under 16/396 are included on the file. The system is designed to cater for 26 people. The cover letter associated with same notes that the site has extensive outcropping of limestone rock, with a shallow overburden of light loam topsoil, offering only a limited protection to the underlying water table. The proposed system utilises a primary, secondary and tertiary treatment including the construction of an additional soil polishing filter

20m X 10m X 1m deep. The effluent from the treatment plant will flow by gravity onto the soil polishing filter.

7.4.4. I note the contents of the EPA Guidance on Wastewater Treatment systems for small communities, business and leisure centres and hotels which relates to small wastewater treatment systems (i.e for population equivalents between 10-500). This documents notes that for small treatment systems where the disposal of treated wastewater to groundwater is being considered, the manual on treatment single houses is of particular relevance also, and as such regard is had also to the contents of this document.

7.4.5. The GSI Groundwater maps show that the site is located within an area with an Aquifer Category of 'Regionally Important' with an vulnerability classification of 'Extreme' (E), representing a GWPR response of R2<sup>2</sup> under the EPA Code of Practice for single houses. According to the response matrix, on-site treatment systems are acceptable in such areas subject to normal good practice and the following condition.

1. There is a minimum thickness of 2 m unsaturated soil/subsoil beneath the invert of the percolation trench of a septic tank system

or

1. A secondary treatment system as described in Sections 8 and 9 is installed, with a minimum thickness of 0.3 m unsaturated soil/subsoil with P/T values from 3 to 75 (in addition to the polishing filter which should be a minimum depth of 0.9 m), beneath the invert of the polishing filter (i.e. 1.2 m in total for a soil polishing filter).

7.4.6. The trial hole was excavated to a depth of 0.4m and bedrock is stated as being encountered at this depth. The trail hole reported the presence of medium silty loam topsoil.

7.4.7. Under Part C.2.3 of the EPA Code of Practice: Waste Water Treatment and Disposal Systems serving Single Houses (p.e. <10) (CoP), there is a requirement that the standard 'T' test be carried out on all sites irrespective of a P Test. I note that based on the Trial Hole examination, the applicant states that a T value of 10 is likely. While such a T value would indicate the soil is suitable for standard percolation, subsequently no 'T' Test (or modified 'T' Test) was carried out so this result was not

verified on site. However the shallow bedrock is likely to have prevented the carrying out of the T test.

- 7.4.8. The Code of Practice notes that if a T-test is in excess of 90 then, irrespective of the P-test result, the site is unsuitable for discharge of treated effluent to ground as it will ultimately result in ponding due to the impervious nature of the underlying subsoil (or bedrock). However I note the soil type is shallow and free draining so such a high T value would not be found.
- 7.4.9. In addition to a 'T' test or modified 'T' test, a P test can be carried out at ground level where there are limiting factors including high water table or shallow bedrock or where the T result is outside of an acceptable range (> 75 and < 90 for a secondary treatment unit).
- 7.4.10. The 'P' Test revealed a 'P' value of 14.31. This indicates that the site may be suitable for a secondary treatment system with a polishing filter at ground surface or overground subject to the condition noted above - thickness of 0.3 m unsaturated soil/subsoil with in addition to the polishing filter which should be a minimum depth of 0.9 m), beneath the invert of the polishing filter (i.e. 1.2 m in total for a soil polishing filter).
- 7.4.11. I note the contents of Sections 4 and Section 5 of the Site Characterisation Form (SCF) which note that the site is suitable for a packaged wastewater treatment system and polishing filter, discharging to groundwater. The recommended system is as same with the Trench Invert level at 1m, with the soil polishing filter as noted above (20m X 10m x 1m deep, constructed over existing ground level with gravity flow).
- 7.4.12. I note the planning authority has previously accepted the suitability of this proposal, to serve a person equivalent of 26, subject to conditions that the invert level of the trench of the proposed percolation area is 1.2m above the flood level as outlined in the flood risk assessment submitted with the application (Condition 10 of 16/396) and subject to details of the existing puraflo treatment plant to be submitted as well as details of the proposed upgrade works to the wastewater treatment system to be submitted.
- 7.4.13. I am concerned in relation to the recommendation made in the SCF for a packaged wastewater treatment system and polishing filter, discharging to groundwater and the

proposals as detailed in the site layout plan which indicates a proposed new septic tank and a proposed percolation area. There does not appear to be details on file in relation to the treatment system as recommended in the report, included a cross section showing required invert levels and soil depths. It is unfortunate that no details of same were submitted with the application or the appeal, and in my view it is not possible to adequately assess wastewater proposals for the new dwelling as part of this appeal. This is a **New Issue**. Should the Board concur that wastewater is a concern and also that it is a new issue, cross-circulation may be warranted.

## 7.5. Flood Risk

- 7.5.1. I have had regard to the OPW's Preliminary Flood Risk Assessment (PFRA) Mapping data ([www.cfram.ie](http://www.cfram.ie)) which indicates that part of the site lies within an indicative Pluvial Flooding 1% AEP (100 Yr) Event.
- 7.5.2. A site specific Flood Risk Assessment was submitted as unsolicited further information. This notes that the source of flood risk to the site is from combined groundwater and pluvial flooding and states that the site lies within flood zone 3. Evidence from the last extreme rainfall event in November 2009 indicates that the maximum flood level did not exceed 14.06OD. The finished floor level of the dwelling will be 16.58m OD.
- 7.5.3. It is also stated within the FRA that the development will not result in any significant loss of floodplain area or flood storage nor will the proposed development impact on access to a watercourse, floodplain or flood protection and management facilities
- 7.5.4. I am satisfied, having regard to the detailed site specific flood risk assessment, in particular the proposed finished floor levels, that the proposal is acceptable, having regard to flood risk issues.

## 7.6. Appropriate Assessment

- 7.6.1. An AA Screening Report was submitted as unsolicited additional information to the planning authority. This concludes that no significant impacts result from the project.
- 7.6.2. There are 28 no. Natura 2000 sites within 15km of the appeal site and these are listed below:

<b>SITECODE</b>	<b>SITE_NAME</b>	<b>Distance to appeal site</b>
1926	East Burren Complex SAC	0.32
238	Caherglassaun Turlough SAC	3.35
252	Coole-Garryland Complex SAC	5.1
4107	Coole-Garryland SPA	5.1
2294	Cahermore Turlough SAC	5.78
268	Galway Bay Complex SAC	5.83
4031	Inner Galway Bay SPA	6.7
1321	Termon Lough SAC	7.27
54	Moneen Mountain SAC	8.16
286	Kiltartan Cave (Coole) SAC	8.78
606	Lough Fingall Complex SAC	9.41
2295	Ballinduff Turlough SAC	9.44
2244	Ardrahan Grassland SAC	10.1
2293	Carrowbaun, Newhall and Ballylee Turloughs SAC	10.99
299	Lough Cutra SAC	11.17
1285	Kiltiernan Turlough SAC	11.49
19	Ballyogan Lough SAC	11.86
4056	Lough Cutra SPA	11.9
2117	Lough Coy SAC	12.14
57	Moyree River System SAC	12.44
4220	Corofin Wetlands SPA	13
2317	Cregg House Stables, Crusheen SAC	13.22
242	Castletaylor Complex SAC	13.3

318	Peterswell Turlough SAC	13.69
4168	Slieve Aughty Mountains SPA	13.7
996	Ballyvaughan Turlough SAC	13.71
20	Black Head-Poulsallagh Complex SAC	14.45
32	Dromore Woods And Loughs SAC	14.6

7.6.6. With the exception of East Burren Complex SAC, I am satisfied that the remainder can be 'screened out' on the basis that significant impacts on these European sites could be ruled out as a result of distance from the appeal site.

7.6.7. The closest designated European Site is East Burren Complex SAC (site code 000196), the closest boundary of which is located approximately 320m west of the appeal site.

7.6.8. There is direct source pathways to the European Site identified above due to potential groundwater contamination. I note that East Burren Complex SAC shares the same aquifer as the proposed development, and this aquifer is identified as having an 'Extreme' vulnerability rating and is of Regional Importance.

7.6.9. In relation to the East Burren Complex SAC, the site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive

- [3140] Hard Water Lakes
- [3180] Turloughs\*
- [3260] Floating River Vegetation
- [4060] Alpine and Subalpine Heaths
- [5130] Juniper Scrub
- [6130] Calaminarian Grassland
- [6210] Orchid-rich Calcareous Grassland\*
- [6510] Lowland Hay Meadows
- [7210] Cladium Fens\*

[7220] Petrifying Springs\*

[7230] Alkaline Fens

[8240] Limestone Pavement\*

[8310] Caves

[91E0] Alluvial Forests\*

[1065] Marsh Fritillary (*Euphydryas aurinia*)

[1303] Lesser Horseshoe Bat (*Rhinolophus hipposideros*)

[1355] Otter (*Lutra lutra*)

7.6.10. The proposal has potential for direct impacts on the above European Site as a result of foul effluent discharge during the ongoing use of the house. I note the concerns raised in my assessment regarding the lack of information submitted with the appeal file in relation to wastewater issues. Due to the hydrological links identified above (ground water), I cannot reasonably rule out that there would not be significant effects, either individually or in combination with other plans or projects, on these Europeans sites on the basis of the scientific information available.

7.6.11. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the East Burren Complex SAC (Site Code No. 001926). In such circumstances, the Board is precluded from granting approval/permission.

7.6.12. However, as noted above, the issue of wastewater proposals and the subsequent potential impact on groundwater, is in my view a New Issue. Should the Board concur, cross-circulation to relevant parties may be warranted.

## 8.0 Recommendation

8.1. I recommend that permission be refused for the reasons as set out below.

## 9.0 Reasons and Considerations

1. Having regard to the location of the site in an area where housing is restricted to persons demonstrating local need in accordance with the current Galway County Development Plan, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The site of the proposed development is located in an area where the landscape is sensitive and of a high value rating, as set out in the current Development Plan for the area, where emphasis is placed on the importance of designing with the landscape and of siting of development to minimise visual intrusion as set out in the current Galway County Council Rural House Design Guidelines, which Guidelines are considered to be reasonable. Having regard to the together with its excessive height and scale, and inappropriate design, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape, would militate against the preservation of the rural environment and would set an undesirable precedent for other such development in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Rónán O'Connor  
Planning Inspector



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19<sup>th</sup> February 2018