



An
Bord
Pleanála

Inspector's Report ABP 303667-19

Development	Demolition of existing house and out building, construction of five dwellings, domestic sheds and wastewater treatment systems and associated site development works.
Location	Ballynahown, Furbo, Co. Galway.
Planning Authority	Galway County Council
P. A. Reg. Ref.	18/777
Applicant	Louise Massie
Type of Application	Permission.
Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Mark O'Toole and Mary O'Sullivan
Observer	Breda O'Toole
Date of Site Inspection	7 th May 2019
Inspector	Jane Dennehy

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1.0 Site Location and Description

- 1.1. The site has a stated area of 1,010 hectares is rectangular and is located at Ballynahown, Furbo to the south of the R336 the coastal regional route to the west of Galway city. A disused house and outbuildings are located at the northern end of the site overlooking the road frontage. The terrain within the site is very uneven and there is some exposed rock and raised levels over granite and it is over an aquifer of poor vulnerability. The boundaries are denoted by indigenous hedgerows and drystone walls.
- 1.2. The Barr na gCurragh Holiday development is located to the east and south east and road frontage dwellings on individual plots are located to the east, west and north. A small cluster of houses, (Goath na Mara) is a short distance further to the east and was under construction at the time of inspection. Two detached houses on large sites opening on to the R 336 are located to the west side and a dwelling, also facing onto the R336 on elevated land is located to the east side of the existing dwelling on the site.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for demolition of the existing house and outbuildings, and for construction of five detached houses with detached sheds which have to be serviced by individual private waste water treatment systems and polishing filters. The total stated floor area for the five dwellings is 1,138 square metres. The proposed dwellings are two storey and finished in painted render with some rubble stone cladding and dark coloured roof tiles laid out in a cluster, (described as a “clachan” format in the application) along a cul de sac.
- 2.2. A request for additional information was issued on 31st July, 2019 in respect of layout and levels for waste treatment facilities, flood risk assessment, levels and dwelling design and potential for overlooking, lighting footpath construction and storm water drainage arrangements. A response was lodged with the planning authority on 4th March, 2019.

2.3. The documents submitted with the application and the further information submission include initial and revised site characterisation forms, details of soakaway calculations, infiltration test results and revised drainage arrangements, written evidence of consent to connection to the Irish Water infrastructure network, a design statement, traffic and transport statement incorporating a road safety audit, landscaping, lighting, and proposals for management of communal spaces are provided, a linguistic impact statement, a planning statement, flood risk assessment report, an appropriate assessment screening report.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. By order dated, 16th January, 2019, the planning authority decided to grant permission subject to conditions, all of which are of a standard nature. Included is a requirement, under Condition No 15, that twenty percent of the units be restricted for occupation, for a period of fifteen years by person(s) who have demonstrated the ability to preserve and protect the language and culture of the Gaeltacht. A legal agreement, under the provisions of section 47 of the Planning and Development Act, 2000 as amended, with the planning authority is required. Condition No 4 (a) provides for requirements include installation and maintenance of the effluent treatment plants and percolations in accordance with the standards in the Environmental Protection Agency's "*Code of Practice Manual 2009 – Wastewater Treatment and Disposal Systems Servicing Single Houses*". (EPA Code of Practice.) and other standard requirements of a standard nature for these treatment plants and percolation areas.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning officer, having considered the initial application and further information submissions, the recommendations in the technical reports and third-party objections recommended that permission be granted.

3.2.2. Other Technical Reports

Roads and Transportation Division.

The internal technical report the dated 30th July, 2018 indicated recommendations for further information submissions to include evidence of compliance with required twenty-five metres for separation distances for the regional route carriageway (CDP DM Standard 21 refers.). It is recommended the detailed plans for the proposed entrance to the development, to include sightlines, turning radii, pavement materials and road markings are required. It is also stated that “*development, (i.e. waste water treatment systems) shall not be permitted by the Roads Authority*” and that detailed storm water drainage design (to BRE 365 standards) for collection and that disposal to appropriately designed soakaway is required and that no house should be occupied until the collection and disposal system is properly installed.

Environment Section: The internal technical report the dated 30th July, 2018 indicates concerns as to the proximity of on-site treatment plants in proximity to Tra Na Forbacha which is used for swimming. There are concerns about deterioration in the water quality and prohibitions having been in place in recent years. Clarification of details of drains layout and of the exact paths of drains as they exist inclusive of a drawing indicating all minimum distance to the individual plants are required. Reference is made to Page 14 of the EPA “*Code of Practice: Wastewater Treatment Systems for Single Houses, 2009* (EPA Code of Practice.) in this regard, it being noted that there is a dispute over the details in Figure 5 of the submitted flood risk assessment report to include minimum distances from individual treatment plans as provided for in the EPA Code of Practice.

Irish Water. It is confirmed that connection to the network in the R336 is available for the proposed development.

3.3. Prescribed Bodies

The submission of Udaras Na Gaeltachta dated 25th March includes recommendations relating to the protection and preservation of the language and culture of The Gaeltacht.

3.4. Third Party Observations

- 3.4.1. The issues of concern raised in the objections submitted to the planning authority at application stage relate to the adequacy of the proposed waste water drainage systems having regard to standards in the EPA *Code of Practice*, and as to over concentration of individual systems, potential pollution of waters used for swimming at the beach at which there are water quality issues, excessive stormwater runoff, excessive density, excessive form and heights of dwellings, potential for overlooking and intrusion on privacy of adjoining residential properties, inclusion of space within the site which is outside the development boundary/perimeter of the settlement of Furbo, adverse impact on the natural and visual amenities of the area and implications for public safety in the vicinity of the junction of the local access road with the R336.

4.0 Planning History.

- 4.1. There is no record of planning history for the site according to the planning officer's report. There is a record of applications lodged between 1996 and 2012 for dwellings or extensions and alterations or other related development at locations within the vicinity, details of which are provided in the report of the planning officer.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Galway County Development Plan, 2015-2021.

The location is within an area identified as a "under strong urban pressure" which is within the area of the Galway Transportation Planning Study Area. (GTPS.) Furbo, on the R336 is on a "strategic development corridor" within the overall spatial strategy for the county. Objective DS 11 provides for coordination of new growth within the key towns villages and settlements on the strategic development corridors and to optimise investment and support appropriate development.

The site is bisected by the Old Settlement boundary for Furbo.

Within the settlement hierarchy, Furbo is included under “Other Villages and other settlements in the country” the lowest tier for which there are no requirements for Local Area Plans and therefore there is statutory local area plan, for Furbo. According to section 2.6.1 “Other Villages and other settlements in the country” provide basic services for the community and are distinguished from rural housing by the presence of the service which provide an important community purpose and basis for further future development.

The site location also comes within:

- the Gaeltacht.
- an area classified as Landscape Category 3, within the sensitivity categorisation scale of 1-5.
- within a protected view and,
- within an area classified as “PI”: poor aquifer generally unproductive except in local zones.

Furbo comes within the area of the Gaeltacht Plan adopted in 2018 (Variation No 2 (b)) of the CDP. It is one of the settlements within the category, “Other Villages and other Settlements in the Country” the lowest tier of the Settlement Hierarchy of the CDP. It is an objective to provide for encouragement of regeneration of under-utilised or derelict sites and for a mix of residential, business and cultural uses to ensure vibrancy and vitality in the settlement.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.2. An appeal was received from Patrick J Newell on behalf of Mark O’Toole and Mary O’Sullivan of Furbo Beach, Spiddal on 12th February, 2019. It is stated that the appellant party is not in outright objection to development on the site. For the appellant, two dwellings, either single storey or dormer can be acceptably accommodated on the site without any adverse impacts. It is stated that the site at the western edge of Furbo is surrounded by single house development and that there is concern because, since 2017 planning permission has been granted for a

total of forty-two dwellings at Furbo which are serviced by individual waste water treatment systems and one communal treatment system.

6.3. According to the appeal:

- The inclusion of a large proportion of the coastal area within the site (which is within the flood zone) is an attempt to circumvent DM Standard 7 of the CDP according to which there is a requirement for a site area of 2,000 square metres for a single house development, to provide for adequate effluent treatment, parking, landscaping, open space and rural amenity. The sites area for Site No 1 is 1,185 square metres, for Site No 2 is 1,185 square metres and, for site 3 is 1,015 square metres. The distance from the western boundary of the treatment systems for site No 2 is 3.2 metres and for Site No 3 is 3.9 metres. There is an open jointed drain on this boundary which is a conduit for waste water to enter the drainage network leading to Furbo beach. Treatment systems should not be located within ten metres of an open drain according to the EPA Code of Practice.
- The assessment should have been extended to an area beyond Ballynahown and from the site location in that since 2017 planning permission has been granted for a total of forty-two dwellings at Furbo which are serviced by seventeen individual waste water treatment systems and one communal treatment system. These permitted developments in combination with the proposed development could have serious impact on protected sites.
- The (appropriate assessment) screening report should have included an assessment of Furbough Wood pNHA adjacent to the site. It has significant habitat for plant and animals. The National Parks and Wildlife Service should have been invited to comment on the proposal.
- The water quality at Tra na bhForhbacha which is directly to the west of the site was reported to be of poor quality due to bacteria input related to septic tanks according to an EPA Bathing Water Quality Report in 2016. Although it improved in 2017 it is under pressure from individual on site waste water treatment facilities and the threat to water quality would be exacerbated by five additional systems. (extracts are provided.)

- Several drains pass through the site and adjoining lands which outfall to Tra na bhForhbacha and they are a direct conduit and when flooding occurs they are flooded. The Environment section at the local authority has recorded serious concerns about the increase in treatment plants close to the beach's bathing area.
- The flood zones come within a few metres of the proposed houses, and gardens for site Nos 4 and 5 come within these zones. This is unacceptable and sets precedent for development in coastal flood zones on the western seaboard. There are no proposals for flood defences.

The proposed importation of "reasonably permeable fill material" to the flood zones would reduce flood at the site but it would increase flooding elsewhere. This has not been assessed in the FRA. Flooding increased risk could occur to the properties to the east which are already at risk. *"The Planning System and Flood Risk Management" 2012.* (OPW) includes a requirement in flood risk assessment to assess impact of change in land use on the site and elsewhere so that where practicable flood risk is reduced, and that risk is, at least, not increased

- SUDS drainage proposal should be prepared for consideration. No details are provided for hydrocarbon interceptor which is a key requirement for SUDS design
- The entrance off the R336 is designed with a corner radius of six metres but according to TII DN-GEO-03060 the minimum circular corner radius at simple junctions in rural areas where there is no provision for HGVS is ten metres. The internal turning area for services vehicles is shown at ten metres but the requirement is eleven metres according to *"Recommendations for Site Development Works for Housing Areas"*, 1998.
- There is no municipal waste water system for the settlement of Furbo and therefore the requirement for additional individual waste treatment systems gives rise to serious concern.
- The percolation area for Sites Nos 3 and 4 are on slopes at 1:5 and 1:6 (in gradient) which is in excess of the maximum gradient of 1:8 according to the

section 65 of the EPA Code of Practice. The applicant has therefore proposed significant site improvement works to achieve these requirements.

- The EPA in guidance on *Disposal of Effluent from Polishing Filters (Tertiary Treatment Systems)* published in February 2012 requires a treatment effluent distribution area to be placed beneath the packaged tertiary treatment system. A requirement 300 mm free draining soil beneath the infiltration area is required but it is not accounted for in the design and selection of level for the proposed systems. This is very important in view of the flood levels and the site and the recorded water in Trial Pit for Dwelling No 1 at 0.3 m below the surface. The polishing filters of Sites Nos 2 and 3 are less than four metres from the western boundary of the site. The FRA indicates a jointed open drain along his boundary. Table 6.3 of the Code of Practices requires a minimum of ten metres distance from the drain.
- There are several land drains with poor drainage traversing the site and adjoining lands. The proposed provision of 600 mm open jointed concrete pipe drains the south portion of the site is and too close to and is beneath Dwelling No 1. There are obvious practical implications if foundations are placed over an existing drain in private property resulting in inability to maintain the drain in private property where the responsibility will be with the property owner.
- Discharge of storm water is to adjacent properties. The southernmost drain will be converted from an open land drain to a piped channel passing into adjoining property for which no design works have been proposed. There is no design or assessment of the impact on the Appellant's property which is to the west side where there is serious potential for flooding. The 600 mm jointed drain would discharge to an existing 200 mm diam land drainage pipe which is at capacity. The pipe size will flood the appellant property and the application site. The direct connection to the southernmost drain to the tidally influenced drains on the fore shore. If these foreshore drains flood they will impinge on the 600 m pipe and bring flooding into the site.
- The proposed two storey five bed houses are not appropriate to the character of the area which forms a gateway to Connemara. Just one of the forty

dwellings inside a 300 mm radius is a two-storey dwelling and it appears to be unauthorised development constructed prior to 1983. Bungalow or dormer style only is acceptable if development is to conform to the Design Guidelines for Single Rural Houses issued by the Council. The floor levels are higher than the road level, ranging up to 1.2 metres above the road level. This elevated height for two storey five-bedroom houses produces a “Show House” framed against the skyline which is inappropriate to the sensitive scenic area on the Atlantic Way.

- The proposed development would have adverse visual impact and the application submission does not include a visual impact assessment. The site location is within Landscape Area 9 with high landscape value and categorised as class 3 to 4 in the landscape sensitivity rating in the CDP. It is also within a focal viewpoint noted in the Landscape Character assessment within the CDP. Objective LCM 1 requires a landscape visual impact assessment for sites with sensitivity classification. DM Standard 6 requires assimilation into the landscape and avoidance of obtrusive elevated locations and preservation of field patterns, hedgerows and woodland. A visual impact assessment is required where Focal Points and views are identified, or the location is less than Category 4 or 5 in the landscape sensitivity rating. Avoidance of development on the seaward side of the R336 is also required.
- The proposed development fails to take account of the setting of the development on the exposed coastline. The proposed development lacks any satisfactory screening as it is unlikely that the hedge indicated in the landscaping drawing would be expected to reach a height of 3.4 metres given that the high winds on the coast, exposed site and salt water. Dwelling No 3 overlooks the rear garden of the Appellant’s property. A 1.8 metres high wall is required to protect the privacy of the appellant property.
- The proposed development would set precedent for further development near Tra Na bhForchcha beach.

6.4. Applicant Response

6.4.1. A submission was received from the applicant's agent on 13th March, 2019 attached to which are a report prepared by Hydro Environmental Ltd, (Hydrology consultants) a design statement by the applicant's architect, a report by a structural engineer (S. Hannify) and, accompanying drawings. The submission includes an alternative proposal as an option for consideration if the original proposal is deemed unacceptable. It for omission of one dwelling and for reconfiguration of the site layout and individual plots. It is submitted that the appeal is grossly exaggerated in that:

- There is no defined development boundary for the village, the area within the 50 kph zone being considered within the village
- The Road Safety Audit indicates that the R336 is not heavily trafficked. A survey was undertaken on 18 April, 2018.
- The site is not immediately adjacent to the beach. (Tra na Forhbacha.)
- The existing development are not all single storey or dormer dwellings. There is a mix of house types up to three storey over basement in the area.
- Only twenty six of the 42 houses contended to have been permitted since 2017 have a grant of permission. Only ten of the permitted dwellings are within the settlement.

6.5. According to the submission:

- The principle of development which is within the village has been established in the application and accords with National Planning Framework, Sustainable Rural Housing: Guidelines for Planning Authorities (Section 28 Guidelines) with regard to the role of village settlements as alternative to one off housing development in the countryside and, the Galway County Development Plan, in particular the settlement strategy. Furbo is designated as a growth centre in Section 1.7 of the Variation No 2 (b) of the CDP (Gaeltacht Plan, (May 2018.)) There is also high demand for residential development especially given recent refusal of permission for 197 units at Bearna. (P.L 302216-18 which is subject to Judicial Review refers.)

- Permission for housing developments has been granted, in spite of the lack of an existing or planned public sewer for Furbo, including, fifteen houses following appeal. (PL 239786 refers.)
- DM Standard 7 (in the CDP) with the minimum 2,000 square metres site area standard is irrelevant as it would be inefficient and uneconomic use of lands it applied in an established settlement designated as a growth centre. Furthermore, DM Standard 29 (in the CDP) provides for clustered housing development at the edge of a village serviced by wastewater treatment plants if the accord with EPA standards. (There are previously permitted units under P. A. 17/1864 and 17/1118)
- The proposed development is consistent with EPA Code of Practice standards. Separation distances are above the minimum and the existing drain along the western boundary is a closed 600 mm diam concrete culvert pipe, so no separation distance is required.
- The pNHA (Furbough Wood) to the north referred to in the appeal is irrelevant for the purposes of Appropriate Assessment because it is not a Natura 2000 site. Furthermore, the site drains to flood prone lands to the south west and is not hydraulically connected to the pNHA which will suffer no habitat loss and further ecological assessment is not required.
- There is no question reduction in water quality at Tra na bhForchcha according to the consulting engineer report which is included with the submission where water quality has improved since 2016 further to targeted improvements carried out. The proposed treatments systems are 260 or more metres from the east side of the beach. The beach is influenced by the quality of the Knock River to which the site has no hydraulic link and which is to the west side of the Beach. The treatment systems are outside flood risk identified in the FRA. The concerns raised in the Environment Section's report were fully addressed in the RFI submission.
- The submitted FRA identifies flooding to the south west which have been avoided in the layout. The report prepared by Hydro Environmental Ltd included with the submission. confirms the site location within Flood Zone C lands and that the proposed infilling of site 4 where it comes within Flood

Zone A and B results in minor loss of tidal storage. The works carried out on foot of the grant of permission for fifteen houses reduced fluvial drainage flows to tidal prone lands to the south west. No rights of way transect the site and flood defences will not be altered.

- SUDS principles have been included in the drainage design and the hydrologist report confirms that best practice of retention within the site and discharge to the ground via engineered soakaways sized to BRE Digest 365 standards ensuring no impact on flows downstream or to the adjoining property. It is confirmed in the report that the requirements of the "*Flood Risk Management – Guidelines to Planning Authorities*," (2009) are met.
- With regard to the contentions on the adequacy of the corner radii at the entrance, the site location is within the 50 kph maximum speed limit and in an urban area so standards applicable to rural areas to which the appellant refers are inapplicable to the proposed development. The six metres' radii are appropriate and adequate according to the auto track analysis and is deemed safe in the road safety audit. The junction is in accordance with the standards within *Design Manual for Roads in Urban Areas*. (DMURS)
- Effluent treatment and disposal via individual systems is deemed acceptable by the planning authority at Furbo where there is no public sewer or plans for provision of a system. The systems are designed to be on raised ground and polishing filters for site Nos 3 and 4. Free draining soil beneath the infiltration areas and the water level ranges from 900 to 1800 mm which is well in excess of the EPA minimum standard of 3090 mm. The invert levels of the percolation pipes for Site Nos 3, 4 and 5 are 5.35 m, 5 m and 5 m OD respectively which is well more than the extreme predicted flood level of 4.1 m OD.
- The drainage works undertaken for the previously permitted development improved conditions. (PL 239786) It is confirmed in the engineer report accompanying the appeal that two minor open drains will be replaced by 600 mm open jointed pipes. House No 1 will not be constructed over it. The 600 mm diam for the pipes facilities maintenance. The report of Hydro Environmental Ltd confirms that the 600 mm pipe eliminates future

maintenance requirements. The volume or rate of flow entering the adjoining drainage network will not be increased. Flood defence works on the appellant proper to not have planning permission.

- The two storey houses are not large houses and they are acceptable for the proposed development. They are in the village and appropriate with existing and emerging development in Furbo. Gaoth Na Mara to the east is an example of two storey units along with the permitted development under P. A. Ref 17.118 and An Fearban to the south of the R335. The design is high quality as outlined in the design statement with the application and appeal. The layout Drawing P (01) 02 shows sections that demonstrate integration with the adjoining development. The finished floor levels are marginally above ground levels and appropriate.
- With regard to concerns about visual impact,
 - the site is not visually sensitive from the public realm. There is no existing view to the sea from the roadway as shown in the photographic survey on the seaward side of the R336 and from the coast road prepared by the applicant's architect.
 - The broad landscape sensitivity areas do not provide guidance for urban development. In the appeal case, the inspector in his report did not favour omission of development on a site within a Class 3 area. (PL 249912 refers.) It was considered nonsensical as it is not a rural context. (An extract is provided.) The site location is urban and precedents of other development on seaward sites within the village in Class 3 classified lands is irrelevant. In the interest of urban consolidation and infill and underutilisation of brownfield sites the proposed development is appropriate.
- The screening at the rear dwelling No 3 provides semi natural boundary treatment of sympathetic in character and provides privacy. The separation distance between first floor windows facing each other is adequate for this case. However, the wall at the rear boundary can be increased to 1.8 metres by condition if required.

- The alternative layout provided with the submission can be considered if it is decided that the original proposal cannot secure permission. Although a new advertisement is not considered necessary, it can be arranged if required. It includes options for:
 - Omission of House/Site No 3, and relocation of the footprint and treatment systems for House Nos 4 and 5 further north and relocation of the shed for House No 1. This would remove perceived concerns over House No. 3 for the appellant.
 - Provision for increased separation between House Nos 4 and 5 and the existing drain to the south.
 - The treatment plants at Nos 4 and 5 could be moved further away from the area in Flood Zones A and B reducing the requirement for infill at Site Nos. 4 and 5 reducing concentration of treatment plants in the area.
 - Removal of perceived concern about maintaining the drain adjoining House No 1, reduced impermeable hard surface results in reduced volume and flow of storm water. Internal traffic turning for a refuse vehicle in the Autotrack in the alternative site layout plan can be achieved.

6.6. Planning Authority Response

There is no submission from the planning authority on file.

6.7. Observations: Ms. Breda O'Toole.

- 6.7.1. A submission was received from Breda O'Toole of Spiddal Road, Furbo on 12th February, 2019. In her submission Ms O'Toole indicates concerns that the use of the five treatment systems could lead to risk of pollution to her land and to the beach if they malfunctioned and polluted the water in an open drain traversing her land. She raises concerns about both surface water and foul water passing through unsealed pipes in adjacent lands to her lands. She states that there is a large catchment including lands to the north of the R336 and gullies within the road. She states that the drain lacks capacity at the culvert to Tra a BhForbacha outfall as a 450 mm diam open joined concrete pipe which back flows when sea water rises and

the drain upstream of her lands backfills beyond capacity at spring tides. Ms O'Toole agrees with the statement in the hydrology report that the bedrock has low primary and secondary porosity as it is a poor bedrock aquifer with little ground soakage.

6.7.2. Ms O'Toole considers that the site has capacity for two houses in view of these constraints.

6.8. Further Responses

6.8.1. The Appellant.

A further submission was received from the Appellant's agent on 30th April, 2019 attached to which are photos of the 600 mm diam pipe in the site, a copy of the Former Settlement Circle for Furbo issued by the County Council, a copy of the maps relating to speed limits in the Galway County Council Area adopted in January 2019.

- According to the submission the appellant is not opposed to development on the site in principle but considers that rural housing design criteria are applicable. Furbo is classified as "Other Settlements and the Countryside" in the CDP which according to the CDP" are predominantly rural in nature and in the unserviced countryside. The western half of the site is outside the Settlement Circle on the copy of the former settlement centre circle available from the county council. The speed limit bye-law adopted by the Council on 28th January, 2019 is 50 kph on the RF336 at Furbo 260 metres from the junction at the L5392. It is on the R336 between a point thirty metres east of its junction with Coismeig Mor Road L5389 and a point 260 metres west of its junction with the L5392. The proposed development is over 260 metres from the junction with the L5392 placing the entrance in a zone with the 80 kph speed limit applies. The location is therefore rural and not urban and rural design standard area appropriate.
- The omission of dwelling No 3, reducing the scale of the development is welcomed.
- The percolation area for dwelling No 2 does not meet the requirements of the EPA Code of Practice. The drainage pipe (No 3 in Figure 5 of the

hydrological report) to the west of the site is less than ten metres from the polishing filter.

- The drain at the west side of the site is not a closed 600 mm diam concrete culvert pipe as contended in the response. It is a concrete Ogee land drainage pipe which cannot be sealed because Ogee pipes have an unsealed but joint which is installed by being pushed together. The ten metres separation distance from percolation areas and polishing filters to open drains therefore applies. (Table 6.1 of the EPA Code of Practice refers.)
- It is requested that a 1.8 m high boundary wall be constructed between the site and the appellant property to the west on the side boundary of the development to ensure privacy. It is noted that the applicant has indicated a willingness to construct a wall, by compliance with a condition if required.

6.8.2. **Ms Breda O'Toole. Observer.**

A further submission was received from Ms O'Toole on 30th April, 2019 in which she confirms her view that two dormer bungalows facing the main road would be acceptable.

She reiterates her concerns and her objections on grounds of inappropriate dwelling design and height, for the proposed dwellings having regard to the proximity to the beach and views across Galway Bay on the Wild Atlantic Way, the proposed private effluent treatment systems and site sizes and layout, adverse impact on the proposed National Heritage Area on the opposite side of the R336 and about potential contamination of her land by the drain across her land that outfalls to the Beach. She also claims states that the drain is culverted through the front lawn of the dwelling on the applicant's site and that the County Council is aware of this.

She rejects the statement that the volumes are light and provides an extract from the *N6 Galway City Ring Road Proposals Traffic Modelling Report* in which the estimated AADT on the R336 is estimated at 9,759,

7.0 Assessment

8.0 The issues considered central to the determination of the decision are:

Settlement policy

Flooding and Surface Water Drainage

Flooding and Surface Water Drainage

Effluent Treatment and Disposal

Design and Visual Impact.

Vehicular and Pedestrian Safety and Convenience.

Boundary Treatment – Adjoining Property.

Furbough Wood

Environmental Impact Assessment

Appropriate Assessment.

8.1. Settlement policy

8.1.1. The site location is at the edge of Furbo, which is included among the “Other Villages and other settlements in the county”, the lowest tier in the hierarchy and there is no requirements for Local Area Plans to be prepared and adopted for these settlements according to the CDP. These settlements provide basic services for the community and are distinguished from rural housing by the presence of the services which provide an important community purpose and basis for further future development according to section 2.6.1 of the CDP.

8.1.2. The site itself is part within, the settlement boundary at the east side, and part outside, on the west side and is therefore somewhat transitional. While the eligibility criteria applicable for rural housing is inapplicable in principle, at least to part of the site, there are constraints regarding consideration of residential development proposals within the settlement, particularly any multiple unit development of significance. Such development, it is considered should be commensurate to the limited basic services and facilities available and consistent with consolidation and

concentration of the village settlement as opposed to facilitating somewhat peripheral development on greenfield sites outside the village centre. A significant constraint to sustainable expansion of the village is the absence of public foul and surface water drainage infrastructure and in this regard, it should be borne in mind that there are no objectives or plans to provide for these public facilities at Furbo.

8.1.3. The Gaeltacht Plan, (Variation No 2 (b) of the CDP provides for encouragement of vibrancy in a mix of residential business and cultural uses in Furbo which comes within the “Other Villages and Other Settlements and Countryside” in the Gaeltacht which serve a rural hinterland. Contrary to the assertions in the response to the appeal, it is not accepted that the site is an under-utilised brown field site or that its development would constitute or contribute to consolidation of the settlement. It is not arguable that the location is within the village and is a priority regeneration location which is underutilised or derelict.

8.1.4. In effect these lands are unviable and limited in scope for amenity potential as communal open space within the development or of public open space due to inaccessibility and lack of interconnectivity with the dwelling units. To this end, in principal, from a planning perspective, a multiple unit development, especially at the proposed site location is undesirable whereas they may be scope, on merit for consideration to be given to proposals for one or two dwellings incorporating an option for refurbishment of the existing dwelling.

8.2. Flooding and Surface Water Drainage.

8.2.1. While the area at the north and east of the site, in which the proposed dwellings are concentrated comes within areas designated as Flood Zone C the remainder of the site area most of which is also on the outer side of the settlement boundary and closer to the shoreline come within areas designated as Flood Zone A and B having regard to, “*Planning System and Flooding Risk Management, Guidelines for Planning Authorities*, 2009. (The Flooding Guidelines.) Residential development is unacceptable within Flood Zone A and B as it comes with the within the vulnerability class “Highly vulnerable development (including essential infrastructure)” indicated in Table 3.1 of The Flooding Guidelines.

8.2.2. Further to review of the Flood Risk Assessment report, the technical reports and the appeal and observer submissions it is considered that there is likely potential for

undue increased flooding risk attributable to the proposed development. Notwithstanding the reliance on concentration of the development on the northern section of the site, to mitigation by way of the elevated finished floor levels of the dwellings, piped diversion of the stream in conjunction with the development constructed under P. A. Reg. Ref. 11/529, incorporation, of attenuation measures (including bypass interceptors) as a means of meeting SUDS drainage requirements, the considerable importation of fill proposed, though a detailed specification for this proposal is unavailable the it is considered that the case made that increased flooding risk attributable to and potentially affecting the development lands under third party and lands under public control and coastal waters would not occur is not fully persuasive.

8.3. Effluent Treatment and Disposal

- 8.3.1. The reliance by all development in the village and surrounding areas on individual private effluent treatment plants and percolation areas for effluent treatment and disposal has been linked to deterioration in the quality of bathing water at Tra Na Forbacha and serious concern about this is indicated in technical reports of the planning authority as well as being raised in the appeal and observer submissions.
- 8.3.2. The concentration of five dwellings and their individual site private effluent treatment plants, (or four if one unit is omitted, indicated as an option in the response to the appeal) within the northern half of the site on individual plots the sizes of which are considerably less the required minimum size of 2,000 square metres according to the EPA Code of Practice and in which there are some issues as to some deficiencies in minimum separation distances in the design and layout. It is not agreed that these deficiencies can be fully resolved through reconfiguration of the site areas and/or the layout of the individual effluent treatment systems. It is accepted that there is clarification on outstanding design within the further information submission particularly regarding the level at which the polishing filters are located relative to the 1:100 flood level but the overall concerns are not overcome.
- 8.3.3. Given the proximity of the proposed development to lands which are within the site in to Flood Zone A and B, to Tra Na Forbacha, the multiplicity of existing and permitted individual private effluent treatment systems serving residential

commercial and institutional development, the ground water and geological conditions and reliance on the essential importation of significant fill for the lands to address flooding risk and drainage the proposed development gives rise to serious concern as to potential for exacerbation of the risk of pollution and deterioration in the quality of the waters at Tra Na Forbacha.

8.4. Design and Visual Impact.

- 8.4.1. It is agreed with the appellant that the form, height and scale of the dwellings is inappropriate for the site location and that the area that has most capacity to accept development is at the northern end facing onto the road frontage. The height and form of the dwellings, taking into account the finished floor levels, eaves heights, it agreed, will not obstruct views across the site towards the coast from the site frontage but the development is prominent on approach from the west whereas the adjoining single storey cluster on the cul de sac to the east is relatively modest in visual impact in comparison. The visual impact of the, four dwellings in the revised layout provided with the response to the appeal compared to the five dwelling scheme would be marginally more acceptable overall in this regard. Provision for a two-storey scheme of the nature behind the original road frontage plot of the existing dwelling between the south side of the R336 and the coast at the edge of the settlement alters the coastal landscape.

8.5. Vehicular and Pedestrian Safety and Convenience.

- 8.5.1. The revised site layout shown for the four dwelling development submitted with the response to the appeal and corresponding autotrack drawing indicates an appropriate carriageway and pedestrian footpath width for the internal road with capacity for turning and egress in forward gear for a refuse vehicle onto the R336. It is agreed with the observer party, Ms O'Toole that volumes of traffic on the R336 between Bearna and Spiddal is not light although there is seasonal variation would be a factor owing to the location. The entrance location at the edge of Furbo is at the 50 kph maximum speed limit and based on review of the details provided in the response to the appeal, the applicant does have the capacity to provide for seventy metres sightlines to the edge of the carriageway from a 2.4 metres setback at the proposed entrance location and the proposed stone walling on the front boundary is considered appropriate.

8.6. Boundary Treatment – Adjoining Property.

- 8.6.1. There is no objection to the 1.8 metre height for the boundary with the adjoining property of the Appellant which has been agreed between the two parties as it is indicated by applicant's agent in submission of 30th April, 2019. The matter could be addressed by condition, for the purposes of clarity if permission is granted.

8.7. Furbough Wood

- 8.7.1. The contentions of the Observer and Appellant as to potential for adverse impact on these woodlands is noted. However, is not apparent as to how the woods might be at significant risk of contamination directly attributable to the proposed development the location of which to the south and seaward side of the R336. The statement in the applicant's submissions that there is no significant risk to the woods is accepted.
- 8.7.2. Furthermore, given that Furbough Woods is a proposed Natural Heritage Area as provided for under the Wildlife Act, 1976 as amended. It is not a European Site, that is a Special Area of Conservation or a Special Protection Area, and therefore it is not subject to the legislative requirements relating to appropriate assessment as provided for under the EU Habitats Directive 92/43 and EEC and Birds Directive 79/409/EEC. Therefore, it is not accepted that an assessment of the impact on Furbough Woods should have included in the appropriate assessment screening report prepared on behalf of the applicant.
- 8.7.3. The statement that the applicant should be required and submit an environmental impact statement is noted. However, while potential impact on the environment is a material consideration the proposed development does not constitute a project for which there is a statutory requirement for Environmental Impact Assessment to be undertaken.

8.8. Environmental Impact Assessment.

- 8.8.1. Having regard to the nature of the proposed development and its location removed from any sensitive locations or features, there is no real likelihood of significant adverse effects on the environment. The need for environmental impact assessment can therefore be excluded at preliminary examination and a screening determination is not required.

8.9. Appropriate Assessment.

- 8.10. The applicant has included an appropriate assessment screening report with the application, Inner Galway Bay SPA (004031) and Galway Bay Complex SAC (000268) are approximately six kilometres to the east of the site location.
- 8.11. There are thirteen Annex 1 habitats and two Annex 2 species which are qualifying features of conservation significance for the SAC comprising several habitats and wildlife species. There are several Annex 1 bird species for the SPA, Galway Bay being an important ornithological site supporting winter birds of national and international significance.
- 8.12. There are source pathway links to the SPA and SAC via drains traversing the site and out falling to the beach at Furbo and from flooding which may divert to other areas due to the proposed on-site mitigation to be provided due to the works. Source pathway links are that of contaminated surface water and foul water emanating from the site on which the development is to be located.
- 8.13. A threat is that of the cumulative impact of contamination of the designated waters and habitats within the two Natura sites attributable to the proposed development, in combination with other projects and plans. The application site is coastal and partly it is unviable coastal lands that are prone to flooding. The proposed development is heavily dependent on the proposed importation of fill to the site lands to facilitate drainage and flooding management, comprehensive details of which are unavailable. Effluent treatment and disposal for the proposed development is via individual treatment systems that include tertiary treatment prior to disposal. There are no current or future proposals or plans for provision of public infrastructure for the collection, treatment and disposal of sewage for the settlement of Furbo and its immediate environs at which development serviced by individual private effluent treatment systems has increased.
- 8.14. It is considered that it has not been demonstrated that potential for likely significant effect in combination with the other plans and projects in the vicinity on the SPA and SAC in view of their conservation objectives cannot be fully eliminated. A Stage 2 appropriate assessment may be required.
- 8.15. On the basis of the information provided in the appropriate assessment screening report provided with application it is considered that 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 Inner Galway Bay SPA (004031) and Galway Bay Complex SAC (000268) or any other European site, in view of the Conservation Objectives for these sites.

9.0 Recommendation

- 9.1. In view of the foregoing, it is recommended that the planning authority decision to grant permission be overturned and that permission be refused on the basis of the draft reasons and considerations set out below.

10.0 Reasons and Considerations

1. Having regard to the site location at the edge of the settlement of Furbo on the seaward side of the R336, (a coastal route on the Wild Atlantic Way) from which there are protected views it is considered that the proposed development of a cluster of two storey dwellings would be visually obtrusive, incongruous and out of character with and dominant relative to the low-profile development single storey dwellings on the adjoining lands to the east and, would fail to assimilate into the coastal landscape. As a result, the proposed development would be seriously injurious to the visual and recreational amenities and landscape character of the coastal location, would set precedent for further similar development in the vicinity and, would be contrary to the proper planning and sustainable development of the area.
2. The Board is not satisfied, based on the information available in connection with the application and the appeal, that the proposed development would not give rise to increased risk of flooding to the site and to adjoining development on adjacent lands. As a result, the proposed development would be prejudicial to public health and would be contrary to the proposer planning and sustainable development of the area.
3. Taken in conjunction with the existing and permitted development in the vicinity and the absence of existing or proposed public infrastructure facilities for the treatment and disposal of foul water, it is considered that the proposed

development may not be drained satisfactorily, would result in an excessive concentration of development serviced by private effluent treatment and disposal systems and would set precedent for further similar development. The proposed development would therefore be prejudicial to public health.

4. Based on the information provided with the application and appeal and 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 Inner Galway Bay SPA (004031) and Galway Bay Complex SAC (000268) or any other European site, in view of the sites' Conservation Objectives. In such circumstances the Board is precluded from granting permission for the proposed development.

Jane Dennehy
Senior Planning Inspector
28th May, 2019.