



An
Bord
Pleanála

Inspector's Report ABP-300499-17

Development	Proposed Place of Worship
Location	Mincloon, Ragoon, Galway City, County Galway
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	17/50
Applicant(s)	Western Islamic Cultural Centre
Type of Application	Retention Permission and Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Western Islamic Cultural Centre
Observer(s)	Pat Corless
Date of Site Inspection	10/05/2018
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1.1. The subject site is located on the northern side of the Letteragh Road, west of the junction with the Clybaun Road. This rural area is characterised by one-off dwellings in a ribbon pattern.
- 1.1.2. The entrance to the subject site is located approx. 70m from the junction. At this location the Letteragh Road has a width of approx. 3.5m. It serves the existing dwelling and an adjoining dwelling to the immediate west. Visibility to the east is restricted by the vertical alignment of the road.
- 1.1.3. On the subject site is a detached bungalow with accommodation at basement level. The dwelling is laid out as a place of worship at ground level with residential accommodation at basement level. Access to the basement is via two external stairs, one of which has a glazed enclosure.

2.0 Proposed Development

- 2.1. On the 2nd March 2017, permission was sought to retain the ancillary use of a permitted dwelling house (280sq.m.) for use as a place of worship by the Muslim Community and permission for the construction of a porch (18sq.m) and the delineation of car parking spaces in the grounds of the property (0.3775ha).
- 2.2. The application was accompanied by a Planning Report which states that the application arose from an enforcement notice which refers to non-compliance with condition no. 2 of Planning Authority reg. ref. 08/723. Condition no. 2 requires that the permitted dwelling not be used as a place of worship.

3.0 Planning Authority Decision

3.1. Planning Authority Reports

- 3.1.1. **Environment** Section: Two standard conditions to be attached.
- 3.1.2. **HSE**: No public health observations.
- 3.1.3. **Drainage** Section: No objection subject to condition.
- 3.1.4. **Environment and Climate Change**: Site suitability assessment should be submitted.

- 3.1.5. **Transportation:** Comments of the Roads section under the previous application 10/209 are applicable: “concerns regarding group use at this location, 70m from junction of Letteragh and Clybaun Roads. Clybaun Road at 3.5m wide is insufficient to allow two vehicles to pass. No footpaths or street lighting in the area. Letteragh Road is deficient in alignment, insufficient capacity on the road network to cater for 200 people. Development plan requires 22 no. car parking spaces. Insufficient car parking on site. Boundary set back was for road realignment not car parking. Proposed development would create a traffic hazard. Refusal recommended.” Current application is inconsistent with permission, development is premature having regard to road and transport infrastructure required. Application is defective in terms of delineation of car parking spaces, compliance with DMURS, lack of a transport assessment and RSA. Refusal recommended.
- 3.1.6. **Building Control Officer:** Ceiling height in basement is 2315mm, inner bedroom should have a means of escape, fire safety certification and disability access certificate will be required.
- 3.1.7. **Galway Fire Services:** No Objection. Fire Safety Cert required.
- 3.1.8. **Planning Report:** Basement area in use as a residence does not comply with building or fire regulations in terms of ceiling heights and means of access. Separation of uses within the building not clear, proposed place of worship appears to be the primary use. Proximity of the site to the NHA requires an environmental assessment. Insufficient information on nature and extent of uses provided – leads to concerns over parking and impacts on pedestrian and traffic safety. Effluent - site is suitable for a single domestic dwelling only. Recommend refusal of permission.
- 3.1.9. **Direction of SEP:** Further information to be sought on 7 no. items.

3.2. **Prescribed Bodies**

- 3.2.1. DAU: lands are located within the Moycullen Bogs NHA (site code 002364), a legally protected site under the Wildlife (Amendment) Act 2000, designated in 2005. None of the applications in the planning history on the site were referred to the DAU. Should permission be granted, three conditions are recommended

3.3. **Third Party Observations**

3.4. A number of objections to the proposed development referred to traffic issues, parking, noise, non compliance with planning conditions, impact on the adjoining NHA.

3.5. **Request for Further Information**

3.5.1. On the 25th April 2017, the applicant was requested to provide the following details:

- 1 floor plan indicating the use of each area,
- 2 days, times of numbers of public assembly,
- 3 report demonstrating compliance of basement with building and fire safety regulations,
- 4 site suitability assessment
- 5 Traffic Impact Assessment
- 6 Comment on extent of development occurring in a rural area
- 7 Details of any voice amplification systems

3.6. **Response to Request for Further Information**

3.6.1. The applicant responded to the request for further information as follows:

1. Drawing R1305-03revA showing the use of each room
2. Principal congregations do not occur at the subject site. Subject site is principally the residence of the Imam. Gatherings occur at prayer times with social calls at other times. At sunset visitors do not exceed 10no. Three or four times a year 50 no. gather for prayer or celebration. Family parties occur once or twice a year.
3. Report on Fire Safety and Compliance with building regulations.
4. Assessment of existing treatment system stating system is adequately sized.
5. Traffic Impact Assessment. Applicant is willing to purchase lands adjoining the junction to enable the Council to widen the junction.

6. Within the area of the subject site there are several businesses, a GAA club, a soccer club, dog day care and a Pilates studio. Traffic on the road is avoiding the more congested main roads.

7. No internal or external voice amplification systems will be used.

3.6.2. The applicant was advised that the further information submitted was considered significant and that new public notices were required.

3.7. **Reports on File following submission of FI.**

3.7.1. **Environment & Climate Change:** Proposed development is for change of use from a private dwelling to include a communal meeting place (place of worship). Site suitability assessment must comply with EPA Waste Water Treatment Manual Treatment Systems for small communities, business, leisure centres and hotels. Existing effluent treatment system does not comply with the minimum separation distances of this manual. If the system is relocated a new site assessment will be required.

3.7.2. **Building Control:** No objections. Fire safety

3.7.3. **Roads dept.:** Development is inextricably linked to pl.ref.no. 10/209. Comments from that file are applicable: Roads section has serious concerns regarding public assembly at this location. Site is 70m from the junction, road is 3.5m in width which is insufficient to allow two vehicles to pass. No footpaths or street lighting. Road is deficient in alignment and there is insufficient capacity on the road network to cater for a development involving c.200 people. 22 no. car parking spaces required. Refusal recommended.

3.7.4. **Planning report:** Communal activities account for 76% of the total floor area and therefore is the predominate rather than ancillary use. Basement which accommodates the residential use is not compliant with building and fire regulations, although development to rectify this is proposed. Lack of glazing in basement creates an unacceptable living environment. Basement is contrary to section 11.3.1(e) of the development plan. Section 11.2.4 of the development plan provides for a specific objective "G zoned lands at Mincloon (0.38ha): The Council will consider the use of the dwelling house permitted under Pl.ref.No. 10/276 as a place of congregation and worship by the Muslim Community". This objective relates to the part conversion of the residential unit. Proposed area accounts for 76% and is not

considered an ancillary use. Proposed development to be retained should be refused.

3.8. Decision

3.8.1. On the 24th November 2017 the Planning Authority issued a notification of intention to REFUSE permission for the following reasons:

- 1 The application for the retention of the ancillary use of a permitted dwelling as a place of worship, located in an unserviced rural area, positioned within an NHA, in close proximity to the Barna Stream, has failed to demonstrate the suitability of the site for the treatment and disposal of effluent in accordance with the requirements of the EPA Waste Water Treatment Manual on Treatment Systems for small communities, business, leisure and hotels. The proposed development if permitted, would therefore be likely to create conditions prejudicial to public health and would be contrary to the proper planning and development of the area.
- 2 The retention of the ancillary use of a permitted dwelling as a place of worship, in an area zoned 'G' Agricultural / High Amenity, due to the extent of the building used for such activities and the limited proportion of the building used for residential purposes, and by such other factors as level of visitor throughput, noise generated by the activities, traffic and the variable hours of such activities, associated traffic movements and parking, in combination would adversely impact upon the high quality rural amenities enjoyed in this location, while adversely impacting upon the residential amenities enjoyed by rural dwellings in the vicinity of this site and would therefore be contrary to the proper planning and sustainable development of the area.
- 3 The retention of the use of the basement as habitable living accommodation, notwithstanding proposals to render it compliant with the Building or Fire Regulation requirements, is a substandard form of development, as the living room has no direct lighting, while all windows are positioned below ground level with limited daylight available. Therefore the use of the basement would contravene section 11.3.1 (e) of the Galway City Development Plan 2017-2023, which requires that "all buildings should

receive adequate daylight and sunlight. All habitable rooms must be naturally ventilated and lit and living rooms and bedrooms shall not be lit solely by roof lights”, and the lack of glazing and direct sunlight due to the subterranean nature of the basement would permit an unacceptable living environment which would adversely impact upon the residential amenities of residents occupying the unit and would establish substandard unacceptable precedent for similar.

- 4 The retention of the ancillary use of a permitted dwelling as a place of worship, due to the deficient width and alignment of the Letteragh Road, the inadequacy of the capacity of the adjacent public road network to cater for likely traffic generated by such a development and the limited amount of dedicated on-site car parking space which would be likely to result in a demand for on-road car parking would, if permitted, impact adversely upon traffic and pedestrian safety in the area and thereby result in serious traffic hazard.

4.0 Planning History

- 4.1.1. Planning Authority reg. ref. **08/723**: Planning permission granted to Dr Saud Bajwa to demolish existing house, construct new house and detached garage, and construct new sewage treatment system to replace existing septic tank.
- 4.1.2. Planning Authority reg. ref. **10/209**: Permission refused for retention of semi-basement, elevational changes, including entrance canopy and to retain and complete conversion of garage to granny flat at approved house (pl. ref. 08/723)
- 4.1.3. Planning Authority reg. ref. **10/276**: Permission granted to retain for semi-basement, elevational alterations to house, raised entrance canopy, elevational alterations to garage, treatment system in altered position, and for permission for an extension to side of dwelling to bring external stair internal, all at approved house PI. Ref. No. 08/723 to be used as a single residential unit.

5.0 Policy Context

5.1. Galway City Development Plan 2017-2023

- 5.1.1. The subject site is located on the western boundary of Galway City administrative lands. The area is zoned 'G' which has the stated objective “to provide for the

development of agriculture and protect areas of visual importance and / or high amenity". Use as a place of public worship is not listed as a use that is compatible with or would contribute to the zoning objective.

- 5.1.2. Of relevance to the subject appeal however is Section 11.2.4 of the plan which states "Agricultural Areas G land Use Zoning Objective: G zoned lands at Mincloon (0.38 hectares): The Council will consider the use of the dwelling house permitted under Planning Reference Number 10/276 as a place of congregation and worship by the Muslim community."

5.2. **Natural Heritage Designations**

- 5.2.1. The subject site is located in the Moycullen Bogs NHA, 1.7km from the Lough Corrib SPA and Lough Corrib SAC and 3.1km from the Galway Bay Complex SAC.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- 6.1.1. An agent on behalf of the first party has submitted an appeal against the decision of the Planning Authority to refuse permission. The grounds of the appeal can be summarised as follows:

Reason no. 1:

- Submission of FI demonstrated compliance with the EPA CoP 2009 and EPA 2000 Wastewater Treatment and Disposal Systems for Single houses. The report confirmed that the "final disposal system is more than adequate to cater for the house residents and any visiting worshippers"
- A small number of visitors will intermittently call to the dwelling house socially throughout the day and for evening prayer. Three or four times a year 40-50 people will visit the dwelling. This is not unlike any other dwelling house holding a party or celebration.

Reason no. 2

- The dwelling site is subject to a site specific objective in the development plan: section 11.2.4 G zoned lands at Mincloon (0.38 hectares): The Council will consider the use of the dwelling house permitted under Planning Reference Number 10/276 as a place of congregation and worship by the Muslim

community). In principle the proposed use is in accordance with the development plan.

- The ancillary use of the site as a place of congregation and worship is in accordance with Policy 7.4 Inclusive City and Policy 7.4.1 Community Facilities, in relation to facilitating the provision of a range of community services and places of worship.
- The proposed development is to retain the ancillary use of the dwelling as a place of worship. As in Catholic priests houses, informal visits from the Muslim community are standard practice. The Imams home is not used as a formal venue. These occur in the Westside Community Centre, the Kingfisher at NUIG and the Mosque in Riverside.
- Visitation is a regular occurrence in the Muslim Community. The Imam's role includes parish counselling and planning the welfare of the community.
- At sunset during the week visitors do not exceed 10 people.
- Thursday sees the greatest number of visitors (10-15) in preparation for Friday Congregation in Westside.
- Three or four times a year, numbers are approx. 40-50 gathered for prayer. These rare occasions cause minimal impact to residential amenity.
- Ramadan runs from late May to late June and involves daily fasting, additional prayer and acts of charity. Two occasions may involve a the Imam hosting a celebration – the end of Ramadan and Eid-Al-Adha. No more than 40-50 visitors will attend.
- The subject property is a large detached house with enclosed garden. The proposed activities are conducted indoors and will not generate a noise impact. No external or internal noise amplification systems are used.
- The proposed delineation of 16 no. car parking spaces will allow safe and convenient access to the property. The parking provision exceeds the development plan requirement by 6 no. spaces.
- The wider area accommodates an Equestrian Centre, Dog Day Care and Grooming, disused quarry with industrial sheds, Pilates studio, Ragoon /

Newcastle Hurling Club, Drom Soccer Park which has a capacity of 2000 people. The area is a very active community area. A small prayer gathering is considered to be a less intensive use. The Planning reports dismissal of these uses as being in Galway County Council is immaterial as they exist and must be taken into consideration.

Reason no. 3

- Works are proposed to the semi-basement living accommodation (Drawing no. R-305-03A submitted as further information) will bring the area into compliance with fire safety and building regulations. The Building Control section of the Planning Authority have no objection to the proposal.
- The area to the right of the entrance forms part of the residential accommodation (drawing no. R-305-03A). This study will be used by the Imam for private counselling.
- The entire house is used by the Imam and his family the majority of the time.

Reason no. 4

The Board will note that sections 1.1 and 4.4 of the appeal refer to a reason for refusal no. 4 that does not match the decision of the Planning Authority. The correct decision is included in Appendix A of the appeal.

- A Traffic Impact Assessment was submitted as further information. Survey information was at the site access and the Letteragh Road / Clybaun Road junction. Peak traffic to the site occurred at 19.30-20.30. The impact of the proposed development was found to be minimal.
- One collision at the junction has been recorded. The appellant acknowledges that other parties to the appeal indicate that other collisions have occurred.
- Traffic levels in the area are expected to reduce when the N6 Galway City Transport Project proceeds. The traffic assessment has taken consideration of existing levels however.
- The applicant is willing to improve the junction in conjunction with Galway City Council. The Western Islamic Centre have purchased lands adjoining the appeal

site. Drawing no. R-1305-05 indicates likely improvement to sightlines and the junction.

- The appellant refutes the Planning Authority's assessment that on-street car parking will arise.

Conclusion

- The Board is requested to grant permission.

6.2. Planning Authority Response

6.2.1. None on file.

6.3. Observations

6.3.1. Pat Corless:

- The premises has been used as a place of worship at various times of the day despite an enforcement notice. This causes noise and traffic problems.
- There were in excess of 40/50 cars parked on the grounds on the adjoining property. This area has been returned to grass but cars are still being parked.
- During Ramadan the main time for meeting is at sunset. These meetings attract a large attendance.
- There are no footpaths, public lighting or public transport in the area. The rural roads are narrow and dangerous. A fatal accident occurred in August 2016, 20m from the subject site. Several major accidents occur.
- The observers property backs on to the subject site and the land recently purchased by the applicant. This quiet peaceful area has seen increased traffic and noise pollution.

7.0 Assessment

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. I have assessed the proposed development including the various submissions on file. I am satisfied that the issues raised are as follows:

- Principle of development

- Nature and Extent of Development
- Traffic
- Waste Water Disposal
- Residential Amenity
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The subject site is located in an agriculturally zoned area. As noted above, the development plan contains a specific objective (section 11.2.4) that states that the Council will consider the use of the existing dwelling as a place of congregation and worship by the Muslim Community.
- 7.2.2. I note that the Planning Authority's planning report states that this objective refers to the use of 'part of the house'. I do not agree with this statement, the objective includes no restriction on extent. The applicant has stated that this objective provides that the principle of the development is acceptable and that assessment of the proposal must proceed on that basis.
- 7.2.3. The provision of such a site-specific objective in the development plan does not bind the Planning Authority or the Board. The objective requires only that the Council will consider such a use. The assessment undertaken by the Planning Authority and by the Board at appeal stage is such a consideration and fulfils the requirement of section 11.2.4.
- 7.2.4. One must accept however, that in providing such an objective in the development plan, that the Council was prepared to favourably consider such a proposal. I note the appellant's reference to the policies of inclusion and (policy 7.4) and community facilities (policy 7.4.1) and I concur that the proposed development is a welcome move towards including a new community use. Such compliance must be balanced however against normal planning considerations such as traffic, safe disposal of waste water and the impact of the proposed development on the residents of the existing dwelling and the wider rural area. These are discussed in greater detail below.

7.3. Nature and Extent of development

- 7.3.1. A key issue in the principle of the proposed development is the scale and extent of the proposed development. The first issue is the proposed use which is “the retention of *the ancillary use* of the dwelling house as a place of worship”. The applicant makes the case that the primary use of the dwelling is a residence and that only the ground floor rooms are available for use as a place of worship. The Planning Authority considered the entire ground floor to be non-residential use and at 76% of the overall floor area, they stated that this could not be considered to be an ancillary use. In their appeal the appellant states that drawing no. R-305-03A shows that the room on the left of the porch to be retained is for public worship and the rooms on the left are for use as a private visiting space. I consider the issue of the division of the floorspace between the two uses is closely linked to the scale and frequency of activity that occurs at the property.
- 7.3.2. The applicant’s agent in their appeal, makes reference to three different forms of activity at the dwelling – daily visits at sunset, larger gatherings at certain occasions and informal private meetings with the Imam. The appellant states that the larger gatherings of 40-50 people occurring three to four times a year are no different to a house party and that the informal private meetings with the Imam are similar to those occurring at Catholic clergy dwellings. With regard to the daily visits, the appeal states that they generally do not exceed 10, they are larger on a Thursday when they number 10-15 visitors. I note that section 4.2.1 of the appeal states that the dwelling is not used as a place of regular gathering but somewhat contradictorily later asserts that meetings occur most weekday evenings.
- 7.3.3. It is likely that the smaller gatherings of 10 people at sunset meetings occur within the designated room to the left of the porch to be retained. The larger gatherings would require the use of the entire ground floor however. I do not accept that such a gathering three or four times a year is akin to “any other dwelling house which may occasionally host a party or a celebration”. It would be considered extremely unusual for a party of that scale to occur three or four times every year in a standard dwelling house.
- 7.3.4. While the smaller gatherings and private meetings could be accommodated without impacting the extent of the dwelling to remain primarily a home, it is considered the frequency of these gatherings changes the nature of the impact of the use. A daily

gathering at sunset of up to ten people cannot be considered to be informal or an irregular occurrence. I note that the only sanitary facilities available to these daily guests are to the rear of the room of the left of the porch. The appellant states that this is a residential room that is occasionally used for private meetings. The residential use of this room would be significantly compromised by the use of the toilet facilities by up to 10 no. guests every evening. The room would not be available for family use when private meetings with the Imam were taking place.

- 7.3.5. It is considered that it has not been demonstrated that the primary use of the dwelling is as a residence, with the ancillary use being as a place of worship. It is considered that the scale and extent of worship uses is such that it may undermine the primary use of the property as a family home.

7.4. Traffic

- 7.4.1. A traffic impact assessment was submitted to the Planning Authority in response to the request for further information. The TIA states that a manual count was undertaken on the 14th September 2017 between 15.00 and 20.30 and that peak arrivals at the subject site occurred between 19.30 and 20.30.
- 7.4.2. The report notes that traffic on the road network will decrease with the proposed N6 improvements. The conclusion of the report is that the Letteragh Road is forecast to operate with a 97.8% spare capacity and therefore the proposed retention does not significantly impact on the capacity of the road. The Clybaun road has a spare capacity of 53.92%.
- 7.4.3. The report does not address the alignment of the road. It is noted that on the subject day 11 no. arrivals were recorded (section 3.1). Even if each car arriving had only one occupant – which is unlikely - this does not correlate with the maximum figure of 10 no. guests stated by the appellant.

7.5. Waste Water Disposal

- 7.5.1. In their response to the Planning Authority's request for further information, the applicant submitted evidence that the existing waste water treatment system complies with the EPA code of practice for single dwellings.
- 7.5.2. In section 4.1.1 of the appeal the applicant states that "a small number of visitors will intermittently call to the dwelling house socially throughout the day and for evening

prayer". As noted above however, this statement appears to contradict the statement in section 4.2.1 where visits are described as a regular occurrence, on a daily basis.

7.5.3. The number of visitors is stated to be 10 no. or less daily, 10-15 no. on a Thursday and up to 50 no. three or four times a year. The applicant, in his response to the Planning Authority provided a report dated July 3rd 2017 that confirmed that the WWTS on site is designed for a PE of 8 no. A daily group of up to ten people in addition to the Imam and his family would require compliance with the EPA Waste Water Treatment Manual for small communities, business, leisure centres and hotels rather than the CoP for single houses. The events occurring three or four times a year involving up to 50 no. people would certainly require compliance with the small communities manual.

7.5.4. The subject site is located in the Moycullen Bogs NHA. The conservation objective for the site is to maintain and conserve the blanket bog, recognising the importance of the hydrological links between the bogs and its surrounds. Given the proximity of the subject site to a water body to the north, the suitability of the site for the disposal of likely volume of waste water which would be generated has not been demonstrated.

7.6. Residential Amenity

7.6.1. The proposed development to be retained confines the residential element of the site to the semi-basement level every evening. I note the proposed amendments to ensure compliance with fire and safety regulations and the acceptance of same by the Building Control section of the City Council.

7.6.2. It is considered that the absence of natural light to the basement living room and restricted natural light in the kitchen provides an unacceptable level of residential amenity to the residents of the dwelling.

7.7. Appropriate Assessment

7.7.1. The subject site is 3.1km north of and linked to the Galway Bay Complex SAC (000268) by the Barna Stream which runs through the site and runs south. According to the NPWS, the SAC comprises the inner, shallow part of a large bay which is partially sheltered by the Aran Islands. The Burren karstic limestone fringes the southern sides and extends into the sublittoral. West of Galway city the bedrock geology is granite. There are numerous shallow and intertidal inlets on the eastern

and southern sides, notably Muckinish, Aughinish and Kinvarra Bays. A diverse range of marine, coastal and terrestrial habitats, including several listed on Annex I of the E.U. Habitats Directive, occur within the site, making the area of high scientific importance. 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:

- [1140] Tidal Mudflats and Sandflats
- [1150] Coastal Lagoons*
- [1160] Large Shallow Inlets and Bays
- [1170] Reefs
- [1220] Perennial Vegetation of Stony Banks
- [1230] Vegetated sea cliffs of the Atlantic and Baltic coasts
- [1310] Salicornia Mud
- [1330] Atlantic Salt Meadows
- [1410] Mediterranean Salt Meadows
- [3180] Turloughs*
- [5130] Juniper Scrub
- [6210] Orchid-rich Calcareous Grassland*
- [7210] Cladium Fens*
- [7230] Alkaline Fens
- [8240] Limestone Pavement*
- [1355] Otter (*Lutra lutra*)
- [1365] Common (Harbour) Seal (*Phoca vitulina*)

7.7.2. There are site specific conservation objectives for each of the qualifying interests of the SAC. A site-specific conservation objective aims to define favourable conservation condition for a particular habitat or species at that site. The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level. Favourable conservation status of a habitat is achieved when:

- its natural range, and area it covers within that range, are stable or increasing,
- the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future,
- the conservation status of its typical species is favourable.

The favourable conservation status of a species is achieved when population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

- 7.7.3. The Barna Stream has an “unassigned” waterbody WFD Status but is located within Zone 4A (Very high risk, non sensitive area) Domestic Waste Water Risk Categories EPA classification. The source – pathway – receptor that can be identified is that of surface and / or foul water from the subject site entering the Barna Stream and ultimately into Galway Bay. Given the nature of the designated site, many of the conservation objectives relate to water quality. Having regard to the precautionary principle, it is considered that the possibility of effects on the conservation objectives of the Galway Bay Complex SAC cannot be reasonably excluded. In the case of reasonable doubt / uncertainty as to the absence of significant effects a Stage 2 AA must be carried out. Such an assessment has not been undertaken for the proposed development.
- 7.7.4. I note that while the Planning Authority noted a requirement for an ‘environmental assessment’ on the effects of the proposed development on the NHA, an AA screening was not undertaken by the Planning Authority. The Board therefore may wish to consider the matter of Appropriate Assessment to be a ‘new issue’.

8.0 Recommendation

- 8.1. I recommend permission be REFUSED for the following reasons

- 1 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 European site No. 000268 Galway Bay Complex SAC, or any other European site, in view of the site’s Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.

- 2 Due to the scale and extent of use, the proposed development to be retained cannot be considered to be an ancillary use of part of a residential dwelling. It is considered that the frequency of and numbers in attendance at gatherings at the subject property are such that the primary use of as a residential is significantly undermined and compromised. The proposed development is considered to be contrary to the 'G Agriculture' zoning objective of the area which seeks to provide for the development of agriculture and protect areas of visual importance and / or high amenity. The proposed development is considered to be contrary to the proper planning and sustainable development of the area.
- 3 It has not been demonstrated that the proposed development to be retained can satisfactorily dispose of the likely volume of waste water generated. The proximity of the subject site to the water sensitive Moycullen Bogs NHA and the lack of compliance with the EPA Waste Water Treatment Manual for Small Communities, Business, Leisure and Hotels, may create conditions that would be prejudicial to public health. The proposed development is considered to be contrary to the proper planning and sustainable development of the area.
- 4 The proposed semi-basement residential area to be retained provides an unacceptable level of residential amenity, with restricted access to natural light in most rooms and no natural lighting in the living room. The proposed development, if permitted, would create an unsatisfactory residential development that would not be in keeping with the proper planning and sustainable development of the area.
- 5 It has not been demonstrated that the local road network, in terms of alignment and width, can satisfactorily accommodate the extent of traffic generated by the proposed development to be retained. The proposed development is permitted would adversely affect the safe operation of this local rural road and may result in a serious traffic hazard. The proposed development is considered to be contrary to the proper planning and sustainable development of the area.

Gillian Kane
Senior Planning Inspector

27 May 2018